VIRGINIA REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE *VIRGINIA REGISTER*

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017,** refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Travis Hill, Ryan T. McDougle; Matthew McGuire; Johnny Morrison; Michael Mullin; Christopher R. Nolen; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

Staff of the *Virginia Register:* **Holly Trice,** Registrar of Regulations; **Anne Bloomsburg,** Assistant Registrar; **Nikki Clemons,** Managing Editor; **Erin Comerford**, Regulations Analyst.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (http://register.dls.virginia.gov).

October 2026 through November 2027

Volume: Issue	Material Submitted By Noon*	Will Be Published On
43:5	September 30, 2026	October 19, 2026
43:6	October 14, 2026	November 2, 2026
43:7	October 28, 2026	November 16, 2026
43:8	November 10, 2026 **(Tuesday)**	November 30, 2026
43:9	November 23, 2026 **(Monday)**	December 14, 2026
43:10	December 9, 2026	December 28, 2026
43:11	December 21, 2026 **(Monday)**	January 11, 2027
43:12	January 5, 2027 **(Tuesday)**	January 25, 2027
43:13	January 20, 2027	February 8, 2027
43:14	February 3, 2027	February 22, 2027
43:15	February 17, 2027	March 8, 2027
43:16	March 3, 2027	March 22, 2027
43:17	March 17, 2027	April 5, 2027
43:18	March 31, 2027	April 19, 2027
43:19	April 14, 2027	May 3, 2027
43:20	April 28, 2027	May 17, 2027
43:21	May 12, 2027	May 31, 2027
43:22	May 26, 2027	June 14, 2027
43:23	June 9, 2027	June 28, 2027
43:24	June 23, 2027	July 12, 2027
43:25	July 7, 2027	July 26, 2027
43:26	July 21, 2027	August 9, 2027
44:1	August 4, 2027	August 23, 2027
44:2	August 18, 2027	September 6, 2027
44:3	September 1, 2027	September 20, 2027
44:4	September 15, 2027	October 4, 2027
44:5	September 29, 2027	October 18, 2027
44:6	October 13, 2027	November 1, 2027

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 12. HEALTH

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Initial Agency Notice

Title of Regulation: **12VAC35-115. Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services.**

Statutory Authority: §§ 37.2-203 and 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: The petitioner requests that the State Board of Behavioral Health and Developmental Services amend 12VAC35-115-30, 12VAC35-115-260, and 12VAC35-115-270 to establish the Office of Human Rights as independent of the Commissioner of the Department of Behavioral Health and Developmental Services.

According to the petitioner:

"This proposed regulation is to define the Office of Human Rights under 12VAC35-115-30 of the Virginia Administrative Code. The setup for the Office of Human Rights should be outlined under 12VAC35-115-270; and the Office of Human Rights should be removed from under the auspices of the Commissioner and placed under the auspices of the State Human Rights Committee (SHRC). Under 12VAC35-115-260, the administrative provision should be established that the Commissioner does not have any legal authority over the Office of Human Rights and the Office of Human Rights is independent of the Commissioner. There is a clear conflict of interest in the Commissioner having legal authority over the Office of Human Rights."

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on October 5, 2026. The petition will also be posted on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment. The public comment period opens October 5, 2026, and closes October 26, 2026.

The board will consider the petition and all comments at its subsequent regular meeting, which is currently scheduled for December 9, 2026. The petitioner will be notified of the board's decision no later than 14 days after that meeting.

Public Comment Deadline: October 26, 2026.

Agency Contact: Susan Puglisi, Regulatory Research Specialist, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, Fourth Floor, Richmond, VA 23219, telephone (804) 975-0538, TDD (804) 371-8977, or email susan.puglisi@dbhds.virginia.gov.

VA.R. Doc. No. PFR27-02; Filed September 15, 2026, 12:07 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-450, Rules and Regulations Governing Campgrounds**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 11, 2026, to support this decision.

The General Assembly has charged the board with adopting, promulgating, and enforcing regulations necessary to protect public health and safety at campgrounds. The board has determined that this regulation is essential to protecting public health.

The regulation fulfills the statutory mandate from the General Assembly by ensuring that campgrounds that receive a license from the board meet minimum requirements, including (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the proper maintenance of buildings, grounds, and equipment; (v) vector and pest control; (vi) toilet, swimming, and bathing facilities, including shower facilities; (vii) effective measures for the control of animals and pets; and (viii) appropriate procedures and safeguards for hazardous situations, including the maintenance and sale of propane gas or other explosives and combustibles.

The regulation meets the criteria set forth in Executive Order 17 (2026) and is necessary to interpret and apply the requirements imposed by the board. The regulation is designed to achieve its objective in the most efficient and cost-effective manner. The agency is recommending that the regulation be retained as is. The continued need for the regulation is established in the Code of Virginia and is not discretionary. The sole comment received regarding the regulation was in support of maintaining the regulation in its current state. The regulation is clearly written, easily understandable, and does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was previously updated in February 2025. The regulation is evaluated on an ongoing basis to ensure considerations of change in technology, economic conditions, and other factors that may have an impact on the citizens of the Commonwealth. Retaining the regulation in its current state will not have a negative impact on small businesses throughout the Commonwealth.

Contact Information: Olivia McCormick, Director, Division of Food and General Environmental Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8146, or email olivia.mccormick@vdh.virginia.gov.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending **12VAC30-20, Administration of Medical Assistance Services**. The purpose of the proposed action is to streamline the provider appeal process in accordance with Item 292 QQ of the 2025 Appropriations Act by requiring providers to file appeal notices and other appeals-related documents through an online appeals portal.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Comment Deadline: November 4, 2026.

Agency Contact: Syreeta Stewart, Regulations and Guidance Documents Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23220, telephone (804) 839-7282, or email syreeta.stewart@dmas.virginia.gov.

VA.R. Doc. No. R27-8381; Filed September 9, 2026, 2:09 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Accountancy intends to consider amending **18VAC5-22, Board of Accountancy Regulations**. The purpose of the proposed action is to adjust fees related to license renewals, lifting suspensions, licensee requests, certified public accountant wall certificates, and licensee failure to respond to board communication. The increase in fees will be used to support long-term sustainability of board operations.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Public Comment Deadline: November 4, 2026.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-0728, fax (804) 527-4409, TDD (804) 367-9753, or email alessandra.gabriel@boa.virginia.gov.

VA.R. Doc. No. R27-8792; Filed September 11, 2026, 1:58 p.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending **18VAC110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to include prescription product accuracy as an accepted activity for central or remote processing.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public Comment Deadline: November 4, 2026.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, fax (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R27-8556; Filed September 10, 2026, 3:45 p.m.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending **18VAC150-20, Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to allow the limited practice of veterinarian trainees pursuant to Chapter 307 of the 2024 Acts of Assembly.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Comment Deadline: November 4, 2026.

Agency Contact: Kelli Moss, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4133, fax (804) 767-1011, or email kelli.moss@dhp.virginia.gov.

VA.R. Doc. No. R27-7912; Filed September 14, 2026, 10:06 a.m.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Proposed Regulation

Title of Regulation: **2VAC5-360. Regulations for the Enforcement of the Virginia Commercial Feed Act (amending 2VAC5-360-10, 2VAC5-360-50; adding 2VAC5-360-55).**

Statutory Authority: § 3.2-4801 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: December 4, 2026.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, fax (804) 371-7793, TDD (800) 828-1120, or email david.gianino@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Section 3.2-4801 of the Code of Virginia authorizes the board to adopt regulations for commercial feeds necessary to carry out the provisions of the Virginia Commercial Feed Act (§ 3.2-4800 et seq. of the Code of Virginia).

Purpose: The proposed amendments create greater clarity for consumers by requiring pet food and specialty pet food to be labeled similarly to products consumed by humans, thereby eliminating potential confusion and supporting consumer welfare.

Substance: The proposed amendments require manufacturers of pet food and specialty pet food products distributed in the Commonwealth to list the dietary fiber content of the product on its label instead of the crude fiber content. Crude fiber is a basic measure of fiber content, while dietary fiber provides a more comprehensive understanding of the various types of fiber and their potential health effects. Crude fiber guarantees in feed are used to compare digestibility, whereas dietary fiber encompasses both crude fiber and other nondigestible carbohydrates, such as pectins, gums, and oligosaccharides. The requirement for dietary fiber to be listed on animal feed labels is limited to pet and specialty pet food and does not impact labeling requirements for other categories of commercial feed, which will continue to be required to bear a label that states the maximum percentage of the feed's crude fiber content. The proposed amendments also provide for a transition period for regulated entities to comply with the new requirements.

Issues: The primary advantage of this action to the public is that it requires labeling for pet foods that more closely aligns with labels for products that are marketed for human consumption and are more easily understood by customers. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. The Virginia Department of Agriculture and Consumer Services (VDACS) proposes to replace the labeling requirement for maximum percentage of crude fiber content in pet and specialty pet food products with a maximum percentage of dietary fiber content.

Background. This regulation establishes labeling requirements for commercial animal feed. One of the requirements is to disclose the maximum percentage of crude fiber content in the product label. Crude fiber is a basic measure of fiber content, while dietary fiber provides a more comprehensive understanding of the various types of fiber and their potential health effects. Crude fiber guarantees in feed are used to compare digestibility. Dietary fiber encompasses both crude fiber and other non-digestible carbohydrates like pectins, gums, and oligosaccharides. In essence, dietary fiber content is the relevant measurement for nutrition. According to VDACS, the animal feed industry (manufacturers and distributors) has been in transition to make pet food labels more comparable to labeling requirements for products marketed for human consumption and to make them more easily understood by customers. As part of the transition, the Association of American Feed Control Officials (AAFCO) modified its official publication and its model regulations for pet food in August of 2023 to allow for a variety of feed statement changes including labels to state product dietary fiber content rather than its crude fiber content. Additionally, VDACS states that the National Association of State Departments of Agriculture agreed to work with the industry to ensure a smooth transition in support of the labeling overhaul efforts. Moreover, Section 100 of the Regulations for the Enforcement of the Virginia Commercial Feed Act provides that VDACS shall follow the definitions, standards, and recommendations of AAFCO in the administration of the Commercial Feed Act. Consequently, VDACS proposes to require

that pet food product labels state the maximum dietary fiber content rather than crude fiber content no later than January 1, 2030.

Estimated Benefits and Costs. According to VDACS, the transition away from disclosure of crude fiber content toward dietary fiber content in pet food labels has been spearheaded by the industry so that pet food labels are more closely aligned with nutritional product information for human consumption. VDACS states that pet food manufacturers already voluntarily analyze their products to determine the dietary fiber content. Thus, VDACS does not believe that the proposal would increase compliance costs for the industry. In fact, some manufacturers may wish to no longer analyze their pet food for crude fiber content and realize some savings. Additionally, VDACS estimates that 13 to 18 states have already adopted the disclosure of dietary fiber content in their pet food labeling standards and others are in the process of adopting the same. Thus, the proposal is expected to provide consistency with standards across states and facilitate the flow of pet food products in and out of the Commonwealth without having to comply with different labeling requirements, thereby avoiding costs associated with having to analyze crude fiber content.

Businesses and Other Entities Affected. VDACS estimates that there are approximately 700 pet and specialty pet food manufacturers or guarantors that distribute pet food products in Virginia; and of that total approximately 200 are small businesses. No regulant appears to be disproportionally affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[2] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[3] The proposal is not anticipated to increase the compliance costs in the pet food industry. Thus, no adverse impact is indicated.

Small Businesses[4] Affected.[5] The proposed amendments do not appear to adversely affect small businesses.

Localities[6] Affected.[7] The proposed change does not create costs for local governments, nor does it disproportionately affect any locality.

Projected Impact on Employment. To the extent some manufacturers may wish to no longer analyze their pet food for crude fiber content, their demand for labor may be reduced.

Effects on the Use and Value of Private Property. Similarly, to the extent some manufacturers may wish to no longer analyze their pet food for crude fiber content, the proposal may reduce their compliance costs which should have a positive impact on their asset values. No impact on real estate development costs is expected.

[1] Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[3] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

[4] Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[5] If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[6] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[7] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Agriculture and Consumer Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments replace the crude fiber requirement for pet and specialty pet food product labels with a required maximum guarantee of dietary fiber content, which reflects the Association of American Feed Control Officials (AAFCO) August 2023 modification of its Model Regulations for Pet Food and Specialty to allow for a variety of formatting and feed statement changes. The proposed action also includes technical changes.

2VAC5-360-10. Definitions.

~~A. Words used in the singular form in this chapter shall include the plural, and vice versa, as appropriate.~~

~~B.~~ All terms used in this chapter shall have the meaning set forth ~~for such~~ in the Act. In addition, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Act" means Chapter 48 (§ 3.2-4800 et seq.) of Title 3.2 of the Code of Virginia, ~~hereinafter~~ known as the Virginia Commercial Feed Act.

"Animal" means any animate being ~~which~~ that is not human.

"Adulteration" means a commercial feed is adulterated if:

1. Enough of any harmful or non-nutritive ingredient has been added to endanger animal health when used according to labeling directions.

2. Any part of an essential component has been omitted, removed, or replaced with an inferior substance.

3. The composition or quality of the feed fails to conform to its representation in the labeling.

4. It was prepared or held under unsanitary conditions.

5. It contains any filthy, putrid, decomposed, tainted, unsound, or unwholesome substance.

6. Its container is composed of any substance ~~which~~ that may cause the feed to endanger animal health.

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Brand" means the term, design, or trademark and other specific designation under which an individual commercial feed is distributed in Virginia.

"Canned animal food" means all materials packed in any airtight container with a moisture content of 70% or more ~~which~~ that are distributed for use as food for animals other than humans.

"Commercial feed" means all mixed or unmixed feed, including concentrates, supplements, molasses, minerals, mineral mixtures, and all other materials used for their nutritional or physical properties for feeding to animals except those materials exempted by the Act.

"Commissioner" means the Virginia Commissioner of Agriculture and Consumer Services or ~~his~~ the commissioner's delegated assistant or agent.

"Distribute" means to offer or expose for sale, sell, warehouse, exchange, barter, furnish, or otherwise supply.

"Distributor" means a person who distributes commercial feeds.

"Feed ingredient" means each of the constituent materials making up a commercial feed.

"Inert mineral matter" means mineral matter that has no nutritional value.

"Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed. The invoice or delivery slip with which a commercial feed is distributed in bulk is the label.

"Labeling" means any written, printed, graphic, electronic, or advertising information pertaining to the commercial feed ~~which~~ that is:

1. On the commercial feed or any of its containers,

2. On the invoice or delivery slip,

3. Accompanying the commercial feed at any time, or

4. Otherwise provided to the consumer.

"Medicated feed" means a product obtained by mixing a drug, as defined in § 3.2-4800 of the Code of Virginia, and a commercial feed. It is subject to all provisions of the Virginia Commercial Feed Act.

~~"Misbranding" means a commercial feed is misbranded if:~~

~~1. The label does not include:~~

~~a. The name and principal address of the manufacturer, distributor, or person responsible for placing the commercial feed on the market.~~

~~b. The name, brand or trademark under which the commercial feed is sold.~~

~~c. An accurate quantity statement of the contents.~~

~~d. An accurate statement of the minimum percentage of crude protein.~~

~~e. An accurate statement of the minimum percentage of crude fat.~~

~~f. An accurate statement of the maximum percentage of crude fiber.~~

~~g. An accurate statement of the maximum percentage of moisture for all dog and cat foods.~~

~~h. The English name of each ingredient or conform to the requirements of 2VAC5-360-40.~~

~~i. Adequate warnings against use under normal or pathological conditions where its use may endanger animal health, or against unsafe use or application as necessary for the protection of animals.~~

~~2. Labeling is false or misleading in any particular.~~

~~3. It is distributed under the name of another commercial feed.~~

~~4. Its container is so made, formed or filled as to be deceptive or misleading as to the amount of contents.~~

~~5. Its labeling bears any reference to registration or license under the Act.~~

~~6. It is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition prescribed by regulation of the board.~~

~~7. Any word, statement or other information required by the Act is not prominently placed upon the label so conspicuously (as compared with other words, statements,~~

~~designs, or devices in the labeling) and in such terms as to make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.~~

"Official sample" means any sample of feed taken by the commissioner and designated as "Official" by the commissioner.

"Person" means an individual, partnership, association, corporation, firm, agent, or authorized group of individuals, whether incorporated or not.

"Prohibited noxious-weed seeds" means the seeds of perennial weeds ~~which~~ that not only reproduce by seed but ~~which~~ also spread by underground roots and stems; and ~~which~~ that, when established, are highly destructive and are not controlled in the Commonwealth by commonly used cultural practices. These include ~~but are not limited to~~ the seeds of Balloonvine-Cardiospermum halicacabum, Field bindweed-Convolulus arvensis, Quackgrass-Agropyron repends, Canada thistle-Cirsium arvense, Johnson grass-Sorghum spp., perennial, Plumeless thistle, which includes Musk thistle and Curled thistle Carduus spp., Serrated tussock-Nassella trichotoma, and Sicklepod-Senna obtusifolia.

"Restricted noxious-weed seeds" means the seeds of weeds ~~which~~ that are very objectionable in fields, lawns, and gardens in ~~this~~ the Commonwealth and are difficult to control by commonly used cultural practices. These include ~~but are not limited to~~ seeds of Dodder Cuscuta spp., Bermudagrass Cynodon dactylon, Wild onion bulblets, Wild garlic bulblets Allium spp., Wild mustard Brassica spp., Giant foxtail-Setaia faberia, radish-Raphanus, and Annual bluegrass-Poa annua.

"Sell" means sales, barter, or exchange.

"Ton" means a net weight of 2,000 pounds, avoirdupois.

2VAC5-360-50. Labeling.

A. The information required in § 3.2-4806 of the Code of Virginia, with the exception of the quantity statement, shall appear in its entirety on one side of a label or on one side of the container. However, in case a tag is used, the directions for use and warnings against misuse may appear on the other side of the tag.

B. When ingredients are listed, the names of all feed ingredients shall be shown in letters or type of the same size.

C. When feeds carry label information in more than one position on the container, there shall be no variance with respect to name, ingredients, or guaranteed composition.

D. The term "degermed" must precede the name of any product from which the germ has been wholly or partially removed.

E. All printed or written information attached to or packed with feed must conform in all respects to the information printed on the principal label.

F. Labeling ~~which~~ that implies that added enzyme-bearing materials improve the utilization of a product is prohibited unless the claims are substantiated by scientific evidence.

G. The term "Bond Phosphate of Lime," "Bone Phosphate of Lime (BPL)," or "BPL" shall not be used in connection with the labeling of feed ingredients.

H. The label of a commercial feed, other than an individual ingredient or supplement with directions for further mixing, shall designate the species and may designate the animal class for which the feed is intended. For the purpose of this subsection, animal class may include~~, but is not limited to,~~ weight range, sex, or age of the animal for which the feed is manufactured.

I. A commercial feed shall bear a label that, in addition to the information required in § 3.2-4806 of the Act, includes:

1. An accurate statement of the minimum percentage of crude protein.

2. An accurate statement of the minimum percentage of crude fat.

3. An accurate statement of the maximum percentage of crude fiber, if the commercial feed is not a pet food or a specialty pet food.

4. An accurate statement of the maximum percentage of dietary fiber, if the commercial feed is a pet food or a specialty pet food.

5. An accurate statement of the maximum percentage of moisture, if the commercial feed is a dog food or a cat food.

6. Adequate warnings against use under normal or pathological conditions where use of the feed may endanger animal health or against unsafe use or application as necessary for the protection of animals.

2VAC5-360-55. Misbranding.

A. A commercial feed is misbranded if it is distributed in violation of § 3.2-4807 of the Act.

B. A commercial feed is misbranded if its container is made, formed, or filled so as to be deceptive or misleading as to the amount of its contents.

C. A commercial feed is misbranded if its labeling bears any reference to registration or license under the Act.

VA.R. Doc. No. R25-8217; Filed September 11, 2026, 1:39 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Titles of Regulations: **4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-41).**

4VAC20-920. Pertaining to Landing Licenses (amending 4VAC20-920-30).

4VAC20-995. Pertaining to Commercial Hook-And-Line Fishing (amending 4VAC20-995-30).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2027.

Agency Contact: Benjamin Foster, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23551, telephone (757) 709-9277, or email benjamin.foster@mrc.virginia.gov.

Summary:

The amendments remove a requirement for vessel license decals.

4VAC20-620-41. Summer flounder endorsement license, restricted summer flounder endorsement license, and exemption.

A. It shall be unlawful for any boat or vessel to land summer flounder in Virginia, for commercial purposes, without first obtaining a Seafood Landing License as described in 4VAC20-920-30 and a Summer Flounder Endorsement License or possessing a Restricted Summer Flounder Endorsement License. The Summer Flounder Endorsement License shall be required of each boat or vessel used to land summer flounder for commercial purposes. Possession of any quantity of summer flounder that exceeds the possession limit, described in 4VAC20-620-60, shall be presumed to be for commercial purposes. ~~Any boat or vessel so licensed shall display a Summer Flounder Endorsement License decal, provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.~~

B. It shall be unlawful for any buyer of seafood to receive any summer flounder from any boat or vessel that is not licensed for the landing of summer flounder unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License and a Summer Flounder Endorsement License as described in 4VAC20-920-30 and this section.

C. Any boat or vessel that is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License and is used solely for fishing for summer flounder only in Virginia waters shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the relay process shall be exempt from the requirements to obtain a Summer Flounder Endorsement License.

F. To be eligible for a Summer Flounder Endorsement License the boat or vessel shall have landed and sold at least 500 pounds of summer flounder in Virginia in at least one year during the period of 1993 through 1995.

1. The owner shall complete an application for each boat or vessel by providing to the commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name, and registration or documentation number and a copy of the vessel's federal summer flounder moratorium permit.

2. The owner shall complete a notarized authorization to allow the commission to obtain copies of landings data from the National Marine Fisheries Service.

G. To be eligible for a Restricted Summer Flounder Endorsement License (RSFEL), a person must be a legal Virginia commercial hook-and-line licensee and own a vessel issued a valid federal summer flounder moratorium permit. The person shall complete an application for the RSFEL by providing to the commission a notarized and signed statement of the person's name, address, telephone number, boat or vessel name, the boat or vessel's registration or documentation number, and a copy of that vessel's federal summer flounder moratorium permit.

H. Effective February 24, 2004, any vessel eligible for a Summer Flounder Endorsement License shall be considered a baseline vessel, and that vessel's total length shall be used to determine eligibility for all future transfers of that Summer Flounder Endorsement License. A Summer Flounder Endorsement License may be transferred from one vessel to another vessel that is entering the summer flounder fishery, provided the vessel receiving the Summer Flounder Endorsement License does not exceed by more than 10% the total length of the baseline vessel that held that Summer Flounder Endorsement License on February 24, 2004.

4VAC20-920-30. License requirements and exemptions.

A. It shall be unlawful for any boat or vessel to land seafood in Virginia for commercial purposes without a Seafood Landing License provided from the Virginia Marine Resources Commission or its agent. The license shall be required of each boat or vessel used to land seafood for commercial purposes. Possession of any quantity of a marine seafood species ~~which~~ that exceeds the recreational possession limit for that species shall be presumed to be for commercial purposes. ~~Any boat or vessel so licensed shall display a Seafood Landing License decal provided by the Virginia Marine Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.~~

B. It shall be unlawful for any buyer of seafood to receive any marine seafood from any boat or vessel ~~which~~ that is not licensed for the landing of seafood unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License as described in this section.

C. Any boat or vessel ~~which~~ that is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License shall be exempt from the requirement to obtain a Seafood Landing License.

D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Seafood Landing License.

E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the shellfish relay process shall be exempt from the requirements to obtain a Seafood Landing License.

4VAC20-995-30. Prohibitions.

A. It shall be unlawful for any person licensed under the provisions of 4VAC20-995-20 A 1 or A 2 as a commercial hook-and-line fisherman to do any of the following unless otherwise specified:

1. Fail to be on board the vessel when that vessel is operating in a commercial hook-and-line fishing capacity.

2. Have more than three crew members on board the vessel at any given time provided that:

a. Crew members do not need to be licensed commercial fishermen but shall be registered on a crew member list with the commission on an annual basis and in advance of any fishing in any year;

b. One crew member per vessel needs not be registered on a crew member list;

c. The maximum number of crew members registered to any commercial hook-and-line licensee at any one time shall be 15;

d. Any crew registration list submitted by any commercial hook-and-line fisherman may be revised once per calendar year; and

e. A legible and approved crew member list must be maintained on board the vessel during all commercial hook-and-line activities.

~~3. Fail to display prominently the commercial hook-and-line decals, as provided by the commission, on the starboard and port sides of the vessel.~~

~~4.~~ 3. Fish within 300 yards of any bridge, bridge-tunnel, jetty, or pier from 6 p.m. Friday through 6 p.m. Sunday.

~~5.~~ 4. Fish within 300 yards of any fixed fishing device.

~~6.~~ 5. Harvest black drum within 300 yards of the Chesapeake Bay-Bridge-Tunnel at any time.

~~7.~~ 6. Fish recreationally on any commercial hook and line vessel during a commercial fishing trip.

~~8.~~ 7. Use any hydraulic fishing gear or deck-mounted fishing equipment.

~~9.~~ 8. Use any fishing rod and reel or hand line equipped with more than six hooks.

~~10.~~ 9. Fish commercially with hook and line aboard any vessel licensed as a charter boat or head boat while carrying customers for recreational fishing.

B. It shall be unlawful for any person to use a commercial hook and line within 300 feet of any bridge, bridge-tunnel, jetty, or pier during Thanksgiving Day through the following day or during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through 6 a.m. Friday.

VA.R. Doc. No. R27-8779; Filed September 1, 2026, 3:37 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-20, 4VAC20-720-40).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: October 1, 2026.

Agency Contact: Benjamin Foster, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23551, telephone (757) 709-9277, or email benjamin.foster@mrc.virginia.gov.

Summary:

The amendments establish the 2026-2027 areas of public harvest, public oyster harvest seasons, and oyster resource conservation measures to manage the Virginia public oyster fishery for sustainable harvest and to prevent overfishing.

4VAC20-720-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Aid to navigation" means any public or private day beacon, lighted channel marker, channel buoy, lighted channel buoy, or lighthouse that may be at, or adjacent to, any latitude and longitude used in area descriptions.

"Beasley Bay Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Pocomoke Sound east of a line that begins at a point located off the north end of Russell Island at Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to an end at Long Point at Latitude 37° 53.8568300' N., Longitude 75° 45.3632100' W.

"California Rock Area" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Tangier Sound south of a line that begins at a point located approximately 1.6 miles east of East Point Marsh at Latitude 37° 50.4093779' N., Longitude 75° 56.5165564' W.; thence due east to an end at a point at Latitude 37° 50.4093779' N., Longitude 75° 53.6926361' W.

"Chesapeake Bay Patent Tong Area" means all public grounds and unassigned grounds in that area of the Chesapeake Bay, including the Deep Rock Area, bounded by a line beginning at the southeastern corner of the Upper Chesapeake Bay - Blackberry Hangs Area, at a point located at Latitude 37° 49.4231463' N., Longitude 76° 13.1972058' W.; thence southerly to the northeastern-most corner of the Deep Rock Area at a point located at Latitude 37° 32.2712826' N., Longitude 76° 11.4813655' W.; thence southerly to the southeastern-most point at the corner of Public Ground 6 of Mathews Counts, located at Latitude 37° 23.2914687' N., Longitude 76° 11.7129870' W.; thence southerly to Plum Tree Point, located at Latitude 37° 07.634478' N., Longitude 76° 17.4847488' W.; thence northwesterly, following the western boundaries of public grounds in and in the vicinity of the Poquoson Flats, Poquoson River, Chisman Creek, and Back River, to Tue Point, at the mouth of the York River, located at Latitude 37° 13.7353263' N., Longitude 76° 23.1214137' W.; thence northeasterly to New Point Comfort Light, located at Latitude 37° 18.0444793' N., Longitude 76° 16.5883654' W.; thence northerly, following the inshore western boundary of public clam ground 906 and 905 in Mathews County to a point located at Latitude 37° 22.8921535' N., Longitude 76° 14.8393041' W.; thence northerly to the southwestern-most corner of the Deep Rock Area, located at Latitude 37° 28.1475258' N., Longitude 76° 15.8185669' W.; thence northerly following the boundary of the Deep Rock Area to Cherry Point, located at Latitude 37° 30.9790359’ N., Longitude 76° 17.6755365' W.; thence westerly to Stove Point, located at Latitude 37° 31.4971000' N., Longitude 76° 19.8766986' W.; thence following the shoreline north and northeasterly to Stingray Point, located at Latitude 37° 33.5324634' N., Longitude 76° 17.8232983' W.; thence northeasterly to the eastern-most corner of Rappahannock Rotation Area 1, located at Latitude 37° 34.329127' N., Longitude 76° 15.8396537' W.; thence northerly to a point east of Windmill Point, located at Latitude 37° 36.9479925' N., Longitude 76° 16.5064757' W.; thence northerly to Hughlett Point, located at Latitude 37° 43.7775644' N., Longitude 76° 18.0814988' W.; thence northerly to the northeastern corner of Public Ground 28 of Northumberland County, located at Latitude 37° 46.38727361' N., Longitude 76° 18.235200' W.; thence easterly to the southeastern corner of Great Wicomico Rotation Area 2, located at Latitude 37° 46.6609063' N., Longitude 76° 15.9799327' W.; thence north to boundary line between Great Wicomico Rotation Area 1 and 2, located at Latitude 37° 48.2078168' N., Longitude 76° 15.9799324' W.; thence northerly to the southwestern corner of Upper Chesapeake Bay - Blackberry Hangs Area, located at Latitude 37° 50.0560555' N., Longitude 76° 15.0023233' W.; thence easterly to the southeastern corner of the Upper Chesapeake Bay - Blackberry Hangs Area, at point, located at Latitude 37° 49.4231463' N., Longitude 76° 13.1972058' W., which is the point of beginning.

"Clean culled oyster" means any oyster taken from natural public beds, rocks, or shoals that is three inches or greater in shell length.

"Coan River Area" means the Public Grounds within the Coan River consisting of Public Grounds 77 and 78 of Northumberland County described as:

Public Ground 77 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 2,300 feet northeast of Honest Point and 1,300 feet southwest of Travis Point, said point being Corner 1, located at Latitude 37° 59.5257207' N., Longitude 76° 27.8810639' W.; thence southwesterly to Corner 2, Latitude 37° 59.3710259' N., Longitude 76° 27.9962148' W.; thence southwesterly to Corner 3, Latitude 37° 59.2953830' N., Longitude 76° 28.0468953' W.; thence northwesterly to Corner 4, Latitude 37° 59.3350863' N., Longitude 76° 28.0968837' W.; thence northeasterly to Corner 5, Latitude 37° 59.3965161' N., Longitude 76° 28.0287342' W.; thence northwesterly to Corner 6, Latitude 37° 59.4758507' N., Longitude 76° 28.1112280' W.; thence north-northwesterly to Corner 7, Latitude 37° 59.5079401' N., Longitude 76° 28.1230058' W.; thence northeasterly to Corner 8, Latitude 37° 59.5579153' N., Longitude 76° 27.9889429' W.; thence southeasterly to Corner 1, which is the point of beginning.

Public Ground 78 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 3,420 feet southeast of Travis Point and 3,260 feet northwest of Great Point, said point being Corner 1, located at Latitude 37° 59.4822275' N., Longitude 76° 27.1878637' W.; thence southeasterly to Corner 2, Latitude 37° 59.3824046' N., Longitude 76° 27.1088650' W.; thence southwesterly to Corner 3, Latitude 37° 59.2283287' N., Longitude 76° 27.8632901' W.; thence northeasterly to Corner 4, Latitude 37° 59.4368502' N., Longitude 76° 27.6868001' W.; thence continuing northeasterly to Corner 5, Latitude 37° 59.5949216' N., Longitude 76° 27.5399436' W.; thence southeasterly to Corner 1, which is the point of beginning.

"Corrotoman Hand Tong Area" means all public grounds in that area of the Corrotoman River and its tributaries north of a line beginning at Bar Point at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Deep Rock Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay near Gwynn Island, beginning at Cherry Point at the western-most point of the eastern headland of Kibble Pond located at Latitude 37° 30.9802148' N., Longitude 76° 17.6764393' W.; thence northeasterly to the Piankatank River, Flashing Green Channel Light "3", Latitude 37° 32.3671325' N., Longitude 76° 16.7038334' W.; thence east-southeasterly to the Rappahannock River Entrance Lighted Buoy G"1R", Latitude 37° 32.2712833' N., Longitude 76° 11.4813666' W.; thence southwesterly to the southern-most point of Sandy Point, the northern headland of "The Hole in the Wall", Latitude 37° 28.1475258' N., Longitude 76° 15.8185670' W.; thence northwesterly along the Chesapeake Bay mean low water line of the barrier islands of Milford Haven, connecting headland to headland at their eastern-most points, and of Gwynn Island to the western-most point of the eastern headland of Kibble Pond on Cherry Point, which is the point of beginning.

"Deep Water Shoal State Replenishment Seed Area" or "DWS" means that area in the James River near Mulberry Island, beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1, located at Latitude 37° 08.9433287' N., Longitude 76° 38.3213007' W.; thence southeasterly to Corner 2, Latitude 37° 09.5734380' N., Longitude 76° 37.8300582' W.; thence southwesterly to Corner 3, Latitude 37° 08.9265524' N., Longitude 76° 37.0574269' W.; thence westerly to Corner 4, Latitude 37° 08.4466039 N., Longitude 76° 37.4523346' W.; thence northwesterly to Corner 5, Latitude 37° 08.4491489' N., Longitude 76° 38.0215553' W.; thence northeasterly to Corner 1, which is the point of beginning.

"Great Wicomico River Hand Tong Area" means that area of the Great Wicomico River known as Haynie Point, Sandy Point, and Shell Bar.

Haynie Point consists of the area bounded by a line beginning at a point located at Latitude 37° 49.7907323' N., Longitude 76° 18.6294277' W.; thence northeasterly to a point located at Latitude 37° 49.8578592' N., Longitude 76° 18.5570328' W.; thence southeasterly to a point located at Latitude 37° 49.7892242' N., Longitude 76° 18.5140118' W.; thence southwesterly to a point located at Latitude 37° 49.7380000' N., Longitude 76° 18.5672041' W.; thence northwesterly to a point located at Latitude 37° 49.7907323' N., Longitude 76° 18.6294277' W., which is the point of beginning, containing 4.64 acres.

Sandy Point consists of the area bounded by a line beginning at a point located at Latitude 37° 49.2576829' N., Longitude 76° 18.7547649' W.; thence northeasterly to a point located at Latitude 37° 49.2832242' N., Longitude 76° 18.6559957' W.; thence northeasterly to a point located at Latitude 37° 49.3541620' N., Longitude 76° 18.4765658' W.; thence southerly to a point located at Latitude 37° 49.2917724' N., Longitude 76° 18.4583880' W.; thence southwesterly to a point located at Latitude 37° 49.2335757' N., Longitude 76° 18.6003145' W.; thence southwesterly to a point located at Latitude 37° 49.2166701' N., Longitude 76° 18.7332435' W.; thence northwesterly to a point located at Latitude 37° 49.2576829' N., Longitude 76° 18.7547649' W., which is the point of beginning, containing 11.71 acres.

Shell Bar consists of the area bounded by a line beginning at a point located at Latitude 37° 49.4334037' N., Longitude 76° 18.9831193' W.; thence northeasterly to a point located at Latitude 37° 49.5165040' N., Longitude 76° 18.9165237' W.; thence southeasterly to a point located at Latitude 37° 49.3666408' N., Longitude 76° 18.7164965' W.; thence southwesterly to a point located at Latitude 37° 49.3169571' N., Longitude 76° 18.8165540' W.; thence northwesterly to a point located at Latitude 37° 49.3499945' N., Longitude 76° 18.9166098' W.; thence northwesterly to a point located at Latitude 37° 49.4334037' N., Longitude 76° 18.9831193' W, which is the point of beginning, containing 17.67 acres.

"Great Wicomico River Rotation Area 1" means all public grounds and unassigned grounds in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay beginning at a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W.; thence easterly to the southern-most point of Cockrell Point, Latitude 37° 49.2664838' N., Longitude 76° 17.3454434' W.; thence easterly following the mean low water line of Cockrell Point to a point on the boundary of Public Ground 115 at Cash Point, Latitude 37° 49.2695619' N., Longitude 76° 17.2804046' W.; thence southeasterly to the gazebo on the pier head at Fleeton Point, Latitude 37° 48.7855824' N., Longitude 76° 16.9609311' W.; thence southeasterly to the Great Wicomico

River Light; Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence westerly to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence northerly crossing the entrance to Towles Creek at the offshore ends of the jetties and continuing along the mean low water line to Bussel Point, Latitude 37° 48.6879208' N., Longitude 76° 18.4670860' W.; thence northwesterly to the northern headland of Cranes Creek, Latitude 37° 48.8329168' N., Longitude 76° 18.7308073' W.; thence following the mean low water line northerly to a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W., which is the point of beginning.

"Great Wicomico River Rotation Area 2" means all public grounds and unassigned grounds in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay beginning at a point on Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W.; thence due south to a point due east of the southern-most point of Dameron Marsh, Latitude 37° 46.6610003' N., Longitude 76° 16.0570007' W.; thence due west to the southern-most point of Dameron Marsh, Latitude 37° 46.6609070' N., Longitude 76° 17.2670707' W.; thence along the mean low water line of Dameron Marsh, north and west to Garden Point, Latitude 37° 47.2519872' N., Longitude 76° 18.4028142' W.; thence northwesterly to Windmill Point, Latitude 37° 47.5194547' N., Longitude 76° 18.7132194' W.; thence northerly along the mean low water line to the western headland of Harveys Creek, Latitude 37° 47.7923573' N., Longitude 76° 18.6881450' W.; thence east-southeasterly to the eastern headland of Harveys Creek, Latitude 37° 47.7826936' N., Longitude 76° 18.5469879' W.; thence northerly along the mean low water line to a point on the offshore end of the southern jetty at the entrance to Towles Creek, Latitude 37° 48.3743771' N., Longitude 76° 17.9600320' W.; thence easterly to Great Wicomico River Light, Latitude 37° 48.2078167' N., Longitude 76° 15.9799333' W., which is the point of beginning.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"Hand tong" or "ordinary tong" means any pincers, nippers, tongs, or similar device used in catching oysters, which consists of two shafts or handles attached to opposable and complementary pincers, baskets, or containers.

"Hurleys Rock Area" means that portion of Pocomoke and Tangier Sound Rotation Area 1 in the Tangier Sound north of a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W., thence due west to an end at a point at Latitude 37° 54.6136000' N., Longitude 76° 00.0687800' W.

"Indian Creek Area" means all public grounds and unassigned grounds in that area of Indian Creek and its tributaries in Northumberland and Lancaster Counties between a line beginning at a point on the shore on the south side of the creek located at Latitude 37° 041.4021100' N., Longitude 76° 20.7493600' W.; thence in a straight line to a point on shore on the north side of the creek located at Latitude 37° 041.4999200' N., Longitude 76° 20.5974400' W.; thence southeasterly to a line beginning on the south shore of the mouth of the creek located at Latitude 37° 041.2975900' N., Longitude 76° 19.5082500' W.; thence in a straight line to a point on shore on the north side of the mouth of the creek located at Latitude 37° 041.0934000' N., Longitude 76° 18.7589400' W.

"James River Area 1" means all public grounds and unassigned grounds in that area of the James River, excluding White Shoal, beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence southeasterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence southeasterly to the Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence southeasterly to the northeast corner of the western draw span pier of the James River Bridge (U.S. Route 17), Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence southwesterly along the upstream side of the James River Bridge to the mean low water line; thence northwesterly along the mean low water line, crossing Kings Creek at the headlands and continuing along the mean low water line to a point on the shore at Rainbow Farm Point in line with VMRC Markers "STH" and "SMT," located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., which is the point of beginning.

"James River Area 2" means all public grounds and unassigned grounds in that area of the James River beginning at the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, said point being in line with VMRC Markers "NMT" and "NTH" and located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; thence southeasterly along the mean low water line to the upstream side of the James River Bridge (U.S. Route 17); thence westerly along the James River Bridge to the northeast corner of the western draw span pier, Latitude 37° 00.1524824' N., Longitude 76° 28.1581984' W.; thence northwesterly to the

Flashing Green Channel Light #1, located at Latitude 37° 00.7666667' N., Longitude 76° 29.9083333' W.; thence northwesterly to the Flashing Green Channel Light #3, located at Latitude 37° 01.7124500' N., Longitude 76° 31.8210667' W.; thence northwesterly to the Flashing Green Channel Light #5, located at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W., which is the point of beginning.

"James River Area 3" means those public grounds of Isle of Wight County and Nansemond County (City of Suffolk) located in the James River and Nansemond River west of the Monitor Merrimac Memorial Bridge Tunnel (Route I-664), northeast of the Mills E. Godwin, Jr. Bridge (U.S. Route 17) on the Nansemond River, and south of the James River Bridge (U.S. Route 17).

"James River Seed Area" means all public grounds and unassigned grounds in that area of the James River and its tributaries with a southeastern boundary beginning at a point on the shore on the south side of the river at Rainbow Farm Point in Isle of Wight County located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH," Latitude 37° 00.9815328 N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT," at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3528833' N., Longitude 76° 32.7785333' W.; thence northeasterly to a VMRC Marker "NMT," Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, in the City of Newport News, located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; the northern boundary, being a straight line, beginning at a point on the shore on the east side of the river in the City of Newport News, at Latitude 37° 08.4458787' N., Longitude 76° 37.2855533' W.; thence westerly to the southeast corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence westerly to the southwest corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4490472' N., Longitude 76° 38.0215554' W.; thence westerly to a point on the shore on the west side of the river at the mouth of Lawnes Creek in Isle of Wight County, Latitude 37° 08.4582990' N., Longitude 76° 40.2816023' W.

"Johnsons" means that area of the Pocomoke and Tangier Sounds Management Area consisting of Public Ground 4 of Accomack County.

Public Ground 4 of Accomack County, known as Johnsons Rock, is located in Tangier Sound beginning at a point, said point being Corner 1, located at Latitude 37° 48.1576156' N., Longitude 75°56.5128256' W.; thence southerly to Corner 2, Latitude 37° 46.7576377' N., Longitude 75° 56.562338' W.; thence westerly to Corner 3, Latitude 37° 46.9576307' N., Longitude 75° 57.3628556' W.; thence northerly to Corner 4, Latitude 37° 48.1742797' N., Longitude 75° 57.0128107' W.; thence northwesterly to Corner 5, Latitude 37° 48.6909250' N., Longitude 75° 58.0461930' W.; thence easterly to Corner 6, Latitude 37° 48.9742567' N., Longitude 75° 57.3961833' W; thence southeasterly to Corner 1, which is the point of beginning.

"Larsons Bay Area" means all public grounds in that area of Larsons Bay in the Rappahannock River, beginning at Cherry Point at Latitude 37° 37.6554400' N., Longitude 76° 24.1203200' W.; thence south east to the southern-most corner of the house on Mosquito Point at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence following the ordinary mean low water line in a northwesterly direction to Cherry Point, which is the point of beginning.

"Latitude and longitude" means values that are based upon a geodetic reference system of the North American Datum of 1983 (NAD83). When latitude and longitude are used in any area description, in conjunction with any physical landmark, to include aids to navigation, the latitude and longitude value is the legal point defining the boundary.

"Little Wicomico River" means that area of the Little Wicomico River inside of Public Ground 43 of Northumberland County, located in the Little Wicomico River near Bridge Creek, beginning at a point approximately 150 feet north of Peachtree Point, said point being Corner 1, located at Latitude 37° 53.2910650' N., Longitude 76° 16.7312926' W.; thence southwesterly to Corner 2, Latitude 37° 53.2601877' N., Longitude 76° 16.8662408' W.; thence northwesterly to Corner 3, Latitude 37° 53.2678470' N., Longitude 76° 16.8902408' W.; thence northeasterly to Corner 4, Latitude 37° 53.3113148' N., Longitude 76° 16.8211543' W.; thence southeasterly to Corner 1, which is the point of beginning.

"Middle Ground" means all public grounds in the area of the Corrotoman River between a line beginning at Ball Point at Latitude 37° 40.65133000' N., Longitude 76° 28.4440000' W.; thence easterly to a point at the western side of the mouth of Taylor Creek at Latitude 37° 40.97331000' N., Longitude 76° 27.59471000' W.; upstream to a line from Bar Point at Latitude 37° 41.65256000' N., Longitude 76° 28.66195000' W.; thence easterly to Black Stump Point at Latitude 37° 41.7360900' N., Longitude 76° 28.1212200' W.

"Milford Haven" means all public grounds and unassigned grounds in that area of Milford Haven and its tributaries bound on the west by a line from a point on the southernmost point of land of the north shore of Milford Haven being near the end of State Route 634, Latitude 37° 29.5971' N., Longitude 76° 18.1822' W.; thence south-southeasterly to a point on the northeast corner of the pier head of the long pier being on the south shore of Milford Haven immediately west of the Sea Farms Inc. facility, Latitude 37° 29.3546' N., Longitude 76° 18.1323' W.; thence following the east side of the pier to the shore and bound on the east by a line from a point on the shore

at the western headland of the wash formerly Hills Creek, Latitude 37° 29.0278' N., Longitude 76° 16.3834' W.; thence easterly to a point on the north shore of Sandy Point near Latitude 37° 29.0017' N., Longitude 76° 16.1640' W.; thence following the shore of the east side of Sandy Point to a point on the shoreline at Latitude 37° 28.6233' N., Longitude 76° 15.8605' W.; thence in a line south-southeasterly to a point on the breakwater at Haven Beach, Latitude 37° 26.2006' N., Longitude 76° 15.1257' W.

"Mobjack Bay Area" means that area of Mobjack Bay consisting of Public Ground 2 of Mathews County (Pultz Bar) and Public Ground 25 of Gloucester County (Tow Stake) described as:

Public Ground 2 of Mathews County, known as Pultz Bar, is located in Mobjack Bay, beginning at a point approximately 5,420 feet south of Minter Point, said point being Corner 1, located at Latitude 37° 21.2500000' N., Longitude 76° 21.3700000' W.; thence easterly to Corner 2, Latitude 37° 21.2700000' N., Longitude 76° 20.9600000' W.; thence southerly to Corner 3, Latitude 37° 21.0200000' N., Longitude 76° 20.9400000' W.; thence westerly to Corner 4, Latitude 37° 21.0500000' N., Longitude 76° 21.3300000' W.; thence northerly to Corner 1, which is the point of beginning.

Public Ground 25 of Gloucester County, known as Tow Stake, is located in Mobjack Bay, near the mouth of the Severn River, beginning at a point approximately 2,880 feet east-northeast of Tow Stake Point, said point being Corner 1, located at Latitude 37° 20.3883888' N., Longitude 76° 23.5883836' W.; thence northeasterly to Corner 2, Latitude 37° 30.5910482' N., Longitude 76° 23.2372184' W.; thence southeasterly to Corner 3, Latitude 37° 20.3786971' N., Longitude 76° 22.7241180' W.; thence southwesterly to Corner 4, Latitude 37° 19.8616759' N., Longitude 76° 23.5914937' W.; thence northwesterly to Corner 5, Latitude 37° 20.0284019' N., Longitude 76° 23.7717423' W.; thence northeasterly to Corner 1, which is the point of beginning.

"Nassawadox Creek Area" means all public grounds in Nassawadox Creek in Northampton County.

"Nomini Creek Area" means that area of Nomini Creek inside of Public Grounds 26 and 28 of Westmoreland County.

Public Ground 26 of Westmoreland County is located in Nomini Creek, north of Beales Wharf and east of Barnes Point, beginning at a point approximately 1,400 feet north of Barnes Point, said point being Corner 1, located at Latitude 38° 07.2690219' N., Longitude 76° 42.6784210' W.; thence southeasterly to Corner 2, Latitude 38° 07.0924060' N., Longitude 76° 42.4745767' W.; thence southwesterly to Corner 3, Latitude 38° 06.8394053' N., Longitude 76° 42.6704025' W.; thence northwesterly to Corner 4, Latitude 38° 06.8743004' N., Longitude 76° 42.7552151' W.; thence northeasterly to Corner 5, Latitude 38° 07.0569717' N., Longitude 76° 42.5603535' W.; thence northwesterly to Corner 1, which is the point of beginning.

Public Ground 28 of Westmoreland County is located at the mouth of Nomini Creek, beginning at a point approximately 50 feet west of White Oak Point, said point being Corner 1, located at Latitude 38° 07.6429987' N., Longitude 76° 43.0337082' W.; thence south-southeasterly to Corner 2, Latitude 38° 07.2987193' N., Longitude 76° 43.1101420' W.; thence northwesterly to Corner 3, Latitude 38° 07.7029267' N., Longitude 76° 43.3337762' W.; thence west to the mean low water line, Latitude 38° 07.7031535' N., Longitude 76° 43.3378345' W.; thence northerly and westerly along the mean low water line of Nomini Creek to a point southwest of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence northeasterly to a point on the mean low water line at the southern-most point of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence following the mean low water line of the southern and eastern sides of Cedar Island to a point, Latitude 38° 08.0164430' N., Longitude 76° 43.4773169' W.; thence northeasterly to Corner 4, Latitude 38° 08.0712849' N., Longitude 76° 43.4416606' W.; thence northeasterly to a point on the northern headland of Nomini Creek at the mean low water line, said point being Corner 5, Latitude 38° 08.2729626' N., Longitude 76° 43.3105315' W.; thence following the mean low water line of White Point to a point northwest of Snake Island, Corner 6, Latitude 38° 08.4066960' N., Longitude 76° 42.9105565' W.; thence southeast, crossing the mouth of Buckner Creek, to a point on the mean low water line of Snake Island, Corner 7, Latitude 38° 08.3698254' N., Longitude 76° 42.8939656' W.; thence southeasterly following the mean low water line of Snake Island to Corner 8, Latitude 38° 08.2333798' N., Longitude 76° 42.7778877' W.; thence south-southwesterly, crossing the mouth of Buckner Creek, to Corner 9, Latitude 38° 08.2134371' N., Longitude 76° 42.7886409' W.; thence southeasterly to a point on the mean low water line of the southern headland of Buckner Creek, Corner 10, Latitude 38° 08.1956281' N., Longitude 76° 42.7679625' W.; thence southwesterly following the mean low water line of Nomini Creek, crossing the mouth of an unnamed cove at the narrowest point between the headlands and continuing to follow the mean low water line to a point on White Oak Point, Latitude 38° 07.6428228' N., Longitude 76° 43.0233530' W.; thence west to Corner 1, which is the point of beginning.

"Oyster" means any shellfish of the species Crassostrea virginica.

"Oyster dredge" means any device having a maximum weight of 150 pounds with attachments, maximum width of 50 inches, and maximum tooth length of four inches.

"Oyster patent tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

"Oyster resource user fee" means a fee that must be paid each calendar year by anyone who grows, harvests, shucks, packs, or ships oysters for commercial purposes.

"Piankatank River Hand Tong Area" means those areas in the Piankatank River known as Bland Point, Burton Point, ~~and~~ Cape Tune, and Palace Bar.

"Bland Point" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 31.7504466' N., Longitude 76° 21.3243911' W.; thence westerly to a point located at Latitude 37° 31.7928543' N., Longitude 76° 21.5539642' W.; thence northerly to a point located at Latitude 37° 31.9666666' N., Longitude 76° 21.4833333' W.; thence easterly to a point located at Latitude 37° 31.916666' N., Longitude 76° 21.2666666' W.; thence southerly to a point located at Latitude 37° 31.7504466' N., Longitude 76° 21.3243911' W., which is the point of beginning.

"Burton Point" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W.; thence northeasterly to a point located at Latitude 37° 30.9333442' N., Longitude 76° 19.7333318' W.; thence southeasterly to a point located at Latitude 37° 30.8832475' N., Longitude 76° 19.5827984' W.; thence southeasterly to a point located at Latitude 37° 30.8335420' N., Longitude 76° 19.3835660' W.; thence southwesterly to a point located at Latitude 37° 30.6867440' N., Longitude 76° 19.5250181' W.; thence northwesterly to a point located at Latitude 37° 30.7700556' N., Longitude 76° 19.7721907' W.; thence northwesterly to a point located at Latitude 37° 30.8149992' N., Longitude 76° 19.8179990' W., which is the point of beginning.

"Cape Tune" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 31.1154576' N., Longitude 76° 20.8133418' W.; thence easterly to a point located at Latitude 37° 31.0500000' N., Longitude 76° 20.6333333' W.; thence southerly to a point located at Latitude 37° 30.8250970' N., Longitude 76° 20.7108568' W.; thence westerly to a point located at Latitude 37° 30.8350000' N., Longitude 76° 20.9683333' W.; thence northerly to a point located at Latitude 37° 31.1154576' N., Longitude 76° 20.8133418' W., which is the point of beginning.

~~"Piankatank River Hand Tong Area" means that area in the Piankatank River known as~~ "Palace Bar" means that area in the Piankatank River bounded by a line beginning at a point located at Latitude 37° 31.6366756' N., Longitude 76° 22.2999953' W.; thence northly to a point located at Latitude 37° 31.7574943' N., Longitude 76° 22.2966779' W.; thence northeasterly to a point located at Latitude 37° 31.8291757' N., Longitude 76° 22.2483355' W.; thence southeasterly to a point located at Latitude 37° 31.8166854' N., Longitude 76° 22.1433377' W.; thence southeasterly to a point located at Latitude 37° 31.7500276' N., Longitude 76° 22.0166809' W.; thence southeasterly to a point located at Latitude 37° 31.6000121' N., Longitude 76° 21.9166733' W.; thence westerly to a point located at Latitude 37° 31.6199872' N., Longitude 76° 22.1500353' W.; thence westerly to a point located at Latitude 37° 31.6366756' N., Longitude 76° 22.2999953' W., which is the point of beginning, containing 38.53 acres.

"Pocomoke Sound Area" means that area of Pocomoke Sound inside of Public Ground ~~10~~ 11 of Accomack County.

"Pocomoke Sound Hand Tong Area" means that area of Pocomoke Sound inside of Public Grounds 9 and 10 of Accomack County.

Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north-northeast of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west-southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south-southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south-southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819' W.; thence southwesterly to Corner 10, Latitude 37° 56.5790952' N., Longitude 75° 42.5228752' W.; thence west-southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west-southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north-northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75° 44.0791266' W.; thence northeasterly to Corner 19, Latitude 37°

56.1241858’ N., Longitude 75° 43.8791328’ W.; thence north- northeasterly to Corner 20, Latitude 37° 56.4075136’ N., Longitude 75° 43.7291361’ W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664’ N., Longitude 75° 43.2624601’ W.; thence north-northeasterly to Corner 22, Latitude 37° 57.0706006’ N., Longitude 75° 43.1480402’ W.; thence east-northeasterly along the Maryland-Virginia state line to Corner 1, which is the point of beginning.

Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, which is the point of beginning.

~~"Pocomoke Sound Hand Tong Area" means that area of Pocomoke Sound inside of Public Ground 9 of Accomack County.~~

~~Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north northeast of the northern most point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819' W.; thence southwesterly to Corner 10, Latitude 37° 56.5790952' N., Longitude 75° 42.5228752' W.; thence west southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75° 44.0791266' W.; thence northeasterly to Corner 19, Latitude 37° 56.1241858' N., Longitude 75° 43.8791328' W.; thence north northeasterly to Corner 20, Latitude 37° 56.4075136' N., Longitude 75° 43.7291361' W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664' N., Longitude 75° 43.2624601' W.; thence north northeasterly to Corner 22, Latitude 37° 57.0706006' N., Longitude 75° 43.1480402' W.; thence east northeasterly along the Maryland-Virginia state line to Corner 1, which is the point of beginning.~~

Public Ground 11 of Accomack County consists of the area bounded by a line beginning at a point located at Latitude 37° 54.2242247' N., Longitude 75° 46.8458531' W.; thence northeasterly to a point located at Latitude 37° 54.7717652' N., Longitude 75° 46.2306934' W.; thence southeasterly to a point located at Latitude 37° 54.7655487' N., Longitude 75° 46.2246266' W.; thence northeasterly to a point located at Latitude 37° 55.1625018' N., Longitude 75° 45.7462838' W.; thence northwesterly to a point located at Latitude 37° 55.1713750' N., Longitude 75° 45.7562587' W.; thence northeasterly to a point located at Latitude 37° 55.4058815' N., Longitude 75° 45.4541658' W.; thence northeasterly to a point located at Latitude 37° 55.5742129' N., Longitude 75° 44.8291700' W.; thence northeasterly to a point located at Latitude 37° 55.5923356' N., Longitude 75° 44.7851143' W.; thence northeasterly to a point located at Latitude 37° 55.6009795' N., Longitude 75° 44.7641422' W.; thence southeasterly to a point located at Latitude 37° 55.5842236' N., 75° 44.7554991' W.; thence southeasterly to a point located at Latitude 37° 55.5265366' N., Longitude 75° 44.6897855' W.; thence northeasterly to a point located at Latitude 37° 55.6926202' N., Longitude 75° 44.3730212' W.; thence northwesterly to a point located at Latitude 37° 55.7414951' N., Longitude 75° 44.4228784' W.; thence northeasterly to a point located at Latitude 37° 55.8075338'

N., Longitude 75° 44.2624885' W.; thence southerly to a point located at Latitude 37° 55.6345499' N., Longitude 75° 44.2772024 W.; thence southwesterly to a point located at Latitude 37° 55.5620352' N., Longitude 75° 44.4066645' W.; thence southeasterly to a point located at Latitude 37° 55.4972479' N., Longitude 75° 44.3397091' W.; thence northeasterly to a point located at Latitude 37° 55.5576916' N., Longitude 75° 44.2459142' W.; thence southeasterly to a point located at Latitude 37° 55.4242118' N., Longitude 75° 44.1791595' W.; thence southeasterly to a point located at Latitude 37° 55.3575442' N., Longitude 75° 43.9958019' W.; thence southwesterly to a point located at Latitude 37° 54.8742193' N., Longitude 75° 44.7625058' W.; thence southernly to a point located at Latitude 37° 54.4075648' N., Longitude 75° 44.5291567' W.; thence southeasterly to a point located at Latitude 37° 54.0909029' N., Longitude 75° 44.2291560' W.; thence southwesterly to a point located at Latitude 37°.0075735' N., Longitude 75° 44.4791578' W.; thence northwesterly to a point located at Latitude 37° 54.1075697' N., Longitude 75° 44.5958138' W.; thence westerly to a point located at Latitude 37° 54.0909049' N., Longitude 75° 45.1291836' W.; thence northwesterly to a point located at Latitude 37° 54.1909062' N., Longitude 75° 45.2291611' W.; thence northwesterly to a point located at Latitude 37° 54.3242309' N., Longitude 75° 45.6624951' W.; thence southwesterly to a point located at Latitude 37° 54.3075702' N., Longitude 75° 45.7458522' W.; thence southwesterly to a point located at Latitude 37° 53.8075670' N., Longitude 75° 46.7292265' W.; thence northerly to a point located at Latitude 37° 54.2242247' N., Longitude 75° 46.8458531' W., being the point of beginning, containing 1650.39 acres.

"Pocomoke and Tangier Sounds Management Area" or "PTSMA" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke and Tangier Sounds Rotation Area 1" means all public grounds and unassigned grounds within an area of the PTSMA in Pocomoke and Tangier Sounds, bounded by a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence south to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence westerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence south to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence easterly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence northerly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southeasterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence southeasterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence southeast to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence southerly to a point on a line from Guilford Flats Junction Light to the northern-most point of Russell Island, where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence clockwise following the PTSMA boundary to a point on the Maryland-Virginia state line, which is the point of beginning.

"Pocomoke and Tangier Sounds Rotation Area 2" means all public grounds and unassigned grounds within an area of the PTSMA in Pocomoke and Tangier Sounds, bounded by a line beginning at the house on Great Fox Island, located at Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southerly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence westerly to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence northerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence easterly to the house on Great Fox Island, said house being the point of beginning. Also, Pocomoke and Tangier Sounds Rotation Area 2 shall include all public grounds and unassigned grounds in the PTSMA in Pocomoke Sound bounded by a line beginning at a point on the Maryland-Virginia state line, Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence following the PTSMA boundary clockwise to a point on the line from the northern-most point of Russell Island to Guilford Flats Junction Light Flashing 2+1 Red "GF", where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence northwesterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence northwesterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence northwesterly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence northerly to a point on the Maryland-Virginia state line, which is the point of beginning.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia or by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources Commission and may be redefined by any of these legal authorities.

"Rappahannock River Area 7" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Rogue Point, located at Latitude 37° 40.0400000' N., Longitude 76° 32.2530000' W.; thence west-northwesterly to Flashing Red Buoy "8", Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.; and bounded upstream by a line from

Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; thence southeasterly to Monaskon Point, Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.

"Rappahannock River Area 8" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Monaskon Point, located at Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.; thence northwesterly to Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; and bounded upstream by a line from Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; thence north-northwesterly to Sharps Point, Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.

"Rappahannock River Area 9" means all public grounds in that area of the Rappahannock River bounded downstream by a line from Sharps Point, located at Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.; thence south-southeasterly to Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; and bounded upstream by the Thomas J. Downing Bridge (U.S. Route 360).

"Rappahannock River Rotation Area 1" means all public grounds in that area of the Rappahannock River and Chesapeake Bay bounded by a line offshore and across the mouth of the Rappahannock River from a point on the mean low water line of Windmill Point, located at Latitude 37° 36.8200000' N., Longitude 76° 16.9460000' W.; thence southeast to Windmill Point Light, Latitude 37° 35.7930000' N., Longitude 76° 14.1800000' W.; thence southwesterly to Stingray Point Light, Latitude 37° 33.6730000' N., Longitude 76° 16.3620000' W.; thence westerly to a point on the mean low water line of Stingray Point, Latitude 37° 33.6920000' N., Longitude 76° 17.9860000' W.; and bounded upstream by a line from the mean low water line west of Broad Creek, Latitude 37° 33.9520000' N., Longitude 76° 19.3090000' W.; thence northeasterly to a VMRC Buoy on the Baylor line, Latitude 37° 34.5310000' N., Longitude 76° 19.1430000' W.; thence northeasterly to a VMRC Buoy, Latitude 37° 34.6830000' N., Longitude 76° 19.1000000' W.; thence northwesterly to a VMRC Buoy, Latitude 37° 35.0170000' N., Longitude 76° 19.4500000' W.; thence northwesterly to Sturgeon Bar Light "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence continuing northwesterly to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence northwesterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 2" means all public grounds in that area of the Rappahannock River bounded downstream by a line from the southern-most corner of the house on Mosquito Point, located at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southeast to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence continuing southeasterly to Sturgeon Bar Beacon "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence west-southwesterly to a VMRC Buoy, Latitude 37° 34.9330000' N., Longitude 76° 21.0500000' W.; thence southwesterly to a VMRC Buoy, Latitude 37° 34.8830000' N., Longitude 76° 21.1000000' W.; thence southwesterly to a pier west of Hunting Creek at Grinels, Latitude 37° 34.4360000' N., Longitude 76° 26.2880000' W.; and bounded on the upstream by a line from Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 26.9500000' W.; thence northeasterly to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence northeasterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000'0 W.

"Rappahannock River Rotation Area 3" means all public grounds in that area of the Rappahannock River beginning from the north channel fender at the Robert O. Norris, Jr. Bridge, located at Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence southeast to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southwest to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence southwesterly to Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 24.9500000' W.; thence northeasterly to Parrotts Creek Channel Marker "1", Latitude 37° 36.0330000' N., Longitude 76° 25.4170000' W.; thence northerly to VMRC Buoy, Latitude 37° 36.3330000' N., Longitude 76° 25.2000000' W.; thence northerly to the north channel fender of the Robert O. Norris, Jr. Bridge, which is the point of beginning.

"Rappahannock River Rotation Area 4" means all public grounds in that area of the Rappahannock River, Corrotoman River, and Carter Creek, beginning at the White Stone end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 38.1290000' N., Longitude 76° 24.7220000' W.; thence along said bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence westerly to the VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence northerly to Old House Point, Latitude 37° 39.1390000' N., Longitude 76° 29.6850000' W.; thence northeasterly to Ball Point, Latitude 37° 41.6600000' N., Longitude 76° 28.6320000' W.; thence southeasterly to VMRC reef marker "Ferry Bar – North", Latitude 37° 40.3000000' N., Longitude 76° 28.5000000' W.; thence southwesterly to VMRC reef marker "Ferry Bar – South", Latitude 37° 40.1670000' N., Longitude 76° 28.5830000' W.; thence southeasterly to a duck blind west of Corrotoman Point, Latitude 37° 39.8760000' N., Longitude 76° 28.4200000' W.; thence southerly to VMRC Buoy "543", Latitude 37° 39.2670000' N., Longitude 76° 27.8500000' W.; thence southerly to VMRC Buoy "Drumming-West", Latitude 37° 38.8830000' N., Longitude 76° 27.6830000' W.; thence

southerly to VMRC Buoy "Drumming-East", Latitude 37° 38.8330000' N., Longitude 76° 27.5670000' W.; thence northeasterly to Orchard Point, Latitude 37° 38.9240000' N., Longitude 76° 27.1260000' W.

"Rappahannock River Rotation Area 5" means all public grounds in that area of the Rappahannock River beginning at the Greys Point end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 36.8330000' N., Longitude 76° 25.9990000' W.; thence northeasterly along the bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence west-northwesterly to VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence westerly to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence south to the eastern headland of Whiting Creek, Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.

"Rappahannock River Rotation Area 6" means all public grounds in that area of the Rappahannock River beginning on the eastern headland of Whiting Creek, located at Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.; thence north to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence northwesterly to VMRC White House Sanctuary Buoy, Latitude 37° 38.1500000' N., Longitude 76° 30.5330000' W.; thence northwesterly to VMRC Towles Point Area Buoy, Latitude 37° 38.8330000' N., Longitude 76° 31.5360000' W.; thence northwesterly to Flashing Red Buoy "8" off Rogue Point, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.

"Seed oyster" means any oyster taken by any person from natural beds, rocks, or shoals that is more than 30 days from harvest for human consumption.

"Thorofare" means that portion of Pocomoke and Tangier Sound Rotation Area 2 in the Tangier Sound north of a line beginning at a point, located at Latitude 37° 51.3670743' N., Longitude 75° 53.7526426' W.; thence westerly to an end at a point at Latitude 37° 51.3505943' N., Longitude 75° 56.5300708' W.

"Unassigned ground" means all grounds not assigned pursuant to §§ 28.2-600 through 28.2-633 of the Code of Virginia, established pursuant to § 28.2-551 of the Code of Virginia, or set aside by court order, or those grounds set aside by declarations or regulation by the Marine Resources Commission, and may be redefined by any of these legal authorities.

"Upper Chesapeake Bay - Blackberry Hangs Area" means all public grounds and unassigned grounds in that area of the Chesapeake Bay bounded by a line, beginning at a point approximately 300 feet east of the mean low water line of the Chesapeake Bay and approximately 1,230 feet southwest of the end of the southern-most stone jetty at the mouth of the Little Wicomico River, said point being Corner 1, Latitude 37° 53.1811193' N., Longitude 76° 14.1740146' W.; thence east-southeasterly to Corner 2, Latitude 37° 52.9050025' N., Longitude 76° 11.9357257' W.; thence easterly to Corner 3, Latitude 37° 52.9076552' N., Longitude 76° 11.6098145' W.; thence southwesterly to Corner 4, Latitude 37° 52.8684955' N., Longitude 76° 11.6402444' W.; thence east-southeasterly to Corner 5, Latitude 37° 52.7924853' N., Longitude 76° 11.0253352' W.; thence southwesterly to Corner 6, Latitude 37° 49.4327736' N., Longitude 76° 13.2409959' W.; thence northwesterly to Corner 7, Latitude 37° 50.0560555' N., Longitude 76° 15.0023234' W.; thence north-northeasterly to Corner 8, Latitude 37° 50.5581183' N., Longitude 76° 14.8772805' W.; thence north-northeasterly to Corner 9, Latitude 37° 52.0260950' N., Longitude 76° 14.5768550' W.; thence northeasterly to Corner 1, which is the point of beginning.

"White Shoal" means all public grounds and unassigned grounds in that area of the James River, bounded by a line beginning at a point, Corner 1, located at Latitude 37° 01.2430528' N., Longitude 76° 31.8484099' W.; thence northwesterly to Corner 2, Latitude 37° 01.6296514' N., Longitude 76° 32.3400073' W.; thence northwesterly to Corner 3, Latitude 37° 01.9737472' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 37° 02.3528838' N., Longitude 76° 32.7785342' W.; thence southeasterly to Corner 5, Latitude 37° 01.7124499' N., Longitude 76° 31.8210668' W.; thence southeasterly to Corner 6, Latitude 37° 01.3285092' N., Longitude 76° 31.0444525' W.; thence westerly to Corner 1, which is the point of beginning.

"Yeocomico River Area" means that area of the North West Yeocomico River, inside Public Ground 8 of Westmoreland County, and those areas of the South Yeocomico River inside Public Grounds 100, 102, 104, 107, and 112 of Northumberland County described as:

Public Ground 8 of Westmoreland County is located in the North West Yeocomico River, beginning at a point approximately 1,455 feet northeast of Crow Bar and 1,850 feet northwest of White Point, said point being Corner 1, located at Latitude 38° 02.7468214' N., Longitude 76° 33.0775726' W.; thence southeasterly to Corner 2, Latitude 38° 02.7397202' N., Longitude 76° 33.0186286' W.; thence southerly to Corner 3, Latitude 38° 02.6021644' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 38° 02.6006669' N., Longitude 76° 33.0824799' W.; thence northerly to Corner 1, which is the point of beginning.

Public Ground 100 of Northumberland County is located in the South Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 00.2292779' N., Longitude 76° 32.2244222' W.; thence southwesterly to Corner 2, Latitude 38° 00.2183904' N., Longitude 76° 32.2488009' W.; thence westerly to Corner 3, Latitude 38° 00.2156893' N., Longitude 76° 32.3156220' W.; thence northwesterly to

Corner 4, Latitude 38° 00.4024997' N., Longitude 76° 32.3338888' W.; thence continuing northeasterly to Corner 5, Latitude 38° 00.5806170' N., Longitude 76° 32.1957546' W.; thence continuing easterly to Corner 6, Latitude 38° 00.5798424' N., Longitude 76° 31.9506788' W., thence continuing southeasterly to Corner 7, Latitude 38° 00.5076459' N., Longitude 76° 31.9387425' W.; thence heading along the mean low water southwesterly to Corner 1, which is the point of beginning.

Public Ground 102 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 630 feet south of Mundy Point and 1,745 feet southwest of Tom Jones Point, said point being Corner 1, located at Latitude 38° 01.2138059' N., Longitude 76° 32.5577201' W.; thence east-northeasterly to Corner 2, Latitude 38° 01.2268644' N., Longitude 76° 32.4497849' W.; thence southwesterly to Corner 3, Latitude 38° 01.1091209' N., Longitude 76° 32.5591101' W.; thence northerly to Corner 1, which is the point of beginning.

Public Ground 104 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 670 feet north of Walker Point and 1,900 feet northwest of Palmer Point, said point being Corner 1, located at Latitude 38° 00.8841841' N., Longitude 76° 32.6106215' W.; thence southeasterly to Corner 2, Latitude 38° 00.8609163' N., Longitude 76° 32.5296302' W.; thence southeasterly to Corner 3, Latitude 38° 00.6693092' N., Longitude 76° 32.4161866' W.; thence southwesterly to Corner 4, Latitude 38° 00.6418466' N., Longitude 76° 32.5394849' W.; thence northwesterly to Corner 1, which is the point of beginning.

Public Ground 107 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 1,000 feet southwest of Barn Point and 1,300 feet northwest of Tom Jones Point, said point being Corner 1, located at Longitude 38° 01.1389367' N., Latitude 76° 32.3425617' W.; thence east-southeasterly to Corner 2, Latitude 38° 01.4106421' N., Longitude 76° 32.1077962' W.; thence southwesterly to Corner 3, Latitude 38° 01.2717197' N., Longitude 76° 32.2917989' W.; thence north-northwesterly to Corner 1, which is the point of beginning.

Public Ground 112 of Northumberland County is located in the Yeocomico River, beginning at said point being Corner 1, located at Latitude 38° 01.8449428' N., Longitude 76° 32.2191877' W.; thence northeasterly to Corner 2, Latitude 38° 01.8783929' N., Longitude 76° 31.9970988' W.; thence southeasterly to Corner 3, Latitude 38° 01.7997003' N., 76° 31.9569302' W.; thence continuing southeasterly to Corner 4, Latitude 38° 01.6848729' N., Longitude 76° 31.5931801' W.; thence southerly to Corner 5, Latitude 38° 01.5760153' N., 76° 31.5931801' W.; thence westerly to Corner 6, Latitude 38° 01.6860521' N., Longitude 76° 32.2820100' W.; thence northerly to Corner 1, which is the point of beginning.

"York River Hand Tong Area" means that area of the York River consisting of a portion of Public Ground 31 of Gloucester County (Aberdeen Rock), Public Ground 901 of Gloucester, and King and Queen Counties and that portion of Public Ground 4 of King and Queen County that is in waters approved by the Virginia Department of Health for the harvest of Shellfish (Bell Rock) described as:

Public Ground 31 of Gloucester County, known as Aberdeen Rock, is that portion of Public Ground between a line from Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.74276' N., Longitude 76° 35.49063' W.; upstream to a line from the Flashing Yellow VIMS Data Buoy "CB," Latitude 37° 20.4670000' N., Longitude 76° 37.4830000' W.; thence northeasterly to the inshore end of the wharf at Clay Bank.

Public Ground 901 of Gloucester and King and Queen Counties is located in the York River at the mouth of the Propotank River, beginning at said point being Corner 1, located at Latitude 37° 26.0291178' N., Longitude 76° 42.4769473' W.; thence northwesterly to Corner 2, Latitude 37° 26.1502199' N., Longitude 76° 42.5504403' W.; thence continuing northwesterly to Corner 3, Latitude 37° 26.2593188' N., Longitude 76° 42.5639668' W.; thence southeasterly to Corner 4, Latitude 37° 26.0537949' N., Longitude 76° 42.3217587' W.; thence southwesterly to Corner 5, Latitude 37° 26.0023548' N., Longitude 76° 42.4076221' W.; thence northwesterly to Corner 1, which is the point of beginning.

Public Ground 4 of King and Queen County, known as Bell Rock, is located in the York River, beginning at said point being Corner 1, located at Latitude 37° 29.1377467' N., Longitude 76° 45.0390139' W.; thence southerly to Corner 2, Latitude 37° 29.0456979' N., Longitude 76° 45.0642131' W.; thence northwesterly to Corner 3, Latitude 37° 29.5582048' N., Longitude 76° 45.8484481' W.; thence continuing northwesterly to Corner 4, Latitude 37° 29.8480848' N., Longitude 76° 46.5362330' W.; thence northeasterly to Corner 5, Latitude 37° 30.0087805' N., Longitude 76° 46.3513889' W.; thence continue southeasterly to Corner 6, Latitude 37° 29.6554103' N., Longitude 76° 45.5620462' W., thence continuing southeasterly to Corner 7, Latitude 37° 29.1838193' N., Longitude 76° 44.8908342' W., thence continue southeasterly to Corner 8, Latitude 37° 29.1094227' N., Longitude 76° 44.7985114' W., thence continue southeasterly to Corner 9, Latitude 37° 28.9796379' N., Longitude 76° 44.6726329' W., thence continue southeasterly to Corner 10, Latitude 37° 28.7771294' N., Longitude 76° 44.5058580' W., thence continue southeasterly to Corner 11, Latitude 37° 28.6286905' N.,

Longitude 76° 44.4140389' W., thence continue southeasterly to Corner 12, Latitude 37° 28.4745509' N., Longitude 76° 44.3267558' W., thence continue southeasterly to Corner 13, Latitude 37° 28.4379124' N., Longitude 76° 44.2964890' W., thence continue southeasterly to Corner 14, Latitude 37° 28.3255929' N., Longitude 76° 44.2037875' W., thence continue southeasterly to Corner 15, Latitude 37° 28.2389865' N., Longitude 76° 44.1706101' W., thence continue southeasterly to Corner 16, Latitude 37° 28.2157560' N., Longitude 76° 44.1552324' W., thence westerly to Corner 17, Latitude 37° 28.1396622' N., Longitude 76° 44.3698473' W., thence northerly to Corner 18, Latitude 37° 28.7398061' N., Longitude 76° 44.7807027' W., thence continue northerly to Corner 19, Latitude 37° 28.8838652' N., Longitude 76° 44.8818391' W., thence easterly to Corner 20, Latitude 37° 28.9140411' N., Longitude 76° 44.8163514' W. thence northwesterly to Corner 1, which is the point of beginning.

"York River Rotation Area 1" means all public grounds in the York River, within Gloucester County, between a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.; upstream to a line from the Upper York River Green Channel Marker 9, Latitude 37° 19.35986' N., Longitude 76° 35.99789' W.; thence northeasterly to Gum Point, Latitude 37° 19.7427600' N., Longitude 76° 35.4906300' W.

"York River Rotation Area 2" means all public grounds in the York River, within Gloucester County, from the George P. Coleman Memorial Bridge (U.S. Route 17), upstream to a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.

4VAC20-720-40. Open oyster harvest season, harvest areas, and harvest limits.

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds, except within the dates and areas and with the harvest gears set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds, except within the seasons and areas and with the harvest gears as described in Table 1 in this subsection.

It shall be unlawful to exceed the daily individual bushel harvest limit or the daily vessel bushel limit of clean cull oysters in Table 1 in this subsection.

Table 1
Clean Cull Oyster Harvest Area, Harvest Dates, Harvest Gear, and Daily Bushel Limits

Harvest Area	Harvest Dates	Harvest Gear	Daily Individual Bushel Limit	Daily Vessel Bushel Limit
Great Wicomico River Rotation Area 1	December 1, ~~2025~~ 2026, through December January 31, ~~2025~~ 2027	Hand Scrape	8	16
Great Wicomico River Rotation Area 2	~~January~~ December 1, 2026, through January 31, ~~2026~~ 2027	Hand Scrape	8	16
James River Areas 1, 2, and 3	October 15, ~~2025~~ 2026, through ~~March 31~~ February 28, ~~2026~~ 2027	Hand Scrape	8	16
~~Mobjack Bay Area~~	~~February 1, 2026, through March 15, 2026~~	~~Hand Scrape~~	~~8~~	~~16~~
~~Piankatank River Area~~	~~February 1, 2026, through March 15, 2026~~	~~Hand Scrape~~	~~8~~	~~16~~
Pocomoke Sound Area Public Ground ~~10~~ 11	February ~~16~~ 15, ~~2026~~ 2027, through February 28, ~~2026~~ 2027	Hand Scrape	8	16
Rappahannock River Area 7	~~December~~ January 1, ~~2025~~ 2027, through ~~December 31, 2025~~ February 14, 2027	Hand Scrape	8	16
Rappahannock River Area 8	~~January~~ December 1, 2026, through January ~~31~~ 15, ~~2026~~ 2027	Hand Scrape	8	16

Rappahannock River Rotation Area ~~2~~ 1	February 1, ~~2026~~ 2027, through ~~March 15~~ February 28, ~~2026~~ 2027	Hand Scrape	8	16
Rappahannock River Rotation Area ~~4~~ 6	October 15, ~~2025~~ 2026, through November 30, ~~2025~~ 2026 and February 15, 2027, through February 28, 2027	Hand Scrape	8	16
Upper Chesapeake Bay - Blackberry Hangs Area	~~February~~ January 1, ~~2026~~ 2027, through ~~March 15~~ February 28, ~~2026~~ 2027	Hand Scrape	8	16
~~White Shoal~~	~~November 1, 2025, through February 28, 2026~~	~~Hand Scrape~~	~~8~~	~~16~~
Corrotoman Hand Tong Area	October 1, ~~2025~~ 2026, through ~~March 31~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
Indian Creek	October 1, ~~2025~~ 2026, through ~~March 31~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, ~~2025~~ 2026, through May 31, ~~2026~~ 2027	Hand Tong	14	28
James River Areas 1, 2, and 3	October 1, ~~2025~~ 2026, through October 14, ~~2025~~ 2026, and ~~April 1~~ March 1, ~~2026~~ 2027, through May 31, ~~2026~~ 2027	Hand Tong	14	28
Little Wicomico River	October 1, ~~2025~~ 2027, through ~~December~~ May 31, ~~2025~~ 2027	Hand Tong	14	28
Milford Haven	~~December~~ October 1, ~~2025~~ 2026, through ~~February 28~~ May 32, ~~2026~~ 2027	Hand Tong	14	28
Mobjack Bay Area	October 1, ~~2025~~ 2027, through ~~January~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
Nassawadox Creek Area	October 1, 2026, through December 31,2026	Hand Tong	14	28
Nomini Creek Area	October 1, ~~2025~~ 2026, through ~~December~~ May 31, ~~2025~~ 2027	Hand Tong	14	28
Piankatank River Area	October 1, ~~2025~~ 2027, through ~~January~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
Pocomoke Sound Area Public Ground ~~10~~ 11	October 1, ~~2025~~ 2026, through February ~~15~~ 14, ~~2026~~ 2027, and March 1, ~~2026~~ 2027, through ~~March~~ May 31, ~~2026~~ 2027	Hand Tong	14	28

Pocomoke Sound Hand Tong Area	October 1, ~~2025~~ 2026, through ~~March~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
Rappahannock River Area 7	March 1, 2027, through May 31, 2027	Hand Tong	14	28
Rappahannock River Area 8	March 1, 2027, through May 31,2027	Hand Tong	14	28
Rappahannock River Area 9	October 1, ~~2025~~ 2026, through ~~March~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
White Shoal	October 1, ~~2025~~ 2026, through ~~October 31, 2025, and March 1, 2026, through~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
Yeocomico River Area	October 1, 2026, through May 31, 2027	Hand Tong	14	28
York River Hand Tong Area	October 1, ~~2025~~ 2026, through ~~March 15~~ May 31, ~~2026~~ 2027	Hand Tong	14	28
York River Rotation Areas 1 and 2	October 1, ~~2025~~ 2026, through ~~March 15~~ May 31,~~2026~~ 2027	Hand Tong	14	28
Johnsons	November 15, 2026, through November 30, 2026	Oyster Dredge	8	16
Pocomoke and Tangier Sound Rotation Area ~~1~~ 2	December 1, ~~2025~~ 2026, through February 28, ~~2026~~ 2027	Oyster Dredge	8	16
~~Thorofare~~	~~November 15, 2025, through November 30, 2025~~	~~Oyster Dredge~~	~~8~~	~~16~~
Deep Rock Area ~~and Chesapeake Bay Patent Tong Area~~	November 1, ~~2025~~ 2026, through March 31, ~~2026~~ 2027	Patent Tong	8	16
Chesapeake Bay Patent Tong Area	October 1, 2026, through March 31, 2027	Patent Tong	8	16
Rappahannock River Rotation Area 1	December 1, 2026, through January 31, 2027	Patent Tong	8	16
Rappahannock River Rotation Area 7	November 1, 2026, through November 30, 2026	Patent Tong	8	16
Seaside Eastern Shore	November 1, ~~2025~~ 2026, through ~~March~~ May 31, ~~2026,~~ 2027	By Hand or Hand Tong	14	28

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except within the dates and areas and with the harvest gears described in Table 2 in this subsection.

Table 2. Seed Oyster Harvest Area, Harvest Dates, and Harvest Gear		
Harvest Area	Harvest Dates	Harvest Gear
James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area	October 1, ~~2025~~ 2026, through May 31, ~~2026,~~ 2027	Hand Tong

D. In the Pocomoke and Tangier Sounds Rotation Areas, it shall be unlawful to possess on board any vessel more than 250 hard clams.

E. It shall be unlawful to possess any blue crabs on board any vessel with an oyster scrape or oyster dredge.

F. It shall be unlawful for any person or vessel to harvest clean cull oysters with more than one gear type in any single day from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia.

VA.R. Doc. No. R27-8801; Filed September 2, 2026, 9:36 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

REGISTRAR'S NOTICE: The State Board of Education is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-10, 8VAC20-23-50).**

Statutory Authority: §§ 22.1-298.1 and 22.1-299 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Summary:

Pursuant to Chapters 794 and 817 of the 2026 Acts of Assembly, the amendments make changes relating to teacher licensure, and pursuant to Chapter 802 of the 2026 Acts of Assembly, the amendments make changes to teacher salary placement credit.

8VAC20-23-10. Definitions.

The following words and terms when used in this chapter shall have the meanings indicated unless the context clearly implies otherwise:

"Accredited institution" means an institution of higher education accredited by an accrediting agency recognized by the U.S. Department of Education.

"Accredited virtual school or program" means a virtual school or program accredited by one of the accrediting agencies recognized by the Virginia Department of Education. School divisions operating as multi-division online providers may be deemed as meeting accreditation requirements if a majority of schools are fully accredited by the ~~Virginia~~ State Board of Education.

"Alternate route to licensure" means a nontraditional route to licensure available to individuals who meet the criteria specified in guidelines developed by the board or 8VAC20-23-90.

"Approved program" means a professional education program recognized as meeting state standards for the content and operation of such programs so that graduates of the program will be eligible for state licensure. The ~~Virginia~~ State Board of Education has the authority to approve programs in Virginia.

"Cancellation" means the withdrawal of a license following the voluntary return of the license by the license holder.

"Career and Technical Education License" means a three-year license available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas who meet requirements set forth in this chapter. Individuals issued a three-year Career and Technical Education License shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

"Certified program provider" means a provider certified by the Virginia Department of Education to provide preparation and training for applicants seeking the Provisional License specified in 8VAC20-23-90.

"Career and Technical Education or Dual Enrollment License" means a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited ~~institution~~ by a nationally recognized regional accreditation body, (ii) is teaching at such institution in the specific career and technical education or dual enrollment subject area ~~at such institution~~ in which ~~the~~ such

individual seeks to teach at a public school, and (iii) complies with the requirements set forth in ~~subdivisions D 1 and D 3 of~~ § 22.1-298.1 D 1 and D 3 of the Code of Virginia. The ~~Virginia~~ State Board of Education shall require any ~~such instructor~~ individual issued a three-year license to maintain continuous employment in such position at the applicable institution of higher education as a condition of continued ~~license~~ licensure. Any school board that employs an individual issued a three-year license shall provide training on instruction and assessment for any such instructor during the instructor's first year of employment.

"Collegiate Professional License" means a 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure set forth in this chapter, including an earned baccalaureate degree from an accredited institution and the professional teacher's assessments prescribed by the ~~Virginia~~ State Board of Education.

"Denial" means the refusal to grant a license.

"Division Superintendent License" means a 10-year, renewable license available to an individual who has completed an earned master's degree from an accredited institution and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the ~~Virginia~~ State Board of Education's list of eligible division superintendents.

"Evidence-based literacy instruction" means the same as that term is defined in § 22.1-1 of the Code of Virginia.

"Experiential learning" means a process of applying for an initial license through the alternate route as prescribed by the ~~Virginia~~ State Board of Education and meeting the criteria specified in 8VAC20-23-90 E to be eligible to request experiential learning credits in lieu of the coursework for the endorsement (teaching) content area.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a ~~Virginia~~ State Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"International Educator License" means a professional teaching license issued for no more than five years to an exchange teacher with citizenship in a nation other than the United States of America who meets requirements by a state-approved, federally designated Exchange Visitor Program and who is employed as a teacher in a Virginia public school or an accredited nonpublic school.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into Virginia from another state when that individual meets certain conditions specified in this chapter.

"Mentor" means a classroom teacher hired by the local school division who has achieved continuing contract status or other instructional personnel including retired teachers who meet local mentor selection criteria. The mentor should work in the same building as the beginning teacher or be instructional personnel who is assigned solely as a mentor. A mentor should be assigned a limited number of teachers at any time. Instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time. Mentors guide teachers in the program through demonstrations, observations, and consultations.

"One-Year High School License" means a license valid for one year and renewable thereafter in one-year increments to teach in public high schools for individuals who have met requirements for such license as set forth in this chapter.

"Online Teacher License" means a 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the ~~Virginia~~ State Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

"Postgraduate Professional License" means a 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

"Professional studies" means courses and other learning experiences designed to prepare individuals in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, foundations of education and the teaching profession, language and literacy, and supervised clinical experiences.

"Professional teacher assessment" means those tests or other requirements mandated for licensure as prescribed by the ~~Virginia~~ State Board of Education.

"Provisional License" means a nonrenewable license valid for a specified period of time not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter.

"Pupil Personnel Services License" means a 10-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement as a school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience unless otherwise outlined under the specific endorsement's requirements.

"Renewable license" means a license issued by the ~~Virginia~~ State Board of Education for 10 years, unless otherwise specified, to an individual who meets all requirements specified in this chapter.

"Reprimand" means a written admonishment of a license holder that does not result in the withdrawal of a license.

"Revocation" means the withdrawal of a license.

"School Manager License" means a 10-year, renewable license intended to provide for a differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from an accredited institution~~;~~, has three years of successful managerial experience~~;~~, and is recommended for the license by a Virginia school division superintendent.

"Science-based reading research" means the same as that term is defined in § 22.1-1 of the Code of Virginia.

"Suspension" means the temporary withdrawal of a license.

"Teach For America License" means a two-year provisional license available to an individual who is a participant in Teach For America and meets the requirements specified in 8VAC20-23-50.

"Teaching experience" means experience gained teaching (i) in a public school; (ii) in an accredited institution of higher learning; (iii) in a school operated at a military installation supported by federal tax funds for which academic credit is accepted in Virginia; (iv) in public resident schools, such as the Virginia School for the Deaf and the Blind; or (v) in private schools for which teachers receive credit under the provisions of the Virginia Retirement System. ~~In~~ Teachers in the field of ~~vocational~~ career and technical education~~,~~ where ~~a~~ the licensure requirement calls for occupational work experience beyond the apprenticeship level~~,~~ may be allowed credit for one year of teaching experience for each two years of work experience or may be ~~credited~~ allowed credit for one year of teaching experience for each year of work experience.

"Technical Professional License" means a 10-year, renewable license available to an individual who has graduated from a public or accredited nonpublic high school (or possesses a ~~Virginia~~ State Board of Education-approved high school equivalency credential); has exhibited academic proficiency, technical competency, and successful occupational experience; and meets the requirements specified in 8VAC20-23-50 A 4.

"Universal licensure by reciprocity" means the issuance of a license as a teacher in the Commonwealth to any individual who holds a valid out-of-state teaching license with full credentials and without deficiencies that has been in force and in use by the individual as an employed teacher in a nonvirtual classroom setting at a public or private elementary or secondary school for at least three years prior to and is in force at the time the department receives the individual's application for license as a teacher in the Commonwealth.

8VAC20-23-50. Types of licenses; dating licenses.

A. The following types of licenses are available:

1. Provisional License. The Provisional License is a nonrenewable license valid for a period not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The Provisional License will be issued for a three-year validity period, with the exception of the Provisional (Career Switcher) License that will initially be issued for a one-year validity period and the Provisional Teach For America License issued for a two-year validity period. Individuals shall complete all requirements for licensure, including passing all licensure assessments, for a renewable license within the validity period of the Provisional License. The individual shall have a minimum of an earned baccalaureate degree from an accredited institution, with the exception of those individuals seeking the Technical Professional License.

The ~~Virginia~~ State Board of Education shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year during the original three-year provisional license that such teacher was actually employed and received a filed performance evaluation.

The ~~Virginia~~ State Board of Education shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher employed at an accredited private elementary, middle, or high school or a school for students with disabilities that is licensed pursuant to Chapter 16 (§ 22.1-319 et seq.) of Title 22.1 of the Code of Virginia upon receiving from the school administrator of such a school (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1 through June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

The ~~Virginia~~ State Board of Education shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the board if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division

superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the ~~Virginia~~ State Board of Education; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

2. Collegiate Professional License. The Collegiate Professional License is a 10-year, renewable license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from an accredited institution and the professional teacher's assessments prescribed by the ~~Virginia~~ State Board of Education.

3. Postgraduate Professional License. The Postgraduate Professional License is a 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

4. Technical Professional License. The Technical Professional License is a 10-year, renewable license available to a person who has graduated from a public or an accredited nonpublic high school or possesses a ~~Virginia~~ State Board of Education-approved high school equivalency credential; has exhibited academic proficiency, skills in literacy and communication, technical competency, and successful occupational experience; has completed nine semester hours of specialized professional studies credit from an accredited institution; and has completed one year of successful, full-time teaching experience in a public school or accredited nonpublic school in the area of endorsement. The nine semester hours of professional studies coursework shall include three semester hours of human development and learning, three semester hours of curriculum and instruction, and three semester hours of applications of instructional technology or classroom and behavior management. Individuals who seek a Technical Professional License may substitute the successful completion of an intensive, job-embedded, three-year program of professional development submitted by a Virginia employing educational agency and preapproved by the Department of Education for the nine semester hours of professional studies required. The Technical Professional License is issued at the recommendation of a Virginia employing educational agency in the areas of career and technical education, educational technology, and military science. Individuals seeking an endorsement to teach military science shall have the appropriate credentials issued by the United States military. Individuals holding a Technical Professional License may teach a military science leadership class with either the appropriate credentials issued by the United States military or (for non-Junior Reserve Officers' Training Corps) a recommendation from a Virginia employing educational agency. The employing Virginia educational agency shall ensure the credentials issued by the United States military are active during the period the individual is teaching. In addition to demonstrating competency in the endorsement area sought, the individual shall:

a. Hold a valid license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of successful experience at the journeyman level or an equivalent. The employing Virginia educational agency shall ensure that the valid license issued by the appropriate Virginia board for the occupational program area is active during the period the individual is teaching;

b. Have completed a registered apprenticeship program and two years of successful experience at the journeyman level or an equivalent level in the trade; or

c. Have four years of successful work experience at the management or supervisory level or equivalent or have a combination of four years of training and successful work experience at the management or supervisory level or equivalent.

Individuals holding the Technical Professional License who seek the Collegiate Professional or Postgraduate Professional License shall meet the requirements of the respective licenses.

5. School Manager License. The School Manager License is a 10-year, renewable license intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from an accredited institution, has three years of successful managerial experience, and is recommended for the license by a Virginia school division superintendent.

6. Pupil Personnel Services License. The Pupil Personnel Services License is a 10-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement for school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience, unless otherwise outlined under the specific endorsement's requirements.

7. Division Superintendent License. The Division Superintendent License is a 10-year, renewable license available to an individual who has completed an earned

master's degree from an accredited institution and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the ~~Virginia~~ State Board of Education's list of eligible division superintendents.

8. International Educator License. The International Educator License provides a five-year cultural exchange opportunity for Virginia students and international teachers. The International Educator License is a professional teaching license issued for no more than five years to an exchange teacher with citizenship in a nation other than the United States of America who is employed as a teacher in a Virginia public or accredited nonpublic school. To be issued the five-year, nonrenewable International Educator License, an individual serving as a cultural exchange teacher in Virginia shall:

a. Be employed by a Virginia public or an accredited nonpublic school;

b. Hold non-United States citizenship and be a nonpermanent resident; and

c. Meet the following requirements as verified by a state-approved, federally designated Exchange Visitor Program (22 CFR Part 62):

(1) Be proficient in written and spoken English;

(2) Demonstrate competence in the appropriate academic subject area by meeting the credential requirements for a qualified teacher in the exchange country;

(3) Hold the United States equivalent of a baccalaureate degree or higher as determined by an approved credential evaluation agency; and

(4) Complete at least two years of successful full-time teaching experience that enables the educator to fulfill a similar assignment in the educator's home country or is comparable to those requirements for Virginia teachers.

If an individual meets requirements of subdivisions 8 a, 8 b, 8 c (1), 8 c (2), and 8 c (3) of this subsection and has completed at least one year but less than two years of successful full-time teaching experience that would enable the educator to fulfill a similar assignment in the educator's home country or is comparable to those requirements for Virginia teachers, the International Educator License will be issued for three years with an option to extend the nonrenewable International Educator License for the additional two years upon passing all teacher assessments prescribed by the ~~Virginia~~ State Board of Education and a recommendation of the Virginia employing school division or accredited nonpublic school.

Individuals who have been issued an International Educator License who seek a 10-year, renewable license shall meet all licensure and endorsement requirements, including passing applicable assessments prescribed by the ~~Virginia~~ State Board of Education.

9. Online Teacher License. The Online Teacher License is a 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the ~~Virginia~~ State Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

a. In order to be issued an Online Teacher License, the individual shall meet the requirements for an endorsement in a content (teaching) area and professional studies and achieve qualifying scores on professional teacher's assessments as prescribed by the ~~Virginia~~ State Board of Education. In addition, the individual shall complete a three-semester-hour course in online instructional procedures.

Online instructional procedures: Three semester hours. Skills in this area shall contribute to an understanding of the principles of online learning and online instructional strategies and the application of skills and the ability to use the Internet for teaching, learning, and management; design, deliver, and support instruction in an online environment; adapt strategies for a variety of course models, such as synchronous and asynchronous; select, adapt, and create rich multimedia for instruction; adapt individualized education program requirements to online course practices, as appropriate; use data to meet individual student's needs; and employ innovative teaching strategies in an online environment. Demonstrated proficiency of advanced skills in the following areas shall be addressed: use of communication technologies to interact with and engage students, parents, and mentors; use of education technologies; management of instructional activities in a technology-mediated environment; and nontraditional content delivery methods.

b. Online teaching experience is not acceptable to meet the full-time teaching experience for other license types, such as a Division Superintendent License, or for endorsements, such as for the reading specialist, school counselor, or administration and supervision endorsements. The Online Teacher License may be issued if requirements have been met as one of the following licenses to individuals teaching only online courses:

(1) Online Teacher (Postgraduate Professional) License - a 10-year, renewable license available to an individual who has qualified for the Online Teacher (Collegiate Professional) License and who holds an appropriate earned graduate degree from an accredited institution.

(2) Online Teacher (Collegiate Professional) License - a 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from an accredited institution, endorsement and professional studies requirements, and passed the professional teacher's

assessments prescribed by the ~~Virginia~~ State Board of Education.

(3) Online Teacher (Technical Professional) License - a 10-year, renewable teaching license available to an individual who has graduated from a public or an accredited nonpublic high school or possesses a ~~Virginia~~ State Board of Education-approved high school equivalency credential; has exhibited academic proficiency, technical competency, and occupational experience; and meets the requirements specified in subdivision 4 of this subsection. An individual seeking an Online Teacher (Technical Professional) License shall be recommended for the license by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school program.

c. A nonrenewable Online Teacher (Provisional) License may be issued for a period not to exceed three years to an individual who has allowable deficiencies for full licensure as set forth in 8VAC20-23-90 B. The Online (Provisional) License will be issued for three years. The individual shall have a minimum of an earned baccalaureate degree from an accredited institution, with the exception of those individuals seeking the Technical Professional License. Individuals shall complete all requirements for a renewable Online Teacher License within the validity period of the license.

10. Teach For America License. The Teach For America License is a two-year provisional license.

a. This provisional license is available to any participant in Teach For America, a nationwide nonprofit organization focused on closing the achievement gaps between students in high-income and low-income areas, who submits an application and meets the following requirements:

(1) Holds, at minimum, a baccalaureate degree from an accredited institution;

(2) Has met the requirements prescribed by the ~~Virginia~~ State Board of Education for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the board for the endorsements sought;

(3) Possesses good moral character according to criteria developed by the ~~Virginia~~ State Board of Education;

(4) Has been offered and has accepted placement in Teach For America;

(5) Has successfully completed preservice training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

(6) Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to ~~subsection C of~~ § 22.1-199.1 C of the Code of Virginia; and

(7) Receives a recommendation from the employing school division for a Teach For America License in the endorsement area in which the individual seeks to be licensed.

b. In addition to the criteria set forth in subdivision 10 a of this subsection, any individual who seeks an endorsement in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of language and literacy as may be prescribed by the ~~Virginia~~ State Board of Education pursuant to 8VAC20-23-130 during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the ~~Virginia~~ State Board of Education.

c. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

d. The ~~Virginia~~ State Board of Education may extend any Teach For America License for one additional year upon request of the employing school division, provided that no Teach For America License shall exceed a total of three years in length.

e. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to ~~subsection C of~~ § 22.1-199.1 C of the Code of Virginia, an individual holding a Teach For America License shall be eligible to receive a renewable license if the individual has (i) achieved satisfactory scores on all professional teacher assessments required by the ~~Virginia~~ State Board of Education and (ii) received satisfactory evaluations at the conclusion of each year of employment.

f. Notwithstanding any provision of law to the contrary, the ~~Virginia~~ State Board of Education shall issue a Teach For America License to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subdivision 10 a of this subsection.

11. Career and Technical Education License. The Career and Technical Education License is a three-year license.

a. This license is available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas.

b. The three-year license is issued to teach high school career and technical education courses in a specific subject area to an individual who:

(1) Submits an application to the ~~Virginia~~ State Board of Education, in the form prescribed by the ~~Virginia~~ State Board of Education, that includes a recommendation for such a license from the local school board;

(2) Meets certain basic conditions for licensure as prescribed by the ~~Virginia~~ State Board of Education;

(3) Meets one of the following requirements:

(a) Holds, at a minimum, a baccalaureate degree from an accredited institution and has completed coursework in the career and technical education subject area in which the individual seeks to teach;

(b) Holds the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable; or

(c) Holds an industry certification credential, as that term is defined in § 22.1-298.1 of the Code of Virginia, in the specific career and technical education subject area in which the individual seeks to teach;

(4) Has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach; and

(5) If appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the ~~Virginia~~ State Board of Education.

c. The employing school board shall assign a mentor to supervise an individual issued a three-year license pursuant to this section during the individual's first two years of teaching.

d. Except as otherwise provided in subdivision ~~A 11~~ e of this ~~section~~ subdivision 11, any individual issued a three-year license pursuant to this section may be granted subsequent three-year extensions of such license by the ~~Virginia~~ State Board of Education upon recommendation of the local school board.

e. Any individual issued a three-year license pursuant to this section who completes (i) nine semester hours of specialized professional studies credit from an accredited institution or (ii) an alternative course of professional studies proposed by the local school board and approved by the Virginia Department of Education shall be granted a three-year extension of such license by the board and may be granted subsequent three-year extensions of such license by the board upon recommendation of the local school board. Any such specialized professional studies credit or alternative course of professional studies may be completed through distance learning programs and shall include human growth and development; curriculum, instructional, and technology procedures; and classroom and behavior management.

f. No three-year license issued by the board pursuant to this section shall be deemed a provisional license or a renewable license, as those terms are defined in § 22.1-298.1 of the Code of Virginia.

g. Individuals issued a three-year license pursuant to this section shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

h. The provisions of this section and of ~~Virginia~~ State Board of Education regulations governing the denial, suspension, cancellation, revocation, and reinstatement of licensure shall apply to three-year licenses.

12. One-Year High School License. The One-Year High School License is for individuals seeking licensure through an alternate route. The license is a renewable, one-year license issued to teach in public high schools for individuals who:

a. Received a graduate degree from an accredited institution;

b. Completed at least 30 credit hours of teaching experience as an instructor at an accredited institution;

c. Received qualifying scores on the professional teacher's assessments prescribed by the ~~Virginia~~ State Board of Education, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

d. Met the following requirements:

(1) Complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the ~~Virginia~~ State Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure route; and

(2) Provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be (i) based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The ~~Virginia~~ State Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

The license may be renewed for one year by the submission of an application for renewal and verification from the division superintendent that the individual received a satisfactory performance evaluation.

13. Career and Technical Education or Dual Enrollment License. The Career and Technical Education or Dual Enrollment License is a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching at such institution in the specific career and technical education or dual enrollment subject area ~~at such institution~~ in which ~~the~~ such individual seeks to teach at a public school, and (iii) complies with the requirements set forth in ~~subdivisions D 1 and D 3 of~~ § 22.1-298.1 D 1 and D 3 of the Code of Virginia. The ~~Virginia~~ State Board of Education shall require any ~~such instructor~~ individual issued a three-year license to maintain continuous employment in such position at the applicable institution of higher education as a condition of continued licensure. Any school board that employs an individual issued a three-year license shall provide training on instruction and assessment for any such instructor during the instructor's first year of employment. ~~Subsections E and F of~~ 8VAC20-23-40 E and F shall expire on July 1, 2021; however, any license issued pursuant to this chapter prior to July 1, 2021, shall remain in effect for three years from the date the license was issued unless such license is revoked by the ~~Virginia~~ State Board of Education.

B. All licenses will be effective from July 1 in the school year in which the application is made. An employing Virginia public school division, agency, or accredited nonpublic school is required to notify employees in writing at the time of employment of the need to meet appropriate assessment requirements for licensure.

VA.R. Doc. No. R27-8759; Filed September 3, 2026, 3:15 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Education is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-630).**

Statutory Authority: §§ 22.1-298.1 and 22.1-299 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Jim Chapman, Director of Board Relations, State Board of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Summary:

Pursuant to Chapter 1091 of the 2026 Acts of Assembly, the amendments adjust the qualifications for division superintendents, including Option IV for licensure, by allowing the candidate to have (i) completed five years of successful educational experience in a public school or an accredited nonpublic school, two years of which shall have been full-time teaching experience at the preK-12 level and two years of which shall have been in administration and supervision and (ii) been recommended by a school board that is interested in employing the individual as division superintendent and that governs a school division with fewer than 2,000 enrolled students. The amendments also provide that the requirements under Option IV that were in effect prior to July 1, 2026, shall apply to any individual who was employed as a division superintendent pursuant to Option IV as of such date and who maintains continuous employment as a division superintendent in any school division in the Commonwealth after such date.

8VAC20-23-630. Division Superintendent License.

A. An individual may be a candidate for the list of eligible division superintendents and the renewable Division Superintendent License through the completion of the requirements in one of the following four options:

1. Option I. The individual shall have:

a. Earned a doctorate degree in educational administration or educational leadership from an accredited institution; and

b. Completed five years of educational experience in a public or an accredited nonpublic school, two years of which shall be successful, full-time teaching experience at the preK-12 level and two years of which shall be in administration and supervision at the preK-12 level.

2. Option II. The individual shall have:

a. Earned a master's degree from an accredited institution and successfully completed 30 graduate semester hours beyond the conferral date of the master's degree;

b. Completed requirements for administration and supervision preK-12 endorsement that includes the demonstration of competencies in the following areas:

(1) Knowledge, understanding, and application of planning, assessment, and instructional leadership that builds collective professional capacity, including:

(a) Principles of student motivation, growth, and development as a foundation for age-appropriate and grade-appropriate curriculum, instruction, and assessment;

(b) Collaborative leadership in gathering and analyzing data to identify needs to develop and implement a school improvement plan that results in increased student learning;

(c) Planning, implementation, and refinement of standards-based curriculum aligned with instruction and assessment;

(d) Collaborative planning and implementation of a variety of assessment techniques, including examination of student work that yields individual, class, grade level, and school level data as a foundation for identifying existing competencies and targeting areas in need of further attention;

(e) Incorporation of differentiated and effective instruction that responds to individual learner needs, including appropriate response to cultural, ethnic, and linguistic diversity;

(f) Knowledge, understanding, and application of the federal and state regulatory requirements and expectations associated with identification, education, and evaluation of students with disabilities;

(g) Collaboratively working with parents and school personnel to ensure that students with disabilities are included as a valued part of the school community and that they receive effective and appropriately intensive instruction to assist them in meeting the standards set for all students, as well as individual goals outlined in their individualized education programs;

(h) Integration of technology in curriculum and instruction to enhance learner understanding;

(i) Identification, analysis, and resolution of problems using effective problem-solving techniques; and

(j) Development, articulation, implementation, and stewardship of a vision of excellence linked to mission and core beliefs that promote continuous improvement consistent with the goals of the school division.

(2) Knowledge, understanding, and application of leadership and organizations, including:

(a) The change process of systems, organizations, and individuals, using appropriate and effective adult learning models;

(b) Aligning organizational practice, division mission, and core beliefs for developing and implementing strategic plans;

(c) Understanding information sources and processing, including data collection and data analysis strategies;

(d) Using data as a part of ongoing program evaluation to inform and lead change;

(e) Developing a change management strategy for improved student outcomes;

(f) Developing distributed leadership strategies to create personalized learning environments for diverse schools; and

(g) Practicing effective two-way communication skills including consensus building, negotiation, and mediation skills.

(3) Knowledge, understanding, and application of management and leadership skills that achieve effective and efficient organizational operations and sustain an instructional program conducive to student academic progress, including:

(a) Alignment of curriculum and instruction and assessment of the educational program to achieve high academic success at the school and division or district level;

(b) Principles and issues of supervising and leading others to ensure a working and learning climate that is safe, secure, and respectful of a diverse school community;

(c) Management decisions that ensure successful teaching and learning, including human resources management and development, theories of motivation, change in school culture, innovation and creativity, conflict resolution, adult learning, and professional development models;

(d) Knowledge, understanding, and application of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals;

(e) Principles and issues related to fiscal operations of school management;

(f) Principles and issues related to school facilities and use of space and time for supporting high-quality school instruction and student learning;

(g) Legal issues impacting school operations and management;

(h) Technologies that support management functions; and

(i) Application of data-driven decision making to initiate and continue improvement in school and classroom practices and student achievement.

(4) Knowledge, understanding, and application of the conditions and dynamics impacting a diverse school community, including:

(a) Recognizing emerging issues and trends within school and community relations;

(b) Working collaboratively with staff, families, and community members to secure resources and to support the success of a diverse population;

(c) Developing appropriate public relations and public engagement strategies and processes for building and sustaining positive relationships with families, caregivers, and community partners; and

(d) Integrating technology to support communication efforts.

(5) Knowledge, understanding, and application of the purpose of education and the role of professionalism in advancing educational goals, including:

(a) Philosophy of education that reflects commitment to principles of honesty, fairness, caring, and equity in day-to-day professional behavior;

(b) Integration of high-quality, content-rich, job-embedded professional learning that respects the contribution of all faculty and staff members in building a diverse professional learning community;

(c) Reflective understanding of moral and legal consequences of decision making in the school setting;

(d) Intentional and purposeful effort to model professional, moral, and ethical standards, as well as personal integrity in all interactions; and

(e) Intentional and purposeful effort to model continuous professional learning and to work collegially and collaboratively with all members of the school community to support the school's goals and enhance its collective capacity.

(6) Knowledge, understanding, and application of leadership theories and influences that impact schools, including:

(a) Concepts of leadership, including systems theory, change theory, learning organizations, and current leadership theory;

(b) Ability to identify and respond to internal and external forces and influences on a school;

(c) Ability to identify and apply the processes of educational policy development at the state, local, and school level; and

(d) Ability to identify and demonstrate ways to influence educational policy development at the state, local, and school level; and

c. Completed five years of successful educational experience in a public or an accredited nonpublic school, two years of which must be full-time teaching experience at the preK-12 level and two years of which must be in administration and supervision.

3. Option III. The individual shall have:

a. Earned a master's degree from an accredited institution;

b. A current, valid out-of-state license with an endorsement as a division or district superintendent; and

c. Completed five years of successful educational experience in a public or an accredited nonpublic school, two years of which must be full-time teaching experience at the preK-12 level and two years of which must be in administration and supervision.

4. Option IV. The individual shall have:

a. Earned a master's degree or its equivalent from an accredited institution;

b. A minimum of three years of successful, full-time experience in a senior leadership position, such as chief executive officer or senior military officer; ~~and~~

c. ~~Be recommended by a Virginia school board interested in employing the individual as superintendent.~~ Either (i) completed five years of successful educational experience in a public school or an accredited nonpublic school, two years of which shall have been full-time teaching experience at the preK-12 level and two years of which shall have been in administration and supervision; or (ii) if such individual does not meet the requirements set forth in clause (i) of this subdivision, gone before the State Board of Education for further review of such individual's qualifications and, upon such review, been granted a waiver for such requirement by the State Board of Education; and

d. Been recommended by a school board that is interested in employing the individual as division superintendent and that governs a school division with fewer than 2,000 enrolled students.

B. The record of each candidate for the list of eligible division superintendents and the renewable division superintendent license under any of the four permitted options described in subsection A of this section shall attest to good character and demonstrated ability as an educational administrator.

C. The requirements under Option IV listed in subdivision A 4 of this section that were in effect prior to July 1, 2026, shall apply to any individual who was employed as a division superintendent pursuant to Option IV as of July 1, 2026, and maintains continuous employment as a division superintendent in any school division in the Commonwealth after July 1, 2026.

VA.R. Doc. No. R27-8694; Filed September 4, 2026, 10:22 a.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The State Board of Education will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **8VAC20-81. Regulations Governing Special Education Programs for Children with Disabilities in Virginia (amending 8VAC20-81-280).**

Statutory Authority: §§ 22.1-16 and 22.1-214 of the Code of Virginia; 20 USC § 1400 et seq.; 34 CFR Part 300.

Effective Date: November 4, 2026.

Agency Contact: Jim Chapman, Director of Board Relations, State Board of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Summary:

In response to a letter from the U.S. Department of Education Office of Special Education and Rehabilitative Services on May 8, 2026, the amendments conform Virginia regulatory text to federal requirements regarding obligatory use of withheld funds by the Commonwealth.

8VAC20-81-280. Funding, withholding, and recovery of funds.

A. The Virginia Department of Education shall disburse funds to local educational agencies for the education of children with disabilities, ~~aged~~ two to 21 years of age, inclusive, when they provide documentation of compliance with state and federal laws and regulations. (34 CFR 300.200)

B. If documentation of compliance is not submitted or is inadequate, the Superintendent of Public Instruction (superintendent) shall provide reasonable notice to the local educational agency that state and federal funds will not be available for reimbursement for special education programs and services. (34 CFR 300.155 and 34 CFR 300.221)

1. The notification shall include the substance of the alleged violation, and the local educational agency shall be given an opportunity to submit a written response; and

2. The local educational agency shall have the right to appeal to the ~~Virginia~~ State Board of Education (board) under 8VAC20-81-290.

C. Whenever the ~~Virginia Board of Education~~ board, in its discretion, determines that a local educational agency fails to establish and maintain programs of free and appropriate public education that comply with the regulations established by the board, the board ~~may~~ shall withhold all state and federal funds for the education of eligible children with disabilities and ~~may~~ shall use the payments that would have been available to such local educational agency to provide special education, directly or by contract, to eligible children with disabilities in such manner as the board considers appropriate. (§ 22.1-214 E of the Code of Virginia)

D. If the ~~Superintendent of Public Instruction~~ superintendent, after reasonable notice and opportunity for a hearing under 8VAC20-81-290, finds that a local educational agency has failed to comply with the state and federal laws and regulations and determines that compliance cannot be secured by voluntary means, the ~~Superintendent~~ superintendent shall issue a decision in writing stating that state and federal funds for the education of eligible children with disabilities shall not be made available to that local educational agency until it complies with the state and federal laws and regulations. (34 CFR 300.155 and 34 CFR 300.222)

E. If there is evidence that a child has been erroneously classified and thereby counted as eligible for state and federal special education funds and such evidence is challenged by the local educational agency, the ~~foregoing~~ due process procedures described in this section shall apply. (34 CFR 300.155, 34 CFR 300.221 and 34 CFR 300.222)

F. If it is determined that such funds have been erroneously claimed, the Virginia Department of Education shall bill the local educational agency for the amount of funds improperly received and withhold an equal amount of state or federal funds for the following year if not repaid by the local educational agency. (34 CFR 300.155, 34 CFR 300.221 and 34 CFR 300.222)

G. Any local educational agency in receipt of a notice, as described in subsection B of this section, shall provide public notice to the local educational agency's jurisdiction regarding pendency of the action. (34 CFR 300.222)

VA.R. Doc. No. R27-8741; Filed September 3, 2026, 3:17 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Education is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **8VAC20-132. Virginia Standards of Accreditation (amending 8VAC20-132-51).**

Statutory Authority: §§ 22.1-16 and 22.1-253.13:3 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Summary:

Pursuant to Chapters 182 and 183 of the 2026 Acts of Assembly, the amendments (i) grant a waiver for the requirement that students be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators under certain circumstances and (ii) allow any student who transfers into a public high school after grade 10 and is simultaneously pursuing an advanced studies diploma and an International Baccalaureate (IB) diploma to complete certain courses or sequences of courses required for the IB diploma as substitutes for specific Virginia requirements. Pursuant to Chapters 346 and 789 of the 2026 Acts of Assembly, the amendments additionally permit any student to substitute the African American History course or the Advanced Placement African

American Studies course for the World History I course or the World Geography course in order to satisfy history and social studies credit requirements for graduation with specific requirements.

8VAC20-132-51. Requirements for graduation ~~(effective~~ for students who enter the ninth grade in the 2018–2019 school year~~)~~ and after.

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

Both the Standard Diploma and the Advanced Studies Diploma shall provide multiple paths toward college, career, and citizenship readiness for students to follow in the later years of high school. Each such pathway shall provide meaningful and rigorous opportunities tied to instruction to achieve workplace and citizenship skills through experiences such as internships, externships, credentialing, and blended learning, which may be offered for credit toward high school graduation.

In accordance with the Profile of a Virginia Graduate approved by the board, the instructional program leading to a Standard Diploma or Advanced Studies Diploma shall ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship.

When students below grade nine successfully complete courses offered for credit in grades nine through 12, credit shall be counted toward meeting the standard units required for graduation, provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-132-110.

The requirements in this section shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the board. All additional requirements prescribed by local school boards that have been approved by the board remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

B. Requirements for a Standard Diploma.

1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with a Standard Diploma.

No more than one locally awarded verified credit may be used to satisfy these requirements, except as provided in subdivision 3 of this subsection for credit accommodations for students with disabilities.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English (reading and writing)	4	2
Mathematics	3	1
Laboratory Science	3	1
History and Social Science	3	1
Health and Physical Education	2	
World Language, Fine Arts, or Career and Technical Education	2	
Economics and Personal Finance	1	
Electives	4	
Total	22	5
Discipline Area	Specifications	
Mathematics	Courses completed to satisfy this requirement shall include at least two different course selections from among: algebra I, geometry, algebra functions, and data analysis, algebra II, or other mathematics courses approved by the board to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.	

Laboratory Science	Courses completed to satisfy this requirement shall include course selection from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit. A laboratory science verified credit may be awarded to students who complete a career and technical education program sequence and (i) pass two examinations or occupational competency assessments in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, trade, or professional association; (ii) acquire two professional licenses in a career and technical education field from the Commonwealth of Virginia; or (iii) pass one examination or competency assessment from clause (i) and acquire one license from clause (ii). The examination or occupational competency assessment must be approved by the board as an additional test to verify student achievement.
History and Social Science	Courses completed to satisfy this requirement shall include Virginia and ~~U.S.~~ United States history, Virginia and ~~U.S.~~ United States government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement. Any student may substitute the African American history course or the Advanced Placement African American studies course for the world history I course or the world geography course for the purpose of satisfying the history and social studies credit requirements, provided that (i) enrollment in such African American history course or Advanced Placement African American studies course is available to the student and (ii) any passing score on an applicable local alternative assessment, as that term is defined in § 22.1-253.13:3 K of the Code of Virginia, or an equivalent board-approved assessment.
World Language, Fine Arts, or Career and Technical Education	Per the Standards of Quality, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education. Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical course credit.
Electives	Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.
Additional Requirements for Graduation	
Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential	In accordance with the Standards of Quality, students shall (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience, as established by board guidance on work-based learning; or (iii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.
Virtual Course	Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.

Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED)	Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. ~~Students with~~ The board shall grant a waiver from this requirement for any student who, (i) pursuant to an individualized education plan (IEP) or 504 Plan ~~that documents that they~~ cannot successfully complete ~~this~~ such training ~~shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B~~ or (ii) after grade 10, transfers from a school or other education program that does not require or give credit for health and physical education courses to a public school that provides such training as a part of a health or physical education course to students in grade nine or 10 pursuant to § 22.1-253.13:4 D 7 of the Code of Virginia.
Demonstration of the five Cs	Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

3. The board shall establish, through guidelines, credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:

a. Approval of alternative courses to meet the standard credit requirements;

b. Modifications to the requirements for local school divisions to award locally awarded verified credits;

c. Approval of additional tests to earn verified credit;

d. Adjusted cut scores required to earn verified credit; and

e. Allowance of work-based learning experiences.

The student's IEP or 504 Plan shall specify any credit accommodations applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

C. Requirements for an Advanced Studies Diploma.

1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with an Advanced Studies Diploma.

No more than one locally awarded verified credit may be used to satisfy these requirements.

Discipline Area	Standard Units of Credit Required	Verified Credits Required
English (reading and writing)	4	2
Mathematics	4	1
Laboratory Science	4	1
History and Social Science	4	1
World Language	3	
Health and Physical Education	2	
Fine Arts or Career and Technical Education	1	
Economics and Personal Finance	1	
Electives	3	
Total	26	5

Discipline Area	Specifications
Mathematics	Courses completed to satisfy this requirement shall include at least three different course selections from among: ~~Algebra~~ algebra I, ~~Geometry~~ geometry, ~~Algebra~~ algebra II, or other mathematics courses above the level of ~~Algebra~~ algebra II. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.
Laboratory Science	Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve additional courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.
History and Social Science	Courses completed to satisfy this requirement shall include Virginia and ~~U.S.~~ United States history, Virginia and ~~U.S.~~ United States government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement. Any student may substitute the African American history course or the Advanced Placement African American studies course for the world history I course or the world geography course for the purpose of satisfying the history and social studies credit requirements, provided that (i) enrollment in such African American history course or Advanced Placement African American studies course is available to the student and (ii) any passing score on an applicable local alternative assessment, as that term is defined in § 22.1-253.13:3 K of the Code of Virginia, or an equivalent board-approved assessment.
World Language	Courses completed to satisfy this requirement shall include three years of one language or two years of two languages. A student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language may substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student who elects to substitute a credit in computer science for a credit in world language, the student's school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.
Fine Arts or Career and Technical Education	Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical credit.
Electives	Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.
Additional Requirements for Graduation	
Advanced Placement, Honors, International Baccalaureate Course, or Career and Technical Education Credential	In accordance with the Standards of Quality, students shall (i) complete an Advanced Placement, honors, International Baccalaureate, or dual enrollment course; (ii) complete a high-quality work-based learning experience as established by board guidance on work-based learning; or (iii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the advanced studies diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.

Virtual Course	Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.
Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED).	Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. ~~Students with~~ The board shall grant a waiver from this requirement for any student who, (i) pursuant to an individualized education plan (IEP) or 504 Plan ~~that documents that they~~ cannot successfully complete ~~this~~ such training ~~shall be granted a waiver from this graduation requirement, as provided in 8VAC20-132-310 B~~ or (ii) after grade 10, transfers from a school or other education program that does not require or give credit for health and physical education courses to a public school that provides such training as a part of a health or physical education course to students in grade nine or 10 pursuant to § 22.1-253.13:4 D 7 of the Code of Virginia.
Demonstration of the five Cs	Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

D. Requirements for an Applied Studies Diploma. In accordance with the requirements of the Standards of Quality, a student with disabilities who completes the requirements of the student's IEP and does not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas in accordance with state and federal laws and regulations regarding special education.

Students who pursue an Applied Studies Diploma shall be allowed to pursue a Standard Diploma or an Advanced Studies Diploma at any time during high school. Such students shall not be excluded from courses or tests required to earn these diplomas.

E. Requirements for Certificates of Program Completion. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and 8VAC20-30, Regulations Governing Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential. The requirements for the General Achievement Adult High School Diploma are provided in 8VAC20-30-20.

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence and outstanding achievement may be eligible for one or more of the following awards:

1. The Governor's Seal shall be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better and successfully complete college-level coursework that shall earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses.

2. The State Board of Education Seal shall be awarded to students who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average grade of "A."

3. The State Board of Education's Career and Technical Education Seal shall be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade, or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The board shall approve all professional licenses and examinations used to satisfy these requirements.

4. The State Board of Education's Science, Technology, Engineering, and Mathematics (STEM) Seal shall be awarded to students who meet criteria established by the board.

5. The State Board of Education's Seal for Excellence in Civics Education shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States history and Virginia and United States government courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that satisfy the requirements of clause (iii) of this subdivision include (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in Junior Reserve Officers' Training Corps; (d) participating in political campaigns or government internships or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation shall be deemed to have met this community service requirement.

6. The State Board of Education's Seal of Biliteracy shall be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board.

7. The State Board of Education's Seal for Excellence in Science and the Environment shall be awarded to students who earn either a Standard Diploma or Advanced Studies Diploma and (i) complete at least three different first-level board-approved laboratory science courses and at least one rigorous advanced-level or postsecondary-level laboratory science course, each with a grade of "B" or higher; (ii) complete laboratory or field-science research and present that research in a formal, juried setting; and (iii) complete at least 50 hours of voluntary participation in community service or extracurricular activities that involve the application of science, such as environmental monitoring, protection, management, or restoration.

8. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the course requirements for graduation under these standards, provided they have earned the total number of standard units of credit and verified units of credit in each discipline area in accordance with the requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Any student who completes the requirements to be eligible for the award of an International Baccalaureate (IB) diploma shall be deemed to have satisfied all of the course and credit requirements for graduation with an advanced studies diploma without being required to complete any additional course or credit verification requirements, except (i) to the extent completion of a course or credit is required of all high school students pursuant to applicable law and (ii) that any such student, unless eligible for a waiver, may be required to complete (a) the training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators or (b) the Virginia and United States history course and Virginia and United States government course.

L. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits, as provided in accordance with the provisions of 8VAC20-132-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

VA.R. Doc. No. R27-8739; Filed September 3, 2026, 3:17 p.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC5-50. New and Modified Stationary Sources (adding 9VAC5-50-610, 9VAC5-50-620, 9VAC5-50-630).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 111, 123, 129, 171, 172, and 182 of the Clean Air Act; 40 CFR Parts 51 and 60.

Effective Date: November 4, 2026.

Agency Contact: Julia Wack, Regulatory Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 432-3581, or email julia.n.wack@deq.virginia.gov.

Summary:

Pursuant to Chapter 397 of the 2026 Acts of Assembly, the amendments add a new Article 7 to New and Modified Stationary Sources (9VAC5-50). The sections within Article 7 set emission limits for certain engine-generator sets at data center facilities that submit a permit application on or after July 1, 2026.

Article 7

Emission Standards for Data Center Engine Generator-Sets (Rule 5-7)

9VAC5-50-610. Applicability and designation of affected facility.

A. The affected facility to which the provisions of this article apply is each data center that applies for a permit on or after July 1, 2026.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

9VAC5-50-620. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms in subsection C of this section shall have the meanings provided in subsection C of this section.

B. Unless otherwise required by context, all terms not defined in this section shall have the meanings provided in Permits for Stationary Sources (9VAC5-80), General Definitions (9VAC5-10), or commonly ascribed to them by recognized authorities, in that order of priority.

C. The words or terms, when used in the Regulations for the Control and Abatement of Air Pollution and related uses shall have the following meanings.

"Data center" means the same as that term is defined in § 58.1-3506 A 43 of the Code of Virginia.

"Diesel oxidation catalyst" means a flow-through exhaust device that contains a honeycomb structure covered with a layer of chemical catalyst containing small amounts of precious metal such as platinum or palladium that interact with and oxidize pollutants, including carbon monoxide and unburned hydrocarbons, in the exhaust stream, thereby reducing carbon monoxide emissions.

"Diesel particulate filter" means an emission control technology that reduces particulate matter emissions by trapping the particles in a flow filter substrate and periodically removes the collected particles by either physical action or by oxidizing or burning off the particles in a process called regeneration.

"Engine-generator set" or "gen-set" means the combination of an electrical generator and an engine mounted together to form a single piece of equipment.

"Selective catalytic reduction" means a control device that reduces the exhaust gas concentration of nitrogen oxides by injecting an ammonia solution or urea into the exhaust gas stream, which in the presence of a catalyst reacts with the nitrogen oxides to form nitrogen gas and water vapor.

"Tier 4 equivalent" means a gen-set with a selective catalytic reduction system or equivalent for nitrogen oxides control, a diesel oxidation catalyst system or equivalent for carbon monoxide control, and a diesel particulate filter or equivalent for particulate matter control.

9VAC5-50-630. Standard for engine-generator set emissions.

A. For a data center permit issued by the department, including coverage under any general permit, the department shall not issue such permit unless the emission limit for each gen-set established by such permit is equal to or less than the emissions achieved by a Tier 4 equivalent gen-set.

B. Nothing in this section shall be construed to prevent the department from (i) determining the Best Available Control Technology, Lowest Achievable Emission Rate, Reasonably Available Control Technology, any New Source Performance Standard, or any National Emission Standards for Hazardous Air Pollutants or (ii) establishing in a permit issued by the department pursuant to this chapter more stringent emission limits than those achieved by a Tier 4 equivalent gen-set.

VA.R. Doc. No. R27-8720; Filed September 2, 2026, 1:24 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9VAC5-91-420).**

Statutory Authority: § 46.2-1180 of the Code of Virginia; § 182 of the Clean Air Act; 40 CFR Part 51, Subpart S.

Effective Date: November 4, 2026.

Agency Contact: Julia Wack, Regulatory Analyst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 432-3581, or email julia.n.wack@deq.virginia.gov.

Summary:

Pursuant to Chapters 1027 and 1045 of the 2026 Acts of Assembly, the amendments allow vehicles that have failed an initial emissions inspection to qualify for an emissions inspection waiver if, when presented for emissions reinspection, the onboard diagnostic system is in a not-

ready condition to be tested and other requirements for an emissions inspection waiver are met.

9VAC5-91-420. Inspection procedure; rejection, pass, fail, waiver.

A. All aspects of the inspection shall be performed by an emissions inspector, using the instructions programmed in the certified analyzer system and procedures approved by the department, within the designated inspection area, and on the permitted premises.

B. The emissions inspection station shall notify the customer prior to initiating an emissions inspection that the emissions inspection station is either able or unable to perform the emissions-related repairs required by 9VAC5-91-480 for that particular vehicle should that vehicle fail the inspection. The emissions inspector shall not conduct an inspection on a motor vehicle unless the customer gives approval after being so notified.

C. The emissions inspector shall not conduct an inspection on a motor vehicle if the vehicle is in an unsafe condition for testing according to the following conditions. The customer shall be informed of any such condition.

1. The vehicle shall not have holes or detectable leaks in the exhaust system. The inspector may check the system for leaks by listening or visually inspecting for such leaks or by measuring carbon dioxide. The presence of leaks shall cause the vehicle to be rejected from testing.

2. The motor vehicle shall be evaluated for the presence of visible smoke emissions. Those vehicles exhibiting any visible smoke emissions from the engine crankcase or exhaust system or both~~,~~ shall be rejected from testing.

3. The vehicle shall not have any mechanical problems, such as engine, brake, or transmission problems or engine, radiator, or transmission fluid leaks that would create a safety hazard for the applicable test~~,~~ or bias test results. Such conditions shall cause the vehicle to be rejected from testing.

4. For vehicles receiving a test while operating on a dynamometer, the vehicle shall be rejected from testing if drive wheel tire tread wear indicators, tire cords, bubbles, cuts, or other damage are visible. Such vehicles shall be rejected from testing if space-saver spare tires are being used on a drive axle or if ~~they~~ the vehicles do not have reasonably sized tires on the drive axle or axles based on dynamometer manufacturer safety criteria or if the set of tires is a mixture of radial and bias ply. Vehicles may be rejected if ~~they~~ the vehicles have different sized tires on the drive axle or axles. Drive wheel tires shall be checked for appropriate tire pressure and adjusted as necessary as recommended by the tire or vehicle manufacturer.

5. The vehicle shall be rejected from testing if the fuel filler cap (gas cap) is missing.

6. The vehicle shall be rejected from testing if a known, emissions-related, manufacturers recall has not been satisfied according to Part XI (9VAC5-91-720 et seq.).

7. Vehicles that are overheated shall be rejected from testing. Vehicles that indicate that an overheated condition will be achieved during testing may be rejected from testing at the discretion of the inspector.

8. OBD vehicles shall be rejected from testing for any of the following:

a. The OBD data link cannot be accessed physically or electronically.

b. The testing equipment indicates that the OBD system is in a "not ready" status. A "not ready" status shall be indicated by the following:

(1) For model year 1996 through 2000, three or more monitors indicate "not ready."

(2) For model year 2001 and newer, two or more monitors indicate "not ready."

(3) For vehicles that failed the emissions inspection for a catalytic converter related fault code, and the catalyst monitor indicates "not ready" during a reinspection.

c. The catalyst monitor or oxygen sensor monitor~~,~~ or both~~,~~ are not supported, except for models exempt by the director.

d. The OBD system is unable to communicate successfully with the analyzer system.

e. The OBD system indicates evidence of tampering.

f. The director may adjust the number of "not ready" monitors required for rejection from testing for specific vehicle models based upon information from this program or other state programs, vehicle manufacturers, or ~~the~~ EPA.

D. The emissions inspection procedure shall be performed under the following conditions:

1. For vehicles subject to exhaust emissions testing, the entire vehicle shall be in normal operating condition as indicated by a temperature gauge or touch test on the radiator hose. If ASM testing is performed, a cooling fan shall be directed at the engine cooling system if the ambient temperature exceeds 72°F.

2. The inspection shall be performed with the transmission in park or neutral for OBD testing or for two-speed idle testing, or in drive (if automatic), or the appropriate gear to achieve necessary RPM range (if manual) for ASM testing; and with all accessories off.

3. All electronic and mechanical testing equipment shall be properly attached according to vehicle and analyzer system manufacturer requirements and instructions.

4. For vehicles subject to exhaust emissions testing, the analyzer probe shall be properly inserted into the exhaust system.

a. The analyzer probe shall be inserted into the tailpipe as recommended by the gas analyzer manufacturer for a quality sample, or at least 10 inches if not specified by the manufacturer.

b. If a baffle or screen prevents probe insertion to an adequate depth, a suitable probe adapter or extension boot ~~which~~ that effectively lengthens the tail pipe must be used.

c. If the vehicle is equipped with multiple unique exhaust outlets, a suitable analyzer system manufacturer recommended adapter or other apparatus shall be used in order to provide a single supply of the sample exhaust to the gas analyzer.

d. Vehicle exhaust shall be vented safely out of the inspection area and facility.

5. If the vehicle stops running or the engine stalls during the test it shall be started as soon as possible and, for vehicles subject to exhaust emissions testing, shall be running for at least 30 seconds prior to the restart of the test.

6. For vehicles subject to exhaust emissions testing, the exhaust test shall be terminated upon reaching the overall maximum test time for the applicable test, or if CO plus CO_2 concentration falls below 6.0% as determined by the analyzer system.

7. Each emissions inspection, whether initial or retest, shall be conducted in its entirety with the exception of (i) conditions ~~which~~ that require that the vehicle be rejected from testing in accordance with subsection C of this section, (ii) invalid test conditions, or (iii) conditions beyond the emissions inspector's control that cause the test to be aborted.

E. In consideration of maintaining inspection integrity:

1. The temperature of the inspection area shall be between 41°F and 110°F during the inspection. Inspection area temperatures shall be accurately measured in a well-ventilated location away from vehicle engine and exhaust heat sources and out of direct sunlight. The analyzer system shall not be operated when the temperature of the inspection area is not within the range stated ~~above~~ in this subdivision.

2. The analyzer system shall be kept in a stable environment ~~which~~ that affords adequate protection from the weather and local sources of hydrocarbons or other pollutants that may interfere with gas analyzer performance or accuracy of test results~~,~~ or both.

3. The electrical supply to the analyzer system shall be able to meet the manufacturer's requirements for voltage and frequency stability.

4. The inspection location shall meet all applicable zoning requirements.

5. The analyzer system shall be operated according to quality assurance procedures and other procedures approved by the department.

F. The emissions inspector shall accurately identify and enter vehicle information, visual component, and visible smoke inspection results as applicable for vehicle emissions inspection records. The data entered into the certified analyzer system and recorded on the certificate of vehicle emissions inspection shall be the data from the vehicle being inspected and must be obtained from that vehicle.

G. The emissions inspector shall perform an inspection of the emissions control systems. The inspection shall include the following:

1. An examination of the emissions control information decal (sticker) under the hood, reference manual, and applications guide to determine if the vehicle, as manufactured or certified for sale or use within the United States, should be equipped with a catalytic converter system, air injection system, fuel evaporative emissions control system, positive crankcase ventilation system, exhaust gas recirculation valve, on-board diagnostic system, or thermostatic air cleaner system, as appropriate.

2. Based on the determinations made in subdivision 1 of this subsection, a visual inspection for the presence and operability of the catalytic converter system and, for vehicles subject to exhaust emissions testing, the air injection system, fuel evaporative emissions control system, positive crankcase ventilation system, exhaust gas recirculation system, and thermostatic air cleaner system. If any of these parts or systems are inoperable, or have been removed or damaged~~,~~ or rendered inoperable, the vehicle will not qualify for an emissions inspection approval or waiver. If systems are missing ~~which~~ that the reference manual or applications guide indicates should be present, the motor vehicle manufacturer's emissions control information provided for that vehicle shall apply. The inspector shall enter the result of the visual inspection, "pass," "fail," or "not applicable" as appropriate into the certified analyzer system. The department may issue a temporary waiver because of the unavailability of component parts listed in this subdivision 2 ~~of this subsection~~ if it is determined that the subject components or parts are not available provided the following conditions have been met:

a. The owner of the vehicle obtains a signed statement from the manufacturer's dealer or automotive parts source that supplies parts for the vehicle model indicating the nonavailability of such parts.

b. The statement submitted must be on letterhead or other official form or document and signed by an officer, owner,

or other responsible official of the automotive parts source.

c. The statement must identify the parts by description and part number and must indicate whether the parts are not currently stocked, have been superseded by other parts, or are out of production.

d. The department may conduct an independent investigation to locate any such parts or to verify the information on the statement prior to the issuance of any vehicle inspection report. The vehicle shall be held to all applicable inspection parameters, test type and standards or other conditions with the exception of the emissions control components and parts that have been verified as unavailable.

e. Any additional requirements to repair the vehicle to meet the applicable emissions standards or to qualify for an emissions inspection waiver under subsection M of this section shall apply.

f. If the department is able to determine that (i) ~~the~~ an unavailable part~~, or parts,~~ is the only method of controlling the emissions for which the vehicle has failed an emissions inspection or (ii) no other repairs will be effective in reducing such emissions, the department may issue a temporary waiver notwithstanding the provisions of subsection M of this section.

3. For OBD vehicles, an electronic inspection of the applicable on-board diagnostic (OBD) system according to manufacturer specifications and procedures approved by ~~the~~ EPA. The exhaust emissions test may also be performed on a limited basis as specified by the department for quality control or program evaluation purposes.

a. Emissions-related failure codes that cause the malfunction indicator lamp to be commanded "on" provided by OBD systems of OBD vehicles shall cause the vehicle to fail the emissions inspection. If testing equipment or visual inspection indicates that the malfunction indicator lamp is inoperable, the vehicle shall fail the emissions inspection. If the testing equipment indicates that the OBD system is in a "not ready" status, the vehicle shall be rejected from testing according to subdivision C 8 of this section.

b. Emissions-related failure codes that cause the malfunction indicator lamp to be commanded "on" as provided by OBD systems of light duty diesel powered vehicles of model years 1997 and newer shall cause the vehicle to fail the inspection. In addition, if the testing equipment or visual examination indicates that the malfunction indicator lamp is inoperable, the vehicle shall fail the emissions inspection. If the testing equipment indicates that the OBD system is in a "not ready" status, the vehicle shall be rejected from testing according to subdivision C 8 of this section. The director may increase or decrease the number of "not ready" monitors allowed based on an analysis of the program data, data from other state's programs, and ~~the~~ EPA.

c. The department may exempt vehicle models or some classes of vehicles from OBD testing due to known OBD system problems or anomalies associated with such vehicles. If exempted from OBD testing, such vehicles shall receive the ASM or TSI test as applicable.

H. For vehicles otherwise subject to ASM testing based on model year and weight classification, the department may determine, due to complications identified in this or other state programs, or consultation with vehicle manufacturers, that certain vehicle makes or models shall be tested using the two-speed idle test in lieu of the ASM test or using a mixture of test modes such as an ASM 2525 coupled with an idle test.

I. For 1981 model year and newer vehicles with a GVWR up to and including 8,500 pounds, the exhaust emissions inspection procedure, if applicable, shall be an ASM, two-mode (ASM 5015 plus ASM 2525), loaded test, performed while the vehicle is operating on a dynamometer. The test shall be preceded by a 30-90 second preconditioning period, as determined by the department, using the ASM 2525 load simulation.

J. The exhaust emissions inspection procedure, if applicable, shall be a two-speed idle test as specified in section (II) of Appendix B of 40 CFR Part 51, Subpart S, and 9VAC5-91-440 for the following affected motor vehicles:

1. Vehicles with a GVWR greater than 8,500 pounds and up to and including 10,000 pounds;

2. Vehicles of model years 1980 and older;

3. Vehicles which employ full-time four wheel drive systems;

4. Vehicles which have traction control or anti-lock brake systems ~~which~~ that have been determined by the manufacturer or the department to interfere with proper ASM testing; or

5. Vehicles ~~which~~ that have some other configuration which has been determined by the department to interfere with proper ASM testing.

K. In order to obtain a vehicle registration from the Department of Motor Vehicles, a certificate of emissions inspection shall be issued by an emissions inspector or the department indicating that the vehicle has either passed the emissions inspection or has received a waiver as specified in subsections L and M of this section. A motor vehicle shall pass the emissions inspection and a certificate of vehicle emissions inspection and a motor vehicle inspection report indicating the vehicle has passed shall be issued if the following conditions are met:

1. The motor vehicle meets the applicable emissions control systems inspection requirements.

2. For vehicles subject to exhaust emissions testing, the vehicle emissions levels are the same as or less than the applicable exhaust emission standards in Part III (9VAC5-91-160 et seq.) and Part XIV (9VAC5-91-790 et seq.), as applicable; or for vehicles subject to OBD, the vehicle passes the OBD test and exhaust emissions test, if applicable.

3. There are no visible smoke emissions from the vehicle engine crankcase or tail pipe, or both.

L. If the vehicle fails the initial emissions inspection, a certificate of emissions inspection and a motor vehicle inspection report shall be issued indicating a failure~~,~~ and the owner shall have 14 days in which to have repairs or adjustments made and return the vehicle to the emissions inspection station ~~which~~ that performed the initial inspection for one free reinspection.

M. A certificate of vehicle emissions inspection waiver may be issued if all of the following conditions are met:

1. The vehicle passes the emissions control systems inspection described by subsection G of this section if applicable.

2. There are no visible smoke emissions from the vehicle engine crankcase or exhaust system, or both.

3. The vehicle continues to exceed applicable emissions standards, or the vehicle's onboard diagnostic system is in a not-ready condition to be tested when presented for reinspection, after emissions related repairs required by 9VAC5-91-480 have been performed.

4. An amount equal to or greater than the adjusted waiver cost for enhanced emissions inspection programs specified in subsection N of this section has been spent on emissions related repairs as specified in 9VAC5-91-480 provided that:

a. Proof that emissions related repairs have been accomplished and costs for that specific vehicle have been provided to the emissions inspection station in the form of an itemized bill, invoice, paid work order, or statement in which emissions related parts or repairs~~,~~ or both~~,~~ are specifically identified, and to the extent practical, the inspector can confirm the repairs by visual examination;

b. The emissions inspector has been provided with a properly completed emissions repair data form indicating that the repair work was performed at a certified emissions repair facility and that the repairs were performed by or under the supervision or approval of a certified emissions repair technician at a certified emissions repair facility; and

c. The repair work was performed no earlier than 60 days prior to the initial inspection.

N. The repair cost requirements for waiver eligibility for the enhanced emissions inspection program shall be $450 adjusted to reflect the increase in the Consumer Price Index (CPI) and adjusted annually thereafter, as described at 40 CFR 51.360(a)(7) and § 46.2-1181 C of the Code of Virginia.

O. A waiver shall not be issued for a vehicle which is eligible for the emissions control systems performance warranty, under the provisions of § 207(b) of the federal Clean Air Act. In accordance with the provisions of § 207(b) of the federal Clean Air Act, the repair costs necessary for compliance with emissions standards specified in Part III (9VAC5-91-160 et seq.) and Part XIV (9VAC5-91-790 et seq.) will be borne by the vehicle manufacturer or authorized dealer representative.

P. The analyzer system shall generate an electronic record of the certificate of emissions inspection and transmit the appropriate data to the department and the emissions inspector shall make distribution of the vehicle inspection report to the customer.

Q. The customer shall be advised as specified ~~below~~ in this subsection upon completion or termination of the inspection procedure.

1. If the test is terminated prior to completion, explain the problem with the vehicle or equipment and, if applicable, advise of free retest and time limit.

2. If the vehicle passes or receives a waiver, provide a motor vehicle inspection report and advise motorist of registration requirement and process, including the process to be used in case of interruption of the electronic data transfer system.

3. If the vehicle fails:

a. Give vehicle inspection report of failure to customer;

b. Advise of type of failure;

c. Advise of free retest and time limit;

d. Advise of repair facility information as provided by the department; and

e. Advise of waiver requirements, if applicable.

R. In cases of complaints or disputes between the emissions inspector or emissions inspection station and the customer, the customer shall be advised of the location and ~~phone~~ telephone number of a department representative to be contacted to obtain assistance in resolving disputes.

VA.R. Doc. No. R27-8719; Filed September 2, 2026, 1:27 p.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **10VAC5-120. Money Order Sellers and Money Transmitters (amending 10VAC5-120-10 through 10VAC5-120-100; adding 10VAC5-120-15, 10VAC5-120-85).**

Statutory Authority: §§ 6.2-1913 and 12.1-13 of the Code of Virginia.

Effective Date: October 1, 2026.

Agency Contact: Dustin Physioc, Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 786-0831, or email dustin.physioc@scc.virginia.gov.

Summary:

Chapter 214 of the 2025 Acts of Assembly repeals Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia and replaces it with Chapter 19.1 (§ 6.2-1922 et seq.) and requires the State Corporation Commission to adopt regulations to effect the purposes of Chapter 19.1. The amendments update Money Order Sellers and Money Transmitters (10VAC5-120) to conform to Chapter 19.1, including (i) updating definitions; (ii) specifying certain license application requirements and clarifying the scope of the exemptions in § 6.2-1923 of the Code of Virginia; (iii) prescribing how applicants and licensees must demonstrate that they have the tangible net worth required by Chapter 19.1; (iv) updating cross-references; and (v) implementing and clarifying various other provisions of Chapter 19.1. As part of the amendments, the commission also delegates to the Commissioner of Financial Institutions the commission's authority to exercise its powers and to act for it under a variety of specified statutes in Chapter 19.1.

Changes to the proposed regulation (i) eliminate a proposed reporting requirement pertaining to employees of a licensee; (ii) remove a proposed requirement regarding money remitted by an authorized delegate pursuant to § 6.2-1944 D 4 of the Code of Virginia; (iii) adjust and clarify the requirements for the agreement between a licensee and a sender; and (iv) clarify the applicability of the requirement that a licensee or its authorized delegate provide each sender with a receipt upon receiving money for transmission.

AT RICHMOND, SEPTEMBER 9, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2026-00008

Ex Parte: In the matter of Amending the

Rules Governing Money Order Sellers

and Money Transmitters

ORDER ADOPTING REGULATIONS

On April 3, 2026, the State Corporation Commission (Commission) entered an Order Establishing Proceeding regarding a proposal by the Bureau of Financial Institutions (Bureau) to substantially revise Chapter 120 of Title 10 of the Virginia Administrative Code (Chapter 120),[1] which houses the Commission's regulations governing money order sellers and money transmitters. The Bureau proposed the amendments to Chapter 120 (Amended Rules) because Chapter 214 of the 2025 Virginia Acts of Assembly (Chapter 214) repealed Chapter 19 of Title 6.2 of the Code of Virginia (Chapter 19) and replaced it with a new Chapter 19.1 of Title 6.2 of the Code of Virginia (Chapter 19.1) effective July 1, 2026. Pursuant to the fourth enactment clause of Chapter 214, the Commission's regulations under Chapter 19 remain in effect under Chapter 19.1 to the extent that they do not conflict with Chapter 214, and such regulations are deemed to be regulations adopted under Chapter 19.1. The amendments to Chapter 120 are needed to conform the regulations to Chapter 19.1 and implement various provisions of Chapter 19.1.

The Order Establishing Proceeding and proposed Amended Rules were posted on the Commission's website, sent to all licensees under Chapter 19 and other interested persons, and published in the Virginia Register of Regulations on May 4, 2026. The Order Establishing Proceeding invited any interested persons to participate and required that any comments or requests for a hearing on the proposed Amended Rules be submitted in writing on or before

May 22, 2026. Comments on the proposed Amended Rules were timely filed by Adam Fleisher on behalf of The Money Services Round Table (TMSRT). The Commission did not receive any requests for a hearing.

The Bureau considered TMSRT's comments and responded to them in its Response to Comments (Response), which the Bureau timely filed with the Clerk of the Commission on June 18, 2026. In its Response, the Bureau recommended that the Commission omit 10VAC5-120-40 C and 10VAC5-120-70 A from the final regulations and make certain amendments to 10VAC5-120-70 K and 10VAC5-120-70 M. The Bureau further recommended that the Commission adopt 10VAC5-120-50 and 10VAC5-120-85 B as proposed.

NOW THE COMMISSION, having considered this matter, finds that the proposed regulations should be modified to incorporate the specific changes that the Bureau recommended in its Response. The Commission also finds that the modified proposed regulations should be adopted effective October 1, 2026.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulations, as modified herein and attached hereto, are adopted effective October 1, 2026.

(2) This Order and the adopted revisions to Chapter 120 shall be made available on the Commission's website: scc.virginia.gov/case-information.

(3) The Bureau shall provide notice of this Order and the adopted revisions to Chapter 120 to all licensees under Chapter 19.1 and to any other interested persons as the Bureau may designate.

(4) The Commission's Office of General Counsel shall provide a copy of this Order and the adopted revisions to Chapter 120 to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(5) This case is dismissed.

A COPY hereof shall be sent by the Clerk of the Commission to: John Farmer, Jr., Senior Assistant Attorney General, at JFarmer@oag.state.va.us, Office of the Attorney General, Division of Consumer Counsel, 202 North 9th Street, Richmond, Virginia 23219-3424; and to the Commission's Office of General Counsel and Commissioner of Financial Institutions.

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[1] Available at https://law.lis.virginia.gov/admincode/title10/agency5/chapter120.

Chapter 120

~~Money Order Sellers and~~ Money Transmitters

10VAC5-120-10. Definitions.

The following words and terms when used in Chapter 19.1 or in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Authorized delegate," "control," "group of persons acting in concert," "key individual," "licensee," "monetary value," "money," "money ~~order~~ transmission," ~~and~~ "NMLS," "outstanding money transmission obligations," "person," "receiving money for transmission," and "tangible net worth" shall have the meanings ascribed to them in ~~§ 6.2-1900~~ § 6.2-1922 of the Code of Virginia.

"Bureau," "commission," and "commissioner" shall have the meanings ascribed to them in § 6.2-100 of the Code of Virginia.

"Chapter 19" means Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2 of the Code of Virginia.

"Chapter 19.1" means Chapter 19.1 (§ 6.2-1922 et seq.) of Title 6.2 of the Code of Virginia.

"Generally accepted accounting principles" ~~for purposes of Chapter 19 and this chapter~~ means standard accounting guidelines as established and administered by the American Institute of Certified Public Accountants (AICPA) and the United States Financial Accounting Standards Board (FASB).

~~"Merchant or service provider" means a person engaged in the business of selling goods or services, but excluding a person licensed or required to be licensed under Chapter 19.~~

~~"Money transmission" for purposes of Chapter 19 and this chapter shall have the meaning ascribed to it in § 6.2-1900 of the Code of Virginia. However, the term shall not include the actions of an agent who collects funds on behalf of a merchant or service provider, provided that (i) the agent has been explicitly designated in a written agreement as an agent of the merchant or service provider; (ii) any funds collected by the agent shall be deemed for all purposes to be received by the merchant or service provider, regardless of whether the agent actually remits such funds to the merchant or service provider; (iii) the agent provides the Virginia resident with a dated receipt indicating that payment to the agent constitutes payment to the merchant or service provider; and (iv) there is no risk of loss to the Virginia resident if the agent fails to remit such resident's funds to the merchant or service provider. This definition shall not be construed to prohibit the merchant or service provider from seeking indemnification from its agent for any direct losses incurred due to the agent's failure to remit funds in accordance with its agreement.~~

~~"Nationwide Multistate Licensing System and Registry" and "registry" shall have the meanings ascribed to them in § 6.2-1900 of the Code of Virginia.~~

~~"Senior officer" for purposes of Chapter 19 means an individual who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including its compliance with applicable laws and regulations.~~

"Parents," for purposes of § 6.2-1931 A 12 of the Code of Virginia, means any persons that control an applicant.

"Subsidiaries," for purposes of § 6.2-1931 A 12 of the Code of Virginia, means any persons that are controlled by an applicant. For purposes of this definition, "controlled" shall be construed in accordance with the definition of "control" in § 6.2-1922 of the Code of Virginia.

10VAC5-120-15. Licensing and applications.

A. Applications for a license under Chapter 19.1 shall be made through the NMLS in accordance with instructions provided by the commissioner. The commissioner may provide these instructions through the NMLS, on the commission's website, or by any other means the commissioner deems appropriate.

B. Pursuant to § 6.2-1931 A 15 of the Code of Virginia, an application for a license shall include a copy of the applicant's audited financial statements for the most recent fiscal year and for the two-year period preceding the submission of the application. An applicant that has not yet completed a full fiscal year shall submit with its license application an audited financial statement that is less than a year old as of the date that the application is filed with the bureau.

C. The unaudited financial statements required by § 6.2-1931 A 16 of the Code of Virginia shall be certified by a key individual.

D. The exemptions in § 6.2-1923 of the Code of Virginia that are available to certain persons to the extent specified in § 6.2-1923 of the Code of Virginia shall not be construed to extend to persons in the course of providing additional services or engaging in other activities that are subject to Chapter 19.1 unless the services or activities are covered by a different exemption.

10VAC5-120-20. ~~Surety bond standards~~ Tangible net worth.

A. ~~Every licensee~~ Tangible net worth shall be ~~bonded in a principal amount determined by the Commissioner of Financial Institutions. The bond amount shall be equal to~~ demonstrated at initial application through the ~~licensee's Virginia average monthly money order sales during the preceding two calendar quarters, or its Virginia average monthly money transmission volume during such periods, or both, as applicable, rounded to the next highest multiple of $10,000, but not exceeding $500,000. The commissioner, however, may increase the amount of bond required to a maximum of $1 million upon the basis of the impaired financial condition of a licensee, as evidenced by net worth reduction,~~ applicant's most recent audited and certified unaudited financial ~~losses, or other relevant criteria~~ statements filed in accordance with § 6.2-1931 A 15 and A 16 of the Code of Virginia and 10VAC5-120-15 B and C.

B. ~~The amount of bond required of a new~~ A licensee shall ~~be based upon the applicant's financial~~ demonstrate tangible net worth through its audited financial statements filed pursuant to § 6.2-1939 of the Code of Virginia and reports of condition~~, capitalization, projected Virginia monthly money order sales and money transmission volume, experience,~~ (i.e., call reports) filed pursuant to § 6.2-1938 of the Code of Virginia and ~~other factors deemed pertinent~~ 10VAC5-120-40 A.

~~C. The minimum bond required shall be $25,000.~~

~~D. The form of the bond will be prescribed and provided by the commissioner. The required bond shall be submitted prior to the issuance of a license and shall be maintained continuously thereafter as long as the licensee or former licensee has money orders outstanding or unfulfilled money transmission agreements.~~

10VAC5-120-30. ~~Alternative to surety bond~~ Surety bonds and alternative security devices.

A. The form of the surety bond under § 6.2-1951 of the Code of Virginia shall be prescribed and provided by the commissioner. The bond shall be submitted prior to the issuance of a license and shall be maintained continuously thereafter as long as the licensee or former licensee has outstanding money transmission obligations.

B. The written notice of cancellation required by § 6.2-1951 F of the Code of Virginia shall be submitted to the commissioner through the NMLS.

C. As an alternative to ~~the~~ a surety bond ~~required~~ under ~~10VAC5-120-20~~ § 6.2-1951 of the Code of Virginia, in whole or in part, a licensee or applicant for a license may be permitted to substitute the deposit of certain property with a bank, trust company, or savings institution authorized to conduct business in the Commonwealth of Virginia. Such deposited property, other than cash, shall be valued at the lower of face or market value for the purposes of this ~~regulation~~ chapter.

~~B.~~ D. The deposited property may consist only of cash, ~~or~~ securities issued or guaranteed by the United States or any agency or instrumentality ~~thereof~~ of the United States, or securities issued by the Commonwealth of Virginia or any political subdivision ~~thereof~~ of the Commonwealth of Virginia. ~~The commissioner shall determine the amount of property deposit to be required of a licensee in accordance with the factors and limitations set forth in 10VAC5-120-20.~~

~~C.~~ E. The property deposit shall be made upon the commissioner's authorization~~,~~ and pursuant to a written agreement using a form prescribed by the commissioner. The agreement shall provide, among other things, that the commissioner shall have the authority to permit or require the substitution or liquidation of property held under the agreement, and that interest and dividends attributable to the property will be paid to the licensee making the deposit.

~~D.~~ F. If a licensee ceases ~~money order sales and~~ money transmission ~~in the Commonwealth of Virginia~~ activity and ~~surrenders its license~~ is no longer licensed under Chapter 19.1, the commissioner shall have authority to permit reduction or elimination of the surety bond or property deposit to the extent that the former licensee's obligations arising from its licensed business are reduced or eliminated, and shall have authority to permit the substitution of other means of security for the ~~property deposit~~ security device as permitted by § 6.2-1951 of the Code of Virginia and this section.

10VAC5-120-35. Nationwide Multistate Licensing System and Registry.

~~A. Applications for a license under Chapter 19 shall be made through the registry in accordance with instructions provided by the commissioner. The commissioner may provide these instructions through the registry, on the commission's Internet website, or by any other means the commissioner deems appropriate.~~

~~B. Every licensee holding a license under Chapter 19 prior to July 1, 2019, shall register with the registry and file through the registry a transition request for its license under Chapter 19 no later than September 1, 2019.~~

~~C.~~ A. Every licensee shall maintain current information in its records with the ~~registry~~ NMLS. Except as otherwise required by Chapter ~~19~~ 19.1 or this chapter, a licensee shall update its information as soon as is practicable, but in no event later than 10 business days from when a change takes effect.

~~D.~~ B. A license ~~issued~~ under Chapter ~~19~~ 19.1 shall expire on December 31 of each calendar year unless it is renewed by a licensee on or after November 1 of the same year. However, licenses that are granted between November 1 and December 31 shall not expire until the end of the following calendar year. A license shall be renewed upon the commissioner finding that the licensee has satisfied the requirements set forth in ~~subsection F of § 6.2-1905~~ § 6.2-1934 B of the Code of Virginia.

C. Pursuant to § 6.2-1934 C of the Code of Virginia, the commission may grant an extension of the expiration date of all licenses under Chapter 19.1 in the event of a natural disaster or such other unanticipated events or circumstances beyond the control of licensees that would prevent the licensees from renewing their licenses by December 31.

10VAC5-120-40. Reporting and filing requirements.

A. Pursuant to ~~subsection D of § 6.2-1905~~ §§ 6.2-1938 and 6.2-1940 of the Code of Virginia, every licensee shall file quarterly reports of condition (i.e., call reports) and authorized delegate reports through the ~~registry~~ NMLS as well as such other information pertaining to the licensee's financial condition as may be required by the ~~registry~~ NMLS. ~~Reports shall be in such form, contain such information, and be submitted with such frequency and by such dates as the registry may require. Compliance with this subsection shall satisfy the requirement in subsection B of § 6.2-1917 of the Code of Virginia that a licensee file its quarterly financial statements with the commissioner.~~

B. Within one business day after a licensee ~~becomes aware~~ has reason to know of the occurrence of any of the following events, the licensee shall file a written report with the commissioner describing the event:

1. ~~Bankruptcy, reorganization, or receivership proceedings are filed~~ The filing of a petition by or against the licensee under the United States Bankruptcy Code (11 USC § 101 et seq.) for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization, or an action by a creditor against the licensee who is not a beneficiary of a statutory trust established in accordance with § 6.2-1952 C of the Code of Virginia.

2. Any local, state, or federal governmental authority institutes revocation, suspension, or other formal administrative, regulatory, or enforcement proceedings against the licensee.

3. Any local, state, or federal governmental authority (i) revokes or suspends the licensee's money order seller license, money transmitter license, or other license for a similar business; (ii) takes formal administrative, regulatory, or enforcement action against the licensee relating to its money order sales, money transmission, or similar business; or (iii) takes any other action against the licensee relating to its money order sales, money transmission, or similar business where the total amount of restitution or other payment from the licensee exceeds $20,000. A licensee shall not be required to provide the commissioner with information about such event to the extent that such disclosure is prohibited by the laws of another state.

4. Based on allegations by any local, state, or federal governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed money order sales, money transmission, or similar business, the licensee enters into~~,~~ or otherwise agrees to the entry of~~,~~ a settlement or consent order, decree, or agreement with or by such governmental authority.

5. The licensee surrenders its money order seller license, money transmitter license, or other license for a similar business in another state in lieu of threatened or pending license revocation; license suspension; or other administrative, regulatory, or enforcement action.

6. The licensee is denied a money order seller license, money transmitter license, or other license for a similar business in another state.

~~7. The licensee or any of its members, partners, directors, officers, principals, employees, or authorized delegates is indicted or convicted of a felony.~~

[~~C. A licensee shall file a report with the commissioner within three business days after the licensee has reason to know of an indictment, charge, or conviction of any of the following persons for a felony: (i) the licensee, (ii) a key individual or person in control of the licensee, (iii) an authorized delegate of the licensee, or (iv) an employee of the licensee.~~]

[C. ~~D.~~] The reports required by this section shall contain such information as the commissioner may require. The commissioner may require such additional reports as ~~he~~ the commissioner deems necessary.

~~D. Every licensee shall file the audited financial statements required by subsection D of § 6.2-1905 of the Code of Virginia within 105 days of the end of its fiscal year. For example, if a licensee's fiscal year ends on March 31, its audited financial statements must be filed by July 14 of the same year. If a licensee is unable to file its audited financial statements within 105 days of the end of its fiscal year, the licensee may request an extension, which may be granted by the commissioner for good cause shown. A licensee's audited financial statements shall cover the prior 12-month fiscal period and be prepared in accordance with generally accepted accounting principles.~~

[~~E.~~ D.] ~~The authorized delegate information required by subsection B of § 6.2-1917~~ Pursuant to § 6.2-1939 of the Code of Virginia ~~shall be submitted to,~~ the commissioner ~~through the registry's agent reporting functionality~~ may, for good cause shown, grant a licensee's request for an extension of up to 60

days to file its audited financial statements. Such request shall be made in writing, specify the reason for the request, and be submitted directly to the bureau.

[~~F.~~ E.] Pursuant to § 6.2-1940 of the Code of Virginia, every licensee shall submit through the NMLS agent reporting functionality such information pertaining to its authorized delegates as the NMLS may require.

[F. ~~G.~~] Any reports, notifications, or filings required by Chapter ~~19~~ 19.1 or this chapter may be submitted to the commissioner through the ~~registry~~ NMLS, provided that the ~~registry~~ NMLS is capable of receiving such reports, notifications, or filings.

10VAC5-120-50. ~~Assessment schedule~~ Annual fees and expenses for the examination and supervision of ~~money order sellers and~~ money transmitters.

Pursuant to ~~subsection B of § 6.2-1905~~ § 6.2-1924 B of the Code of Virginia, ~~the commission sets the following schedule for the~~ each licensee shall pay an annual ~~assessment~~ fee to ~~be paid by persons licensed under Chapter 19. The assessment defrays~~ defray the costs of the examination and supervision of licensees by the bureau.

The annual ~~assessment~~ fee shall be $0.000047 per dollar of (i) money orders sold and money transmitted by a licensee pursuant to Chapter 19 and (ii) a licensee's money transmission activity pursuant to Chapter 19.1. The assessment shall be based on the dollar volume of business conducted by a licensee, either directly or through its authorized delegates, during the calendar year preceding the year of the assessment as reported by each licensee in ~~(i)~~ the quarterly reports of condition (i.e., call reports) filed through the ~~registry or (ii) such other written reports as the commissioner may require pursuant to subsection D of § 6.2-1905 of the Code of Virginia~~ NMLS. If a licensee fails to fully report its volume information for the prior calendar year by the assessment date, a provisional fee subject to adjustment when the information is reported~~,~~ shall be assessed.

The amount calculated ~~using the schedule in~~ pursuant to this section shall be rounded down to the nearest whole dollar.

Fees shall be assessed on or before August 1 for the current calendar year. The assessment shall be paid by licensees on or before September 1.

Fees prescribed and assessed pursuant to this ~~schedule~~ section are apart from and do not include the following: ~~(i)~~ (a) the annual license renewal fee of $750 authorized by ~~subsection A of § 6.2-1905~~ § 6.2-1934 A of the Code of Virginia and ~~(ii)~~ (b) the reimbursement for ~~expenses~~ costs authorized by ~~subsection C of § 6.2-1905~~ §§ 6.2-1926 C and 6.2-1933 C of the Code of Virginia. When it becomes necessary to examine or investigate the affairs, business, premises, or records of a licensee or any of its authorized delegates at a location outside the Commonwealth of Virginia, the licensee shall be liable for and shall pay to the commission within 30 days of the presentation of an itemized statement the actual travel and reasonable living expenses incurred on account of its examination or investigation, or shall pay a reasonable per diem rate approved by the commission.

10VAC5-120-60. Responding to requests from the Bureau of Financial Institutions; providing false, misleading, or deceptive information.

A. When the bureau requests a written response, ~~books,~~ records, documentation, or other information from a licensee or its authorized delegate in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws and regulations, the licensee or authorized delegate shall deliver a written response as well as any requested ~~books,~~ records, documentation, or information within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested ~~books,~~ records, documentation, or information shall be delivered by the licensee or its authorized delegate to the bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, ~~books,~~ records, documentation, or information and such other factors as the bureau determines to be relevant under the circumstances. Requests made by the bureau pursuant to this subsection are deemed to be in furtherance of the ~~bureau's~~ commission's investigation and examination authority provided for in ~~§ 6.2-1910~~ § 6.2-1926 of the Code of Virginia.

B. A licensee shall not provide any false, misleading, or deceptive information to the bureau.

C. If the bureau requests information from an applicant to complete a deficient application filed under ~~§ 6.2-1903~~ § 6.2-1931 or ~~6.2-1914~~ 6.2-1936 of the Code of Virginia, and the information is not received within 60 days of the request, the application shall be deemed abandoned unless a request for an extension of time is received and approved by the bureau prior to the expiration of the 60-day period.

10VAC5-120-70. ~~Acquisitions; additional~~ Additional business requirements and restrictions; operating rules.

[~~A. Any~~] ~~person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under Chapter 19 shall pay a nonrefundable application fee of $500~~ [~~money remitted by an authorized delegate pursuant to § 6.2-1944 D 4 of the Code of Virginia shall be (i) paid directly to a licensee or the licensee's representative authorized to receive money or (ii) deposited in a bank account specified by the licensee, which shall be solely owned and controlled by and held in the name of the licensee.~~]

[~~B.~~ A.] A licensee shall not permit an authorized delegate to use a subdelegate or otherwise designate or appoint ~~a subdelegate~~ another person to ~~sell money orders or~~ engage in money transmission business on behalf of the licensee.

[~~C.~~ B.] A licensee shall comply with Chapter ~~19~~ 19.1, this chapter, and all other state and federal laws and regulations applicable to the conduct of its business. For purposes of Chapter ~~19~~ 19.1 and this chapter, the acts and omissions of a licensee's authorized delegates shall be deemed acts and omissions of such licensee.

[~~D.~~ C.] In addition to the records specified in ~~subsection B of § 6.2-1916~~ § 6.2-1943 A of the Code of Virginia, a licensee shall maintain in its principal place of business such other ~~books, accounts, and~~ records as the commissioner may reasonably require in order to determine whether such licensee is complying with the provisions of Chapter ~~19~~ 19.1, this chapter, and other laws and regulations applicable to the conduct of its business.

[~~E.~~ D.] If a licensee, authorized delegate, or former licensee disposes of records containing a consumer's personal financial information or copies of a consumer's identification documents, such records and copies shall be shredded, incinerated, or otherwise disposed of in a secure manner. A licensee, authorized delegate, or former licensee may arrange for service from a business record destruction vendor.

[~~F.~~ E.] A licensee or former licensee shall provide the following information to the bureau within 10 days after such person's license ~~is~~ has expired or been surrendered or revoked or the licensed business is otherwise closed: (i) the names, addresses, telephone numbers, ~~fax numbers,~~ and email addresses of a designated contact person and the person who consumers may contact regarding outstanding ~~money orders or~~ money transmission ~~transactions~~ obligations; (ii) the location of the licensee's or former licensee's ~~money order and~~ money transmission records; and (iii) any additional information that the bureau may reasonably require. A licensee or former licensee shall maintain current information with the bureau until the licensee or former licensee has no outstanding ~~money orders and~~ money transmission ~~transactions~~ obligations.

[~~G.~~ F.] A person shall remain subject to the provisions of Chapter ~~19~~ 19.1 and this chapter applicable to licensees in connection with all money orders sold and money or monetary value received for transmission ~~while licensed under~~ pursuant to Chapter 19 or Chapter 19.1 notwithstanding the occurrence of any of the following events:

1. The person's license ~~is~~ has expired or been surrendered or revoked; or

2. The person ceases ~~selling money orders or transmitting~~ money ~~or monetary value~~ transmission activity.

[~~H.~~ G.] A licensee shall not provide any information to a ~~Virginia resident~~ person located in the Commonwealth of Virginia that is false, misleading, or deceptive.

[~~I.~~ H.] A licensee shall not engage in any activity that directly or indirectly results in an evasion of the provisions of Chapter ~~19~~ 19.1 or this chapter.

[~~J.~~ I.] A licensee shall continuously maintain the requirements and standards for licensure prescribed in ~~§ 6.2-1906~~ § 6.2-1933 of the Code of Virginia.

[~~K.~~ J.] Pursuant to § 6.2-1945 A of the Code of Virginia, a licensee shall enter into an agreement with each sender [~~that specifies the date~~. The agreement shall be in writing and specify the estimated timeframe within which] the funds will be available to the recipient [~~. The~~, and a copy of the] agreement [~~shall be in writing and a copy~~] shall be furnished [or made available] to the sender on or before the execution of the transaction. [A licensee's terms of use, user agreement, or other equivalent document may be used to satisfy the requirements of this subsection.]

[~~L.~~ K.] The expiration, surrender, or revocation of a license under Chapter 19.1 shall not affect any pre-existing legal right or obligation of the licensee.

[~~M.~~ L.] Pursuant to § 6.2-1947 B of the Code of Virginia, a licensee or a licensee's authorized delegate shall provide each sender with a receipt upon receiving money for transmission. [This requirement shall be applicable solely to the extent that § 6.2-1947 of the Code of Virginia requires that a receipt be provided.]

10VAC5-120-80. Permissible investments.

A. Permissible investments maintained by a licensee pursuant to ~~§ 6.2-1918~~ § 6.2-1952 of the Code of Virginia shall be unencumbered and held solely in the name of the licensee.

B. In addition to the investments specified in ~~§ 6.2-1919~~ § 6.2-1953 of the Code of Virginia, the following investments shall be considered permissible under ~~§ 6.2-1918~~ § 6.2-1952 of the Code of Virginia: ~~any~~ debit card-funded or credit card-funded transmission receivables ~~that are (i) payable to a licensee from~~ owed by any bank, savings institution, or credit union ~~that is chartered under the laws of the United States or any state thereof; (ii) comprised of funds that have been tendered by residents of the United States for money transmission transactions; and (iii) no more than seven days old~~.

C. The receivables specified in ~~§ 6.2-1919 A 5~~ § 6.2-1953 B 1 of the Code of Virginia shall be limited to funds that have been collected by a licensee's authorized delegates directly from residents of the United States for money transmission transactions.

D. For purposes of § 6.2-1953 A 4 a (1) of the Code of Virginia, the following shall be deemed United States federal or state authorities having regulatory authority over banks, credit unions, and trust companies:

1. Office of the Comptroller of the Currency.

2. Federal Reserve Board.

3. Federal Deposit Insurance Corporation.

4. National Credit Union Administration.

5. State regulatory agencies that supervise banks, credit unions, or trust companies.

E. For purposes of § 6.2-1953 B 4 of the Code of Virginia, a licensee is required to have received a satisfactory or better rating in its most recent examination conducted (i) directly by the bureau or (ii) by an agency of another state if the examination report is accepted by the bureau pursuant to a multistate agreement.

10VAC5-120-85. Acquisitions of control.

A. A person or group of persons acting in concert that have obtained commission approval to acquire control of a licensee pursuant to § 6.2-1936 H of the Code of Virginia shall notify the commissioner within 15 days after the acquisition of control.

B. For purposes of § 6.2-1936 K 6 of the Code of Virginia, a public offering of securities of a licensee or a person in control of a licensee refers to a person or group of persons acting in concert who acquire such securities in a public offering.

C. A person shall be deemed to satisfy § 6.2-1936 M 1 of the Code of Virginia if the person has (i) never had a professional license revoked or suspended or (ii) not controlled a licensee that has had a professional license revoked or suspended while the person was in control of the licensee in the previous five years.

D. The notice required by § 6.2-1936 M 5 of the Code of Virginia shall be provided by a licensee or person in control of a licensee, and the notice shall be furnished at least 30 days in advance of the acquisition of control. The commissioner shall have the power and authority to make all findings and disapprove the notice if the commissioner has reason to believe that the criteria in § 6.2-1936 M of the Code of Virginia have not been met.

10VAC5-120-90. Enforcement.

A. Failure to comply with any provision of Chapter ~~19~~ 19.1 or this chapter may result in civil penalties, license suspension or revocation, the entry of a cease and desist order, or other appropriate enforcement action.

B. Pursuant to ~~§ 6.2-1920~~ § 6.2-1955 of the Code of Virginia, a person required to be licensed under Chapter ~~19~~ 19.1 shall be subject to a civil penalty of up to $2,500 for every violation of Chapter ~~19~~ 19.1, this chapter, or other law or regulation applicable to the conduct of the person's business. Furthermore, if a person violates any provision of Chapter ~~19~~ 19.1, this chapter, or other law or regulation applicable to the conduct of the person's business in connection with multiple ~~money order sales or~~ money transmission transactions, the person shall be subject to a separate civil penalty for each ~~money order sale or~~ money transmission transaction. For example, if a person ~~sells~~ conducts five money ~~orders~~ transmission transactions and the person violates two provisions of this chapter in connection with each of the five money ~~order sales~~ transmission transactions, there would be a total of 10 violations and the person would be subject to a maximum civil penalty of $25,000.

10VAC5-120-100. Commission authority.

~~The~~ A. Except as otherwise provided in § 6.2-1927 B of the Code of Virginia, the commission may, at its discretion, waive or grant exceptions to any provision of this chapter for good cause shown.

B. In addition to the powers and duties delegated elsewhere in this chapter and in 10VAC5-10-10, the commission delegates to the commissioner the authority to exercise its powers and to act for it under the following provisions of Chapter 19.1:

1. Section 6.2-1924 A of the Code of Virginia.

2. Section 6.2-1927 A 2 of the Code of Virginia.

3. Section 6.2-1936 M 2, N, and O of the Code of Virginia.

4. Section 6.2-1937 B and E of the Code of Virginia.

5. Section 6.2-1938 A of the Code of Virginia.

6. Section 6.2-1939 C of the Code of Virginia.

7. Section 6.2-1951 E of the Code of Virginia.

In exercising the powers and performing the duties hereby delegated to the commissioner, the commissioner shall have the power and authority to make all findings and determinations permitted or required by law.

VA.R. Doc. No. R26-8628; Filed September 14, 2026, 1:28 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: **12VAC5-220. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12VAC5-220-280 through 12VAC5-220-310; adding 12VAC5-220-285).**

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: November 4, 2026.

Effective Date: November 19, 2026.

Agency Contact: Geoff Garner, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2157, fax (804) 527-4502, or email regulatorycomment@vdh.virginia.gov.

Basis: Section 32.1-12 of the Code of Virginia authorizes the State Board of Health to make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by the board, the Commissioner of Health, or the Virginia Department of Health. Section 32.1-102.2 of the Code of Virginia requires the board to promulgate regulations that are consistent with Article 1.1 (§ 32.1-102.1 of the Code of Virginia et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.

Purpose: This action is essential to protect the health, safety, and welfare of citizens because the Certificate of Public Need (COPN) program ensures that the health care marketplace is not flooded with unneeded medical facilities or equipment and that charity care is provided to indigent patients.

Rationale for Using the Fast-Track Rulemaking Process: This action is considered noncontroversial and therefore appropriate for the fast-track rulemaking process because it codifies the requirements of Chapter 325 of the 2025 Acts of Assembly. The board used its discretion only in determining batch cycle dates.

Substance: The amendments establish expedited review processes for the following Certificate of Public Need requests: (i) establishment of a new medical care facility by an existing medical care facility that has an existing certificate to provide psychiatric services, provided the new medical care facility is located in the same planning district as the existing medical care facility; (ii) addition of psychiatric beds at an existing medical care facility that has an existing certificate to provide psychiatric services, not to exceed 10 beds or 10% of all beds at the medical care facility, whichever is greater, and provided that the applicant has not been awarded a certificate for the addition of psychiatric beds pursuant to this provision in the previous two-year period; (iii) relocation of psychiatric beds to an existing medical care facility that has had an existing certificate to introduce a psychiatric service for at least the previous 12 months and that is within the same planning district; and (iv) capital expenditure of $15 million or more, not defined as reviewable in § 32.1-102.1:3 B 1 through B 7 of the Code of Virginia, by or on behalf of a medical care facility described in subsection A other than a general hospital.

The amendments also (i) establish a 90-day batching schedule for the expedited review process; (ii) clarify that the expedited review period shall begin on the first day of the applicable review cycle within which an application is determined to be complete and that if the application is not determined to be complete for the applicable batch cycle within 60 calendar days from the date of submission, the application may be refiled in the next applicable batch cycle; and (iii) clarify that any member of the public may request a public hearing on an expedited review project.

Issues: The primary advantage to the public is that the amendments create an expedited review process for Certificate of Public Need requests related to psychiatric beds by hospitals and psychiatric care facilities, which may result in greater access to inpatient psychiatric care for the public. The primary advantage to the agency and Commonwealth is that the regulation will comply with Chapter 325 of the 2025 Acts of Assembly. There are no disadvantages to the public, the agency, or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 325 of the 2025 Acts of Assembly, the State Board of Health (board) proposes to establish an expedited review process for certain Certificate of Public Need (COPN) requests.

Background. Chapter 423 of the 2024 Acts of Assembly, directed the board to convene the State Health Services Plan Task Force to make recommendations on expedited review of projects subject to COPN requirements. The Virginia Department of Health (VDH) submitted the task force recommendations (RD883) on December 3, 2024.[2] In response to the recommendations,[3] the 2025 General Assembly enacted Chapter 325 that requires the board to promulgate regulations that establish an expedited review process for the following types of projects: (i) A new branch of an existing psychiatric care facility within the same planning district, (ii)The addition of psychiatric beds not to exceed the greater of 10 beds or 10 percent of all beds at the facility, (iii) Relocation of psychiatric beds to an existing facility, and (iv) Capital expenditures of $15 million or more by facilities other than general hospitals. Further, Chapter 325 requires the regulations to include certain procedures in the expedited review process: (i) Four annual batch cycles for filing, (ii) Review completed within 90 days, (iii) Ability for the public to request a public hearing, and (iv) Criteria for removing an application from expedited review and subjecting it to the full review process.

Estimated Benefits and Costs. Chapter 325 requires the regulations to include four annual batch cycles, and the board exercised discretion by determining the schedule of these cycles. Otherwise, all elements of the proposal appear to come directly from Chapter 325. Thus, any potential economic impacts of the proposed changes to the regulation are a direct result of the legislation. The Fiscal Impact Statement (FIS) for Chapter 325 states that the average number of COPN requests over the last 10 years that would be subject to the requirements of the proposed legislation is 2.8 a year, ranging from zero to six COPN requests. The largest number of COPN applications for expedited review of psychiatric projects that VDH has ever received in a year is six. Therefore, any increase in workload for these additional projects can be handled within existing resources. Additionally, VDH

indicated that the cost of amending the regulations will be less than $5,000 and can be absorbed by existing agency staffing and resources. Furthermore, the FIS indicates an indeterminate impact on Medicaid expenditures, although it also acknowledges that a direct impact on Medicaid for the biennium would be unlikely.[4] In addition to what was noted by the FIS, the mandated faster review process (90 days versus 190 days for the standard process) may also help contribute to increased competition for the existing psychiatric care facilities. The benefits of the legislation, on the other hand, include a decrease in review time for COPN applications that would qualify for the expedited process, which results in other benefits: faster entry into the psychiatric care industry for qualified entities and the ability to realize the benefits of increased competition and access to consumers more quickly. Another benefit is the opportunity for the public to request a public hearing on an expedited application. Because the main costs and benefits of the expedited process are legislatively driven, the primary benefits of the proposed regulatory changes are that the regulations would be in compliance with Chapter 325 of the 2025 Acts of Assembly and that applicants would have a clear understanding of the timing for batch review cycles.

Businesses and Other Entities Affected. Psychiatric care facilities and their patients are affected, as are VDH staff. According to the FIS, on average 2.8 projects per year (the range being between zero and six projects) may qualify for the expedited process. No entity appears to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[5] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[6] The main impacts of the regulatory change are compliance with the legislative mandate and establishment of batch review cycles. Thus, no adverse impact is indicated on account of this regulatory action.

Small Businesses[7] Affected.[8] The proposed regulatory changes do not appear to adversely affect small businesses.

Localities[9] Affected.[10] The proposed regulatory changes do not create costs for localities. However, according to VDH, the County of Bedford, Lee County Hospital Authority, and Chesapeake Hospital Authority may be affected by the implementation of the legislative mandate since Bedford operates a nursing home and the two hospital authorities each operate a licensed general hospital.

Projected Impact on Employment. The proposed regulatory changes do not have a direct impact on total employment.

Effects on the Use and Value of Private Property. No impact of the use and value of private property nor on real estate development costs are expected on account of this regulatory action.

[1] Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] https://rga.lis.virginia.gov/Published/2024/RD883/PDF.

[3] See Legislative Recommendations-Psychiatric on Page 10 of RD883 and Regulatory Recommendations-Operational on Page 11.

[4] https://lis.blob.core.windows.net/files/1063579.PDF

[5] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[6] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

[7] Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[8] If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[9] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[10] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Virginia Department of Health has reviewed the economic impact analysis (EIA) prepared by the Department of Planning and Budget and believes the contents of the analysis to be substantively complete and accurate as of the date of the EIA, and no modification of the EIA is warranted.

Summary:

Pursuant to Chapter 325 of the 2025 Acts of Assembly and in response to the recommendations of the State Health Services Plan Task Force report, the amendments (i) establish an expedited review process for Certificate of Public Need requests for additions, relocations, and capital expenditures under specific situations; (ii) clarifies that the expedited review cycle takes 90 days and establishes a 90-day batching schedule for the process; (iii) clarifies beginning and completion of the batch cycle; and (iv) provides that any member of the public may request a public hearing on an expedited review project.

12VAC5-220-280. Applicability.

A. Capital expenditures as contained in subdivision 8 of "project" as defined in § 32.1-102.1 of the Code of Virginia or projects that involve relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another, when the cost of such relocation is less than $5 million, shall be subject to an expedited review process.

B. The following projects shall also be subject to an expedited review process:

1. The establishment of a new medical care facility described in § 32.1-102.1:3 A 2 of the Code of Virginia by an existing medical care facility described in § 32.1-102.1:3 A 1 of the Code of Virginia that has an existing certificate to provide psychiatric services pursuant to § 32.1-102.1:3 B 6 of the Code of Virginia, provided such new medical care facility is located in the same planning district as the existing medical care facility;

2. The addition of psychiatric beds at an existing medical care facility described in § 32.1-102.1:3 A 2 of the Code of Virginia that has an existing certificate to provide psychiatric services pursuant to § 32.1-102.1:3 B 5 of the Code of Virginia, not to exceed 10 beds or 10% of all beds at the medical care facility, whichever is greater, and provided that the applicant has not been awarded a certificate for the addition of psychiatric beds pursuant to this provision in the previous two-year period;

3. The relocation of psychiatric beds to an existing medical care facility described in § 32.1-102.1:3 A 2 of the Code of Virginia that has had an existing certificate to introduce a psychiatric service for at least the previous 12 months pursuant to § 32.1-102.1:3 B 5 of the Code of Virginia and that is within the same planning district; and

4. Any capital expenditure of $15 million or more, not defined as reviewable in § 32.1-102.1:3 B 1 through B 7 of the Code of Virginia, by or on behalf of a medical care facility described in subsection A of this section other than a general hospital.

12VAC5-220-285. 90-day review cycle.

The department shall review completed applications that qualify for expedited review pursuant to 12VAC5-220-280 in accordance with the 90-day scheduled expedited review cycles in the table in this section.

Batch Group	Due Date for Complete Applications	Review Cycle Begins	Ends
A	February 5	Feb. 10	May 10
B	May 7	May 12	Aug. 9
C	August 6	Aug. 11	Nov. 8
D	November 5	Nov. 10	Feb. 7

12VAC5-220-290. Application forms.

A. Obtaining application forms. Application forms for an expedited review shall be available from the department upon the request of the applicant. The department shall transmit application forms to the applicant within seven days of receipt of such request.

B. Application fees. The department shall collect application fees for applications that request a certificate of public need under the expedited review process. No application will be reviewed until the required application fee is paid as provided in 12VAC5-220-180 B.

C. Filing application forms. All requests for a certificate of public need in accordance with the expedited review process shall be reviewed by the department and the regional health planning agency which shall each forward a recommendation to the commissioner within ~~40~~ 60 days from the date the submitted application has been deemed complete. No application for expedited review shall be reviewed until the application form has been received by the department and the appropriate regional health planning agency, has been deemed complete, and the application fee has been paid to the department. The expedited review period shall begin on the first day of the applicable review cycle within which an application is determined to be complete, in accordance with scheduled batch review cycles described in 12VAC5-220-285. If the application is not determined to be complete for the applicable batch cycle within 60 calendar days from the date of submission, the application may be refiled in the next applicable batch cycle.

12VAC5-220-300. Participation by other persons.

Any person directly affected by the review of a project under the expedited review process may submit written opinions, data and other information to the appropriate regional health planning agency and to the commissioner prior to their final action. Any member of the public may request a public hearing for an expedited application.

12VAC5-220-310. Action on application.

A. Decisions to approve any project under the expedited review process shall be rendered by the commissioner within ~~45~~ 90 days of the receipt of such completed request. The commissioner shall approve and issue a certificate for any project ~~which~~ that is determined to meet the criteria for expedited review set forth in 12VAC5-220-280.

B. If the commissioner determines that a project does not meet the criteria for an expedited review set forth in 12VAC5-220-280, the applicant will be notified in writing of such determination within ~~45~~ 90 days ~~of the receipt of such request~~. In such cases, the department will forward the appropriate forms to the project applicant for use in filing an application for review of a project in the appropriate review cycle in accordance with Part V of this chapter.

C. Any project ~~which~~ that does not qualify for an expedited review in accordance with 12VAC5-220-280, as determined by the commissioner, shall be exempted from the requirements of 12VAC5-220-180 A and B when such project is filed for consideration in accordance with Part V of this chapter.

VA.R. Doc. No. R27-8366; Filed September 8, 2026, 11:53 a.m.

Fast-Track Regulation

Title of Regulation: **12VAC5-371. Regulations for the Licensure of Nursing Facilities (amending 12VAC5-371-30, 12VAC5-371-40; adding 12VAC5-371-41).**

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: November 4, 2026.

Effective Date: November 19, 2026.

Agency Contact: Geoff Garner, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2157, fax (804) 527-4502, or email regulatorycomment@vdh.virginia.gov.

Basis: This regulation is promulgated under the authority of §§ 32.1-12 and 32.1-127 of the Code of Virginia, which grant the State Board of Health the legal authority to make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by the board, the Commissioner of Health, or the Virginia Department of Health.

Purpose: The specific reason the regulatory change is essential to protect the health, safety, or welfare of citizens is that normal state controls on the nursing home bed inventory in the Commonwealth have proven to be inflexible during certain public health emergencies where demand for beds outstrips both the current inventory and the mandated processes by which additional inventory can be authorized. These amendments will allow nursing homes to temporarily increase bed inventory in response to disasters and other public health emergencies, while still allowing the commissioner sufficient oversight to ensure the beds are being operated and staffed safely.

Rationale for Using the Fast-Track Rulemaking Process: It is anticipated that this action will be noncontroversial and therefore appropriate for the fast-track rulemaking process because the minimum information required when requesting temporary beds and the process described in the regulatory action is consistent with the minimum information that was requested of nursing homes and the process that was used during the COVID-19 pandemic.

Substance: The amendments (i) clarify information required to appear on the face of the nursing home license and where the new exemption process is located in the Virginia Administrative Code; (ii) update exemption specifications pursuant to the new process that allows nursing homes to temporarily increase bed inventory during disasters or other public health emergencies; and (iii) add a new form required by the regulation.

Issues: The primary advantages to the public of implementing the amended provisions is the ability to rapidly and temporarily increase nursing home bed inventory during disasters or other public health emergencies while preserving life safety code protections and safe staffing. The primary advantages to the Commonwealth of implementing the amended provisions is a new exemption process that grants more discretion and flexibility to the board and commissioner in responding to public health emergencies for which additional bed inventory is needed without needing either a legislative amendment to the Code of Virginia or an executive order from the Governor. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. Pursuant to Chapters 712 and 772 of the 2022 Acts of Assembly, the State Board of Health (board) proposes to incorporate in this nursing home licensure regulation an exemption from the certificate of public need rules for facilities that may request a temporary increase in their bed capacity to respond to public health emergencies and to specify the information needed to evaluate such requests.

Background. Prior to the COVID-19 pandemic, § 32.1-102.2 A 6 of the Code of Virginia provided the board or the Commissioner of Health with limited authority to grant an exemption from the requirement for a certificate of public need for a temporary increase in the total number of beds in an existing hospital or nursing home for no more than 30 days when a natural or man-made disaster has caused the evacuation of a hospital or nursing home and a public health emergency exists due to a shortage of hospital or nursing home beds. Section 32.1-127 B 24 of the Code of Virginia, which applies to hospital and nursing home licensure and inspection, provided the same authority to grant exemptions for licenses for temporary increases in bed capacity. However, this authority was insufficient for the board or the commissioner to grant an exemption from the certificate of public need rules for a temporary increase in nursing home or hospital beds in order to respond to the COVID-19 pandemic. Instead, during the pandemic, the Virginia Department Health (VDH) utilized an alternative authorization process pursuant to Executive Orders 52 (2020), 84 (2022), 11 (2022), and 16 (2022). According to VDH, normal state controls (i.e., existing certificate of need and licensing statutes and regulations) on the hospital and nursing home bed inventory in the Commonwealth have proven to be too inflexible during certain public health emergencies where demand for beds outstrips both the existing inventory and the mandated

processes by which additional inventory can be authorized. In order to address these concerns, the 2022 Session of the General Assembly passed Chapters 712 and 772, which amended §§ 32.1-102 and 32.1-127 of the Code of Virginia. This legislation requires the board to amend its regulation about exemptions for certificates of public need and hospital and nursing home licenses for a temporary increase in the total number of beds in an existing hospital or nursing home to include a temporary increase in the total number of beds resulting from the addition of beds at a temporary structure or satellite location operated by the hospital or nursing home, provided that the ability remains to safely staff services across the existing hospital or nursing home. These Acts also allowed the exemption to be triggered by an emergency order pursuant to § 32.1-13 or 32.1-20 of the Code of Virginia for the purpose of suppressing a nuisance dangerous to public health or a communicable, contagious, or infectious disease or other danger to the public life and health.[2] Lastly, the duration of this exemption was amended to be either a period of no more than the duration of the commissioner's determination plus 30 days when the commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds or a period of no more than the duration of the emergency order entered pursuant to § 32.1-13 or 32.1-20 of the Code of Virginia plus 30 days. Consequently, the board has initiated an action to implement the mandated changes in the certificate of public need regulations.[3] However, this regulation on nursing home licensure must also be amended to reflect the same changes as licenses are issued for a specific capacity which may be temporarily increased as directed by the legislation. In short, this regulatory action would amend this nursing home licensure regulation to align it with the legislation and with the proposed changes to the certificate of public need regulations in 12VAC5-220.

Estimated Benefits and Costs. The main impact of the proposed change is to amend the regulatory text to incorporate board or commissioner authority and discretion to grant temporary nursing home bed capacity and collect the information required for temporary bed increase requests as per the certificate of public need regulations so that there is consistency among regulations as well as the legislation. As with the regulatory action to amend the certificate of public need regulations, the main benefit of the changes proposed here would be to implement a legislative mandate to create an expeditious process by which hospitals and nursing homes can request temporary beds in responding to public health emergencies while ensuring that the Commissioner and VDH have sufficient information to take action on the request. There does not appear to be any significant costs associated with the proposed regulatory changes as the authority and discretion provided to the commissioner or the board to grant exemption from the licensing rules for a temporary bed capacity are mandated by the legislation and the information to be provided with an application is the same as what had been requested in the process utilized under executive orders.

Businesses and Other Entities Affected. The proposed changes apply to existing nursing homes. According to VDH, there are 287 nursing homes. Between 2020 and 2022, 57 facilities (49% of all inpatient hospitals and one percent of all nursing homes) added over 3,700 temporary beds under the executive orders in response to COVID-19 pandemic. None of the affected entities appear to be disproportionately affected. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] The impact of the proposed changes is to align the regulatory text in this licensure regulation with other regulations and statute. Thus, no adverse impact is indicated.

Small Businesses[6] Affected.[7] VDH does not have any data to estimate how many nursing homes may, if any, meet the definition of small business. However, the proposed amendments do not appear to adversely affect small businesses.

Localities[8] Affected.[9] The County of Bedford operates a nursing home. However, the proposed amendments do not appear to introduce costs for local governments.

Projected Impact on Employment. The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property. No impact on the use and value of private property or real estate development costs is expected from promulgation of the proposed regulatory amendments.

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[1] Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] See https://law.lis.virginia.gov/vacode/title32.1/chapter1/section32.1-13/ and https://law.lis.virginia.gov/vacode/title32.1/chapter1/section32.1-20/.

[3] https://townhall.virginia.gov/L/ViewAction.cfm?actionid=5982.

[4] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

[6] Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[7] If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for

preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[8] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[9] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Virginia Department of Health has reviewed the economic impact analysis (EIA) prepared by the Department of Planning and Budget and believes the contents of the analysis to be substantively complete and accurate as of the date of the EIA, and no modification of the EIA is warranted.

Summary:

The amendments add a new section to the regulation that consolidates the requirements for a nursing home to add temporary beds and adds an exemption for nursing homes from obtaining a Certificate of Public Need or extending a license to add such beds. The requirements include (i) conditions under which a nursing home may activate this exemption, (ii) what information the nursing home must provide to qualify for the exemption, (iii) the process via which the nursing home will be informed regarding approval, and (iv) notification requirements for the nursing home.

12VAC5-371-30. License.

A. This chapter is not applicable to:

1. Those entities listed in § 32.1-124 of the Code of Virginia; or

2. Facilities established or operated for the practice of religious tenets pursuant to § 32.1-128 of the Code of Virginia, except that such facilities shall comply with the statutes and regulations on environmental protection and life safety.

B. A license to operate a nursing facility shall be issued to a person.

C. Each license shall expire at 11:59 p.m. on December 31 of the year issued. ~~A nursing facility shall operate within the terms of its license, which include the~~ Each license issued by the commissioner shall specify:

1. Name of the nursing facility;

2. Name of the operator;

3. Physical location of the nursing facility;

4. Maximum number of beds allowed, ~~except as provided in 12VAC5-371-40 G~~ excluding temporary beds added pursuant to 12VAC5-371-45; and

5. Date the license expires.

D. A separate license shall be required for nursing facilities maintained on separate premises, even if the facilities are owned or operated under the same management.

E. Every nursing facility shall be designated by a permanent and unique name.

F. The number of resident beds allowed in a nursing facility shall be determined by the commissioner.

G. Long-term care nursing units located in and operated by hospitals shall be licensed under Regulations for the Licensure of Hospitals in Virginia (12VAC5-410). Approval for such units shall be included on the annual license issued to each hospital.

H. Any person establishing, conducting, maintaining, or operating a nursing facility without a license shall be guilty of a Class 6 felony.

I. The licensee shall at all times:

1. Maintain an active and accurate license; and

2. Post its current license in a place readily visible and accessible to the public at the nursing facility.

12VAC5-371-40. Licensing process.

A. Upon request, the OLC will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:

1. Explain the standards and the licensing process;

2. Provide assistance in locating other sources of information;

3. Review the potential applicant's proposed program plans, forms, and other documents, as they relate to standards; and

4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable.

B. Licensees and applicants shall obtain licensure applications from the OLC.

C. The OLC shall consider the application complete when all requested information and the application fee is submitted with the form required. If the OLC finds the application incomplete, the applicant will be notified of receipt of the incomplete application.

D. The applicant shall complete and submit the initial application to the OLC at least 30 days prior to a planned opening date to allow the OLC time to act on the application. An application for a license may be withdrawn at any time.

E. A nursing facility may not be licensed without first complying with the requirements for a Certificate of Public

Need as required by Article 1.1. (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.

1. Application for initial license of a nursing facility shall include a statement of any agreement made with the commissioner as a condition for Certificate of Public Need approval to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

2. Any initial license issued to any nursing facility that made such agreement as a condition of its Certificate of Public Need approval shall not be renewed without demonstrating prior to or at the time of applying for renewal that it is substantially complying with its agreement.

F. The renewal of a nursing facility license shall be conditioned upon the up-to-date payment of any civil penalties owed as a result of willful refusal, failure, or neglect to honor certain conditions established in their award of a Certificate of Public Need pursuant to § 32.1-102.4 B of the Code of Virginia.

~~G. Nursing facilities shall be exempt, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds when the commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.~~

~~H.~~ G. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.

~~I.~~ H. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.

12VAC5-371-41. Exemption from licensure.

A. A nursing home shall be exempt from the requirement to obtain a Certificate of Public Need or a license to add temporary beds, including beds located in a temporary structure or satellite location operated by a nursing home:

1. If the commissioner has determined that a natural disaster or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of nursing home beds; or

2. If the board has entered an emergency order pursuant to § 32.1-13 of the Code of Virginia or if the commissioner has entered an emergency order pursuant to §§ 32.1-13 and 32.1-20 of the Code of Virginia for the purpose of suppressing:

a. A nuisance dangerous to public health;

b. A communicable, contagious, or infectious disease; or

c. Other danger to the public life and health.

B. A nursing home may request temporary beds by filing a Request for Temporary Beds, OLC-1009-F Form (eff. 6/2022), with the OLC that includes:

1. The nursing home's name;

2. The nursing home's license number;

3. The nursing home administrator's or the administrator's designee's name;

4. The nursing home administrator’s or the administrator's designee's name telephone number;

5. The nursing home administrator’s or the administrator's designee's name email address;

6. The number and type of temporary beds the nursing home anticipates adding;

7. The planned use of the temporary beds;

8. The plans for staffing the temporary beds;

9. The efforts undertaken or to be undertaken to reduce or eliminate the number of temporary beds needed;

10. The address of the building, temporary structure, or satellite location where the nursing home intends to locate the temporary beds;

11. The specific locations within the building, temporary structure, or satellite location where the nursing home intends to locate the temporary beds;

12. Whether the locations identified in subdivision B 11 of this section meet life safety code requirements for the type of residents expected to occupy those temporary beds;

13. If life safety code requirements are not currently met for the locations identified in subdivision B 11 of this section, what action the nursing home will take to meet life safety code requirements; and

14. Any other information that the board or commissioner may request.

C. The nursing home shall provide additional information as may be requested or required by the commissioner to evaluate the temporary bed request.

D. The commissioner shall notify the nursing home in writing of the commissioner's decision on the temporary bed request. If granted, the commissioner may attach conditions to the approval that, in the sole judgment of the commissioner, protects public or resident health, safety, or welfare.

E. The nursing home may not add temporary beds unless its request has been granted and may not operate temporary beds more than 30 days after the expiration of:

1. The commissioner’s determination pursuant to subdivision A 1 of this section; or

2. The board's or the commissioner's emergency order pursuant to subdivision A 2 of this section.

F. The nursing home shall notify the OLC in writing within 24 hours of opening a temporary bed and within 24 hours of closing a temporary bed.

G. The OLC shall promptly inform the Department of Medical Assistance Services and the Centers for Medicare and Medicaid Services of the identity of any nursing home certified as a Medicare provider, Medicaid provider, or both that fails to comply with subsection E of this section.

H. The commissioner may rescind or modify the approval of a temporary bed request if:

1. Additional information becomes known that alters the basis for the original approval, including if the nursing home added temporary beds prior to receiving the approval; or

2. The nursing home fails to meet any conditions attached to the approval.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (12VAC5-371)

Application for License Renewal: Nursing Homes (rev. 9/2006)

Application for License Renewal: Nursing Homes; Mid Year, Initial and Changes (rev. 9/2006)

Request for Temporary Beds, OLC-1009-F (eff. 6/2022)

VA.R. Doc. No. R27-7196; Filed September 8, 2026, 11:49 a.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **12VAC5-371. Regulations for the Licensure of Nursing Facilities (amending 12VAC5-371-160, 12VAC5-371-190, 12VAC5-371-250).**

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Peter North, Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 814-4079, fax (804) 527-4502, or email regulatorycomment@vdh.virginia.gov.

Summary:

Pursuant to Chapter 323 of the 2026 Acts of Assembly, the amendments require licensed nursing facilities to have and maintain an automated external defibrillator (AED) and have staff trained to use the AED. Pursuant to Chapter 505 of the 2026 Acts of Assembly, additional amendments require licensed nursing facilities to purchase an insurance policy with a two-year reporting endorsement extension. Finally, pursuant to Chapter 944 of the 2026 Acts of Assembly, the amendments require nursing facilities to (i) perform comprehensive assessments of residents that are in line with the federal physician visit schedule; (ii) develop state-mandated criteria to improve care quality, protect residents, and strengthen oversight and accountability of nursing facilities; and (iii) enhance recruitment efforts and expand workforce capacity, accelerate training and onboarding initiatives, and explore measures to reduce administrative burdens.

12VAC5-371-160. Financial controls and resident funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).

B. Each nursing facility shall maintain, per facility, noneroding general liability insurance coverage in a minimum amount of $1 million per occurrence, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 of the Code of Virginia per patient occurrence, to compensate residents or individuals for injuries and losses resulting from the negligent acts of the nursing facility.

1. Failure to ~~maintain minimum~~ comply with the insurance ~~limits~~ coverages required under this section shall result in revocation of the nursing facility's license.

2. Each nursing facility shall provide at licensure renewal or have available to the board proof of the insurance coverages as required by this subsection.

3. When an existing owner of a licensed nursing home or certified nursing facility sells or transfers ownership and the general liability and the professional liability insurance coverages are claims-made policies, the purchaser shall purchase an extended reporting endorsement of two years after the date of sale, or purchase general liability and professional liability insurance coverage with coverage dates that begin two years prior to the date the existing owner's general liability and professional liability policies end. The seller may provide the purchaser with a certificate

of insurance evidencing coverage under an extended reporting endorsement consistent with the requirements of this section. The purchaser shall provide evidence of compliance with this section to the Virginia Department of Health. Failure to comply with the insurance coverages required under this section shall result in revocation of the facility's license.

C. Nursing facilities choosing to handle resident funds shall:

1. Comply with § 32.1-138 A 7 of the Code of Virginia regarding resident funds;

2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the nursing facility; and

3. Provide for separate accounting for resident funds.

D. In the event the nursing facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.

E. Each nursing facility shall be required to provide a full refund of any unexpended patient funds on deposit with the nursing facility following the discharge or death of a patient, other than entrance related fees, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the patient's estate in accordance with the Virginia Small Estate Act (§ 64.2-600 et seq. of the Code of Virginia).

12VAC5-371-190. Safety and emergency procedures.

A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:

1. Alerting emergency personnel and sounding alarms;

2. Implementing evacuation procedures including the evacuation of residents with special needs;

3. Using, maintaining, and operating emergency equipment;

4. Accessing resident emergency medical information; and

5. Utilizing community support services.

B. All staff shall participate in periodic emergency preparedness training.

C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.

D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

E. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and well-being of residents, the nursing facility shall notify the OLC of the conditions and status of the residents and the physical plant as soon as possible.

F. The nursing facility shall have a policy on smoking.

G. Each nursing facility and certified nursing facility shall have and maintain an automated external defibrillator, as defined in § 32.1-111.1 of the Code of Virginia, and have staff trained to use such automated external defibrillator.

12VAC5-371-250. Resident assessment and care planning.

A. The nursing facility shall conduct an initial and periodic assessment of each resident's needs. The assessment shall accurately describe the resident's capability to perform daily life functions and significant impairments in functional capacity. This comprehensive assessment shall include~~, but is not limited to~~:

1. Medically defined conditions and prior medical history;

2. Medical status;

3. Physical and mental functional status;

4. Sensory and physical impairments;

5. Nutritional status and requirements;

6. Special treatments or procedures;

7. Psychosocial status;

8. Discharge potential;

9. Dental condition;

10. Activities potential;

11. Rehabilitative potential;

12. Cognitive status;

13. Drug therapy; and

14. Any known advance directives.

B. The nursing facility shall conduct a complete assessment:

1. No later than 14 days after the date of admission;

2. Promptly after a significant change in the resident's physical or mental condition; and

3. In all cases, at least once every ~~12 months~~ 366 days.

C. The nursing facility shall review each resident's assessment at least once every ~~three months~~ 92 days and shall update the plan of care as indicated.

D. Each assessment shall be coordinated by a registered nurse who signs, dates, and certifies completion of the assessment.

E. Each assessment shall be conducted or coordinated with the participation of health professionals. Each person completing a portion of the assessment shall sign and date that portion of the assessment.

F. The nursing facility shall use the results of the assessment to develop, review, and revise the resident's comprehensive plan of care.

G. A comprehensive plan of care shall be developed for each resident. The plan shall include measurable objectives and timetables to meet the resident's medical, nursing, nutritional, and psychosocial needs identified in the comprehensive assessment. The plan shall also describe the services that are to be furnished to maintain or improve the resident's physical, mental, and psychosocial status.

H. The comprehensive plan of care shall be developed within seven days of completion of the comprehensive assessment. Upon request, a copy or summary of such comprehensive plan of care as defined by the facility's established policy shall be delivered to the resident and the resident's family or legal representative within seven days of completion.

I. The comprehensive plan of care shall be prepared by a multidisciplinary team. The multidisciplinary team shall include a registered nurse, the attending physician, to the extent practicable, and other staff in disciplines as determined by the resident's needs. The resident, the resident's family, or legal representative shall also be provided a meaningful opportunity to participate in the care planning.

J. If any required visits to a resident by a physician do not take place in accordance with the federal physician visit schedule described in 42 CFR 483.30(c), any nursing home licensed under this chapter shall send notice to the resident, the resident's family or legal representative, and the Virginia Department of Health.

VA.R. Doc. No. R27-8734; Filed September 9, 2026, 10:39 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Emergency Regulation

Title of Regulation: **12VAC30-20. Administration of Medical Assistance Services (amending 12VAC30-20-500, 12VAC30-20-520, 12VAC30-20-540, 12VAC30-20-560).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Dates: November 5, 2026, through May 4, 2028.

Agency Contact: Syreeta Stewart, Regulations and Guidance Documents Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23220, telephone (804) 839-7282, or email syreeta.stewart@dmas.virginia.gov.

Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

The amendments streamline the provider appeal process in accordance with Item 292 QQ of the 2025 Appropriations Act. The amendments require providers to file appeal notices and other appeals-related documents through an online appeals portal.

12VAC30-20-500. Definitions.

The following words and terms when used in this part shall have the following meanings:

"Administrative dismissal" means a dismissal that requires only the issuance of a decision with appeal rights but does not require the submission of a case summary or any further proceeding.

"Day" means a calendar day unless otherwise stated.

"DMAS" means the Virginia Department of Medical Assistance Services or its agents or contractors.

"Hearing officer" means an individual selected by the Executive Secretary of the Supreme Court of Virginia to conduct the formal appeal in an impartial manner pursuant to §§ 2.2-4020 and 32.1-325.1 of the Code of Virginia and this part.

"Informal appeals agent" means a DMAS employee who conducts the informal appeal in an impartial manner pursuant to §§ 2.2-4019 and 32.1-325.1 of the Code of Virginia and this part.

"Item" means an electronic or physical item, including a document, that is transmitted to satisfy a filing requirement or otherwise sent in relation to an appeal.

"Last known address" means the provider's physical or electronic correspondence address on record in the DMAS Medicaid Enterprise System (MES) as of the date DMAS transmits an item to the provider or the address of the provider's counsel of record. Nothing herein shall prevent DMAS and the provider from agreeing in writing during the course of an audit or an appeal to use an alternative location for the transmittal of an item or items related to the audit or the appeal.

"Portal" means the online appeals portal administered by the DMAS Appeals Division.

"Provider" means an individual or entity that has a contract with DMAS to provide covered services and that is not operated by the Commonwealth of Virginia.

"Transmit" means to send by means of the United States mail, courier or other hand delivery, facsimile, electronic mail, portal submission, or other electronic submission.

12VAC30-20-520. Provider appeals: general provisions.

A. This part governs all DMAS informal and formal provider appeals and supersedes any other provider appeals regulations.

B. A provider may appeal any DMAS action that is subject to appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), including the DMAS interpretation and application of payment methodologies. A provider may not appeal the actual payment methodologies.

C. DMAS shall transmit written notice of any adverse action subject to appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) to the provider. Should another law, rule, or regulation require transmittal to a specific postal or electronic address or through a specific method, such as an online portal, DMAS shall transmit the notice pursuant to that law, rule, or regulation. If no such law, rule, or regulation exists, DMAS and the provider may agree on an address or method of transmittal. If no such law, rule, or regulation exists and there is no agreed-upon address or method of transmittal, DMAS shall transmit ~~all items~~ the notice to the last known address of the provider. After the provider files the written notice of appeal, DMAS shall transmit all items related to the appeal through the portal, unless a good cause exception is granted.

D. Presumption of transmittal and receipt.

1. It is presumed that DMAS transmits items on the date noted on the item. It is presumed that providers receive items transmitted by United States mail to their last known address within three days after DMAS transmits the item by United States mail. It is presumed that providers receive items transmitted by facsimile, email, the portal, or other electronic submission on the date transmitted. The date and time stamp shown on the email or facsimile or in the portal is the date of transmittal, subject to subsection K of this section. It is presumed that providers receive items transmitted by courier or other hand delivery on the date of delivery to the provider's last known address. These presumptions in this section shall apply unless the provider, through evidence beyond a mere denial of receipt, introduces evidence sufficient to rebut the presumption.

2. If a provider requests a copy of an item, the transmittal date for the item remains the date originally noted on the item, and not the date that the copy of the requested item is transmitted. A provider's failure to accept delivery of an item transmitted by DMAS, or a provider's failure to open an item upon receipt, shall not result in an extension of any of the timelines established by this part.

~~D. Whenever DMAS or a provider is~~ E. The written notice of appeal and any subsequent items related to the appeal are required to ~~file a document,~~ be filed through the ~~document~~ portal. The provider must have an active portal account to transmit the written notice of appeal and any subsequent items related to the appeal. The item shall be considered filed when it ~~is~~ completes transmittal to the portal.

F. Exception to the portal requirements.

1. Any provider who cannot file or receive documents through the portal may file a written request for an exception. The provider must file the request with the DMAS Appeals Division through email, postal mail, or hand delivery. The provider must specify that it is requesting an exception to the portal requirements. The provider must file the exception request before expiration of the filing timeframe under 12VAC30-20-540 or 12VAC30-20-560, as applicable. A timely filed exception request does not toll or extend the applicable filing deadline. The request must specify the postal mail address to be used for all appeal transmittals in the event the DMAS Appeals Division grants the exception request. The provider may file the notice of appeal concurrently with the request for exception. Within five business days of receipt of the request, the DMAS Appeals Division shall notify the provider, at the address specified in the exception request, as to whether the exception request is granted or denied.

2. The DMAS Appeals Division may grant an exception to the portal requirements, as stated in subsections C and E of this section, if good cause is shown. Good cause may include (i) the infrastructure necessary to support electronic submission is not available in the provider's geographic region; (ii) the disability of all members of a provider's staff prevents use of the portal; or (iii) the provider cannot transmit documents through the portal due to unusual or unavoidable circumstances.

3. If an exception is granted, the provider must file the written notice of appeal, and any other case documents, with the DMAS Appeals Division prior to expiration of the applicable deadline. An item will be considered filed when it is date-stamped by the DMAS Appeals Division. ~~When DMAS or a provider is using the online appeals portal administered by the DMAS Appeals Division, the date stamp will be automatically applied when the item completes transmission to the Appeals Division.~~ When email ~~or facsimile~~ is used, the date ~~stamp will be reflected on the date~~ and time of the transmission constitute the date stamp. If ~~other means are used, such as~~ a document is sent through postal mail or hand delivery, the date stamp will be applied physically by the DMAS Appeals Division upon receipt.

~~E.~~ 4. A document filed in the portal will be considered as meeting the filing requirement with the DMAS Appeals Division. Additionally, the filing party shall transmit a copy of the item within one business day to the address specified in the written exception request.

5. The DMAS Appeals Division will deny an exception request if good cause is not shown. If an exception request is denied, the written notice of appeal must be transmitted through the portal prior to expiration of the filing timeframe under 12VAC30-20-540 or 12VAC30-20-560, as applicable. The written notice of appeal must be transmitted to the portal even if the provider previously transmitted it with the exception request. The DMAS Appeals Division decision to deny an exception request is final. Providers may submit another written exception request if new information or documents become available before expiration of the filing timeframe. The new information or documents must be in furtherance of good cause. The exception request must meet the requirements in subdivision F 1 of this section. The request must specify how the new information or documents show good cause. The request will be granted or denied as set forth in this subsection.

G. Whenever the last day specified for the filing of any document or the performance of any other act falls on a day on which DMAS is officially closed for the full or partial day, the time period shall be extended to the next day on which DMAS is officially open.

~~F.~~ H. Conferences and hearings shall be conducted at the DMAS main office in Richmond, Virginia, or at such other place as agreed upon in writing by DMAS, the provider, and the informal appeals agent for informal appeals. For formal appeals, this agreement shall be between DMAS, the provider, and the hearing officer.

~~G.~~ I. Whenever DMAS or a provider is required to attend a conference or hearing, failure by one of the parties to attend the conference or hearing shall result in dismissal of the appeal in favor of the other party.

~~H.~~ J. DMAS shall reimburse a provider for reasonable and necessary attorney fees and costs associated with an informal or formal appeal if the provider substantially prevails on the merits of the appeal and the DMAS position is not substantially justified, unless special circumstances would make an award unjust. In order to substantially prevail on the merits of the appeal, the provider must be successful on more than 50% of the dollar amount involved in the issues identified in the provider's notice of appeal.

~~I.~~ K. Any document that is filed with the DMAS Appeals Division after 5 p.m. Eastern Time shall be date-stamped on the next day DMAS is officially open. Any document that is filed with the DMAS Appeals Division after 5 p.m. Eastern Time on the due date shall be untimely.

12VAC30-20-540. Informal appeals.

A. Notice of informal appeal.

1. Providers appealing the termination or denial of their Medicaid agreement pursuant to § 32.1-325 E of the Code of Virginia shall file a written notice of informal appeal with the DMAS Appeals Division within 15 days of the provider's receipt of the notice of termination or denial.

2. Providers appealing adjustments to a cost report shall file a written notice of informal appeal with the DMAS Appeals Division within 90 days of the provider's receipt of the notice of program reimbursement. The written notice of informal appeal shall identify the issues, adjustments, or items that the provider is appealing.

3. Providers appealing all other DMAS decisions shall file a written notice of informal appeal with the DMAS Appeals Division within 30 days of the provider's receipt of the decision. The written notice of informal appeal shall identify each adjustment, patient, service date, or other disputed matter that the provider is appealing.

B. Administrative dismissals.

1. Failure to timely file a written notice of informal appeal with the information required by subdivision A 2 or A 3 of this section shall result in an administrative dismissal.

2. A representative, billing company, or other third-party entity filing a written notice of appeal on behalf of a provider shall ~~submit to DMAS~~ file, at the time of filing the written notice of appeal or upon request, a written authorization to act on the provider's behalf, signed by the provider. The authorization shall reference the specific adverse action being appealed including, if applicable, each patient's name and date of service. Failure to ~~submit~~ file a written authorization as specified in this subdivision shall result in an administrative dismissal. This requirement shall not apply to an appeal filed by a Virginia licensed attorney.

3. If a provider has not exhausted any applicable DMAS or contractor reconsideration or review process or contractor's internal appeals process that the provider is required to exhaust before filing a DMAS informal appeal, the provider's written notice of informal appeal shall be administratively dismissed.

4. If DMAS has not issued a decision with appeal rights, the provider's attempt to file a written notice of informal appeal, prior to the issuance of a decision by DMAS that has appeal rights, shall be administratively dismissed.

C. Written case summary.

1. DMAS shall file a written case summary with the DMAS Appeals Division within 30 days of the filing of the provider's notice of informal appeal ~~and shall transmit a complete copy of the case summary to the provider on the same day~~. If the DMAS Appeals Division granted a good

cause exception through 12VAC30-20-520 F, DMAS shall, simultaneously with the filing, transmit a complete copy to the provider at the address specified in the exception request.

2. For each adjustment, patient, and service date or other disputed matter identified by the provider in its notice of informal appeal, the case summary shall explain the factual basis upon which DMAS relied in taking its action or making its decision and identify any authority or documentation upon which DMAS relied in taking its action or making its decision.

3. Failure to file a written case summary with the DMAS Appeals Division within 30 days of the filing of the written notice of informal appeal shall result in dismissal in favor of the provider.

4. The provider shall have 12 days following the due date of the case summary to file ~~with the DMAS Appeals Division and transmit to the author of the case summary~~ a written notice of all alleged deficiencies in the case summary ~~that~~. If the DMAS Appeals Division granted a good cause exception through 12VAC30-20-520 F, the provider ~~knows, or reasonably should know, exist~~ must, simultaneously with the filing, transmit the notice to the author of the case summary. Failure of the provider to timely file a written notice of deficiency with the DMAS Appeals Division shall be deemed a waiver of all deficiencies, alleged or otherwise, with the case summary.

5. Upon timely receipt of the provider's notice of deficiency, DMAS shall have 12 days to address the alleged deficiency. If DMAS does not address the alleged deficiency or does not address the alleged deficiency to the provider's satisfaction, the alleged deficiency shall become an issue to be addressed by the informal appeals agent as part of the informal appeal decision.

6. The informal appeals agent shall make a determination as to each deficiency that is alleged by the provider as set forth in this subsection. In making that determination, the informal appeals agent shall determine whether the alleged deficiency is such that it could not reasonably be determined from the case summary the factual basis and authority for the DMAS action, relating to the alleged deficiency, so as to require a dismissal in favor of the provider on the issue to which the alleged deficiency pertains.

D. Conference.

1. The informal appeals agent shall conduct the conference within 90 days from the filing of the notice of informal appeal. If DMAS, the provider, and the informal appeals agent agree, the conference may be conducted by way of written submissions. If the conference is conducted by way of written submissions, the informal appeals agent shall specify the time within which the provider may file written submissions, not to exceed 90 days from the filing of the notice of informal appeal. Only written submissions filed within the time specified by the informal appeals agent shall be considered.

2. The conference may be recorded at the discretion of the informal appeals agent and solely for the convenience of the informal appeals agent. Because the conference is not an adversarial or evidentiary proceeding, no other recordings or transcriptions shall be permitted. Any recordings made for the convenience of the informal appeals agent shall not be released to DMAS or to the provider.

3. Upon completion of the conference, the informal appeals agent shall specify the time within which the provider may file additional documentation or information, if any, not to exceed 30 days. Only documentation or information filed within the time specified by the informal appeals agent shall be considered.

E. Informal appeals decision. The informal appeal decision shall be issued within 180 days of receipt of the notice of informal appeal unless the provider and DMAS have mutually agreed in writing to stay the timeframe for issuing the informal decision pursuant to 12VAC30-20-550.

F. Remand. Whenever an informal appeal is required pursuant to a remand by court order, final agency decision, agreement of the parties, or otherwise, all time periods set forth in this section shall begin to run effective with the date that the document containing the remand is date-stamped by the DMAS Appeals Division in Richmond, Virginia.

12VAC30-20-560. Formal appeals.

A. A provider appealing a DMAS informal appeal decision shall file a written notice of formal appeal with the DMAS Appeals Division within 30 days of the provider's receipt of the informal appeal decision. The notice of formal appeal shall identify each adjustment, patient, service date, or other disputed matter that the provider is appealing. Failure to file a written notice of formal appeal in the detail specified within 30 days of receipt of the informal appeal decision shall result in dismissal of the appeal. Pursuant to § 2.2-4019 A of the Code of Virginia, DMAS shall ascertain the fact basis for decisions through informal proceedings unless the parties consent in writing to waive such a conference or proceeding to go directly to a formal hearing, and therefore only issues that were addressed pursuant to § 2.2-4019 of the Code of Virginia shall be addressed in the formal appeal, unless DMAS and the provider consent to waive the informal fact-finding process under § 2.2-4019 A of the Code of Virginia.

B. Documentary evidence, objections to documentary evidence, opening briefs, and reply briefs.

1. Documentary evidence, objections to documentary evidence, opening briefs, and reply briefs shall be filed with the DMAS Appeals Division on the date specified in this subsection. The hearing officer shall only consider those documents or pleadings that are filed within the required timeline. ~~Simultaneous with filing, the filing party shall transmit a copy~~ If the DMAS Appeals Division granted a good cause exception through 12VAC30-20-520 F, the

provider must, simultaneously with the filing, transmit the document or pleading to the other party and to the hearing officer.

a. All documentary evidence upon which DMAS or the provider relies shall be filed within 21 days of the filing of the notice of formal appeal.

b. Any objections to the admissibility of documentary evidence shall be filed within seven days of the filing of the documentary evidence. The hearing officer shall rule on any such objections within seven days of the filing of the objections.

c. The opening brief shall be filed by DMAS and the provider within 30 days of the completion of the hearing.

d. Any reply brief from DMAS or the provider shall be filed within 10 days of the filing of the opening brief to which the reply brief responds.

2. If there has been an extension to the time for conducting the hearing pursuant to subsection C of this section, the hearing officer is authorized to alter the due dates for filing opening and reply briefs to permit the hearing officer to be in compliance with the due date for the submission of the recommended decision as required by § 32.1-325.1 B of the Code of Virginia and subsection E of this section.

C. The hearing officer shall conduct the hearing within 45 days from the filing of the notice of formal appeal, unless the hearing officer, DMAS, and the provider all mutually agree to extend the time for conducting the hearing. Notwithstanding the foregoing, the due date for the hearing officer to submit the recommended decision to the DMAS director, as required by § 32.1-325.1 B of the Code of Virginia and subsection E of this section, shall not be extended or otherwise changed.

D. Hearings shall be transcribed by a court reporter retained by DMAS.

E. The hearing officer ~~shall submit~~ must file a recommended decision ~~to the DMAS director with a copy to the provider~~ and, if there is a good cause exception through 12VAC30-20-520 F, transmit a copy to the provider within 120 days of the filing of the formal appeal notice, unless the provider and DMAS have mutually agreed in writing to stay the timeframe for issuing the recommended decision pursuant to 12VAC30-20-550. If the hearing officer does not submit a recommended decision within 120 days of the filing of the notice of formal appeal or the period specified under 12VAC30-20-550, then DMAS shall give written notice to the hearing officer and the Executive Secretary of the Supreme Court that a recommended decision is due.

F. Upon receipt of the hearing officer's recommended decision, the DMAS director shall notify DMAS and the provider in writing that any written exceptions to the hearing officer's recommended decision shall be filed with the DMAS Appeals Division within 14 days of receipt of the DMAS director's letter. Only exceptions filed within 14 days of receipt of the DMAS director's letter shall be considered.

G. The DMAS director shall issue the final agency decision within 60 days of receipt of the hearing officer's recommended decision in accordance with § 32.1-325.1 ~~B~~ C of the Code of Virginia.

VA.R. Doc. No. R27-8381; Filed September 9, 2026, 2:09 p.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Titles of Regulations: **14VAC5-150. Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions (repealing 14VAC5-150-10 through 14VAC5-150-80).**

14VAC5-160. Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act (repealing 14VAC5-160-10 through 14VAC5-160-110).

Statutory Authority: §§ 12.1-13, 38.2-223, and 38.2-3608 of the Code of Virginia.

Effective Date: October 1, 2026.

Agency Contact: Jackie Myers, Chief Insurance Market Examiner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9630, or email jackie.myers@scc.virginia.gov.

Summary:

The amendments repeal Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions (14VAC5-150) and Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act (14VAC5-160), which are obsolete.

AT RICHMOND, SEPTEMBER 8, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2026-00042

Ex Parte: In the matter of Repealing the Rules

Governing the Conversion of Medicare Supplement

Insurance Benefits and Premiums

ORDER REPEALING REGULATIONS

On May 19, 2026, the State Corporation Commission (Commission) entered an Order Establishing Proceeding (Order) regarding a proposal by the Bureau of Insurance (Bureau) to repeal Chapters 150 and 160 of Title 14 of the Virginia Administrative Code, 14VAC5-150-10 et seq. and 14VAC5-160-10 et seq., entitled, respectively, "Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions," and "Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act" (collectively, Rules).

The Bureau recommended the repeal because the Rules have been superseded by Chapter 170 of Title 14 of the Virginia Administrative Code and therefore are now obsolete.

The Order, together with the proposal to repeal the Rules, was sent to all carriers licensed in Virginia to write Medicare Supplement Insurance Policies or Certificates, other interested persons as designated by the Bureau, and to the Office of the Virginia Attorney General's Division of Consumer Counsel (Consumer Counsel). In addition, the Order was published in the Virginia Register of Regulations on June 15, 2026. Licensees, Consumer Counsel, and other interested parties were afforded the opportunity to file written comments and/or request a hearing on or before July 31, 2026. No comments or requests for a hearing on the proposed repeal of the Rules were filed with the Clerk of the Commission.

NOW THE COMMISSION, having considered this matter, concludes that the Rules should be repealed effective October 1, 2026.

Accordingly, IT IS ORDERED THAT:

(1) The Rules, which are attached hereto and made a part hereof, are REPEALED effective October 1, 2026.

(2) The Bureau shall provide notice of this Order Repealing Regulations to all carriers licensed in Virginia to write Medicare Supplement Insurance Policies or Certificates and to any other interested persons as the Bureau may designate.

(3) The Commission's Office of General Counsel shall provide a copy of this Order Repealing Regulations, together with the attached repealed Rules, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) Interested persons may download unofficial copies of this Order Repealing Regulations from the Commission's website: https://www.scc.virginia.gov/case-information.

(5) This case is dismissed.

A COPY hereof shall be sent by the Clerk of the Commission to: John E. Farmer, Jr.,

Senior Assistant Attorney General, jfarmer@oag.state.va.us, Office of the Attorney General,

Division of Consumer Counsel, 202 North 9th Street, 8th Floor, Richmond, Virginia

23219-3424; and the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Julie Blauvelt.

VA.R. Doc. No. R26-8658; Filed September 14, 2026, 1:04 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **14VAC5-310. Rules Governing Actuarial Opinions and Memoranda (repealing 14VAC5-310-10 through 14VAC5-310-120).**

Effective Date: October 19, 2026.

Agency Contact: Doug Stolte, Deputy Commissioner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9630, or email doug.stolte@scc.virginia.gov.

Summary:

The amendments repeal Rules Governing Actuarial Opinions and Memoranda (14VAC5-310). The regulation has been replaced by the National Association of Insurance Commissioners' Valuation Manual, effective January 1, 2017, rendering 14VAC5-310 obsolete.

AT RICHMOND, SEPTEMBER 4, 2026

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2026-00045

Ex Parte: In the matter of Repealing the Rules

Governing Actuarial Opinions and Memoranda

ORDER REPEALING REGULATIONS

On June 1, 2026, the State Corporation Commission (Commission) entered an Order Establishing Proceeding (Order) regarding a proposal by the Bureau of Insurance (Bureau) to repeal Chapter 310 of Title 14 of the Virginia Administrative Code (Chapter 310), 14VAC5-310-10 et seq., entitled "Rules Governing Actuarial Opinions and Memoranda."

The Bureau recommended the repeal of Chapter 310 because the regulations have been effectively rendered obsolete by the provisions of Section 38.2-1367 B of the Code of Virginia.

The Order, together with the proposal to repeal Chapter 310, was sent to interested persons as designated by the Bureau and to the Office of the Virginia Attorney General's Division of Consumer

Counsel (Consumer Counsel). In addition, the Order was published in the Virginia Register of Regulations on June 29, 2026. Consumer Counsel and other interested persons were afforded the opportunity to file written comments and/or request a hearing on or before August 12, 2026. No comments or requests for a hearing on the proposed repeal of Chapter 310 were filed with the Clerk of the Commission.

NOW THE COMMISSION, having considered this matter, concludes that Chapter 310 should be repealed effective October 19, 2026.

Accordingly, IT IS ORDERED THAT:

(1) Chapter 310 is REPEALED, effective October 19, 2026.

(2) The Bureau shall provide notice of this Order Repealing Regulations to any interested persons as the Bureau may designate.

(3) The Commission's Office of General Counsel shall provide a copy of this Order Repealing Regulations, together with the attached repealed Chapter 310, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) Interested persons may download unofficial copies of this Order Repealing Regulations from the Commission's website: https://www.scc.virginia.gov/case-information.

(5) This case is dismissed.

A COPY hereof shall be sent by the Clerk of the Commission to: John E. Farmer, Jr., Senior Assistant Attorney General, jfarmer@oag.state.va.us, Office of the Attorney General, Division of Consumer Counsel, 202 North 9th Street, 8th Floor, Richmond, Virginia 23219-3424; the Commission's Office of General Counsel; and the Bureau of Insurance in care of Deputy Commissioner Doug Stolte.

VA.R. Doc. No. R26-8686; Filed September 14, 2026, 12:45 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Final Regulation

Title of Regulation: **18VAC5-22. Board of Accountancy Regulations (amending 18VAC5-22-20, 18VAC5-22-50, 18VAC5-22-80, 18VAC5-22-130, 18VAC5-22-150, 18VAC5-22-170, 18VAC5-22-180; repealing 18VAC5-22-30).**

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Alessandra Gabriel, Information and Policy Advisor, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, telephone (804) 367-0728, fax (804) 527-4409, TDD (804) 367-9753, or email alessandra.gabriel@boa.virginia.gov.

Summary:

The amendments (i) eliminate the certified public accountant (CPA) re-exam fee; (ii) remove restrictions for re-examination requirements and clarify CPA license eligibility requirements; (iii) clarify statutes related to CPA firm ownership requirements; (iv) require firms to report changes in ownership or organizational structure to the Board of Accountancy; and (v) repeal 18VAC5-22-30, which is redundant.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18VAC5-22-20. Fees.

A. The board shall charge the following fees for services it provides:

Processing an initial application to take one or more sections of the CPA examination	$120
~~Processing additional applications to take one or more sections of the CPA examination~~	~~$20~~
Processing an application for issuance of a Virginia license to a person	$75
Processing an application for issuance of a Virginia license to a firm	$100
Processing an application for the timely renewal of a person's Virginia license except as provided in subsection B of 18VAC5-22-180	$60
Processing an application for the timely renewal of a firm's Virginia license except as provided in subsection B of 18VAC5-22-180	$75
Additional fee for processing an application for the renewal of a person's Virginia license that is not timely	$100
Additional fee for processing an application for the renewal of a firm's Virginia license that is not timely	$100
Processing an application for reinstatement of a person's Virginia license	$350
Processing an application for reinstatement of a firm's Virginia license	$500

Processing an application for lifting the suspension of the privilege of using the CPA title in Virginia	$350
Processing an application for lifting the suspension of the privilege of providing attest services, compilation services, or financial statement preparation services for persons or entities located in Virginia	$500
Providing or obtaining information about a person's grades on sections of the CPA examination	$25
Processing requests for verification that a person or firm holds a Virginia license:	
[~~1.~~] Online request	$25
[~~2.~~] Manual request	$50
Providing an additional CPA wall certificate	$25
Additional fee for not responding within 30 calendar days to any request for information by the board under subsection A of 18VAC5-22-170	$100
Additional fee for not using the online payment option for any service provided by the board	$25

B. All fees for services the board provides are due when the service is requested and are nonrefundable.

C. Any original application for a CPA license in Virginia will expire six years from the original application date, and a new application with the corresponding fees and requirements will need to be submitted.

18VAC5-22-30. ~~Determining whether persons or entities to whom communications are made, or for whom services are provided, are located in Virginia.~~ (Repealed.)

~~For the purpose of determining whether a person who holds a Virginia license is providing services to the public or to or on behalf of an employer, those terms are to be defined in accordance with § 54.1-4400 of the Code of Virginia.~~

18VAC5-22-50. Determining whether the principal place of business of a person or of a firm is in Virginia.

[Complying ~~To comply~~] with ~~subdivision A 1 of~~ § 54.1-4409.1 A 1, ~~subsection B of~~ § 54.1-4411 B , or ~~subsection B of~~ § 54.1-4412.1 B of the Code of Virginia [requires the] , [~~a~~] person or firm [to use reasonable judgment in determining whether ~~must hold a~~] Virginia [is ~~license if the person or firm practices public accounting and~~] the principal place of business [in which ~~where the person or firm provides those services is in Virginia. The principal place of business shall generally be determined as follows~~]:

1. [The person provides services to the public; or ~~If a firm has an office in Virginia, its principal place of business is deemed to be Virginia. In the event a firm has multiple offices in Virginia operating under the same entity, all locations can be covered under a single firm license.~~]

2. [The firm provides attest services, compilation services, or financial statement preparation services ~~For individuals, the principal place of business is deemed to be Virginia if the individual is:~~

~~a. An owner, partner, or employee of a firm that practices public accounting in Virginia and is assigned to a firm's office located in Virginia; or~~

~~b. An independent contractor who practices public accounting in Virginia and maintains an office location in Virginia where the individual performs services.~~]

The determination shall be reasonable considering the facts and circumstances and can be based on quantitative or qualitative assessments. The determination shall be reconsidered for changes in facts and circumstances that are not temporary.

18VAC5-22-80. Examination.

A. In order to comply with ~~subdivision A 1 b of~~ § 54.1-4409.2 A 1 b of the Code of Virginia:

1. Each section of the CPA examination must be passed by attaining a uniform passing grade established through a psychometrically acceptable standard-setting procedure approved by the board.

2. Persons may take sections of the CPA examination in any order. A person who fails a section of the CPA examination may retake that section after the failing grade has been released, unless otherwise prescribed by the board.

~~a. Subject to subdivision 2 b of this subsection, a person who fails a section of the CPA examination may not retake that section until the next quarter of the calendar year unless otherwise prescribed by the board.~~

~~b. The board may decide to eliminate the current restriction outlined in subdivision 2 a of this subsection and allow a person to retake sections of the CPA examination as soon as the person's grade for any previous attempt of that same section has been released.~~

3. When a person first passes a section of the CPA examination, the person has 30 months to pass the remaining sections. If the remaining sections are not passed within the 30-month period, the person loses credit for the first section passed, and a new 30-month period starts with the next section passed. Depending on the facts and circumstances, the board may grant additional time to pass the remaining

sections provided that the waiver or deferral is in the public interest.

B. Failure to comply with the policies established by the board for conduct at the CPA examination may result in the loss of eligibility to take the CPA examination or credit for sections of the CPA examination passed. Cheating by a person in connection with the CPA examination shall invalidate any grade earned on any section of the CPA examination and may warrant expulsion from the CPA examination site and disqualification from taking the CPA examination for a specified period of time as determined by the board.

C. The board may postpone scheduled CPA examinations, the release of grades, or ~~the issuance of licenses~~ suspend or revoke the privilege of CPA licensure in Virginia under the following circumstances:

1. A breach of CPA examination security;

2. Unauthorized acquisition or disclosure of the contents of a CPA examination;

3. Suspected or actual cheating, negligence, errors, omissions, or irregularities in ~~conducting a~~ completing the CPA examination or any requirements of licensure; or

4. Any other reasonable circumstances.

D. Prior to being considered for a Virginia license, a person shall pass an ethics examination approved by the board.

18VAC5-22-130. ~~Owners of firms who are not licensees~~ Firm ownership.

A. A firm licensed in Virginia must (i) be at least 51% owned by persons who hold an active license or trustees of an eligible employee stock ownership plan as defined in § 13.1-543 of the Code of Virginia, and (ii) designate an active individual Virginia license holder as the principal licensee who will be responsible for the firm.

B. To comply with ~~subdivision D 2 of~~ § 54.1-4412.1 D 2 of the Code of Virginia, owners of a firm who are not licensees must be persons who, based on the facts and circumstances, participate in the firm's activities on a regular, continuous, and substantial basis.

18VAC5-22-150. Monitoring program and peer review.

In order to comply with ~~subdivision D 6 of~~ § 54.1-4412.1 D 6 of the Code of Virginia, [a ~~every Virginia licensed~~] firm [~~that provides services within the scope of the practice monitoring program of the American Institute of Certified Public Accountants or its successor~~] shall [~~be enrolled and~~] comply with all components of the monitoring program in which it is enrolled [, except that, depending ~~. Based on a firm's risk profile, the board may require a firm to enroll in a specific practice monitoring program. Depending~~] on the facts and circumstances, the board may waive the requirement for a peer review or grant additional time for complying with the requirement.

18VAC5-22-170. Communication with the board.

A. Pursuant to § 54.1-4425 of the Code of Virginia, each licensee or applicant shall respond within 30 calendar days to any board request for information regarding compliance with any statutes or regulations pertaining to the board or any of the programs that may be in another title of the Code of Virginia for which the board has regulatory responsibility. When the requested response is not produced by the licensee or applicant within 30 calendar days, this nonproduction shall be deemed a violation of this rule, unless otherwise determined by the board.

B. Each holder of a Virginia license shall notify the board in writing within 30 calendar days of:

1. Any change in the holder's legal name or in the postal and electronic addresses where the person or firm may be reached;

2. Any administrative disciplinary action that the holder is the subject of or party to before any court, agency of the state or federal government, branch of the armed forces of the United States of America, or before the American Institute of Certified Public Accountants, the Virginia Society of Certified Public Accountants, or their successors;

3. Any conviction [, guilty plea, or plea of nolo contendere] concerning a felony or misdemeanor [~~, regardless of whether sentence is imposed, suspended, or executed;~~

~~4. Any guilty plea or plea of nolo contendere~~;

~~5.~~ 4.] Any final judgment rendered against the holder in a civil court of law; [~~or~~

~~6.~~ 5.] Any receipt of a peer review report or a PCAOB firm inspection report containing criticisms of or identifying potential defects in the firm's quality control systems; [or]

6. Any [significant] change [~~that affects the ownership, operating status, or structure~~ of control, ownership, or practice of regulated activities] of a Virginia CPA firm.

C. Upon the renewal, reinstatement of, or the application for a Virginia license, each person or entity shall notify the board in writing if any of the sanctions in subsection B of this section have occurred.

18VAC5-22-180. Issuance, renewal, and reinstatement of Licenses.

A. ~~For Virginia licenses expiring on June 30, 2019, or later, the~~ The holder of a Virginia license shall annually renew his license on or before June 30 of each calendar year by submitting a completed license renewal application and paying to the board a renewal fee as prescribed in 18VAC5-22-20.

B. If a person or entity applies for an initial license or reinstatement on or after March 1 of a calendar year, the license will not expire until June 30 of the following calendar year.

C. The board shall transmit license renewal notices electronically unless a person or firm is unable to communicate electronically. The ~~responsibility~~ license holder is responsible for renewing ~~a~~ the Virginia license ~~is on its holder,~~ and that responsibility is not affected by whether the holder receives a license renewal notice.

VA.R. Doc. No. R25-8223; Filed September 14, 2026, 9:46 a.m.

BOARD FOR CONTRACTORS

Final Regulation

REGISTRAR'S NOTICE: The Board for Contractors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-260; adding 18VAC50-22-265).**

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Effective Date: January 1, 2027.

Agency Contact: Jeannette Galanis, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, fax (866) 430-1033, or email contractor@dpor.virginia.gov.

Summary:

Pursuant to Chapters 851 and 852 of the 2026 Acts of Assembly, the amendments require a solar installation company to include specific contract provisions and disclosures relating to the sale, lease, or power purchase agreement for a solar energy system to residential customers. Specifically, the amendments include (i) requirements for solar installation companies to include the specific provisions and disclosures mandated by § 54.1-1117.1 of the Code of Virginia, as applicable to the transaction type (i.e., sale, lease, or power purchase agreement); (ii) a requirement for use of a Board for Contractors-provided disclosure form for certain disclosures; and (iii) a revision to prohibited acts addressing failure to comply with the provisions of the new section, 18VAC50-22-265.

18VAC50-22-260. Filing of charges; prohibited acts.

A. All complaints against contractors and residential building energy analyst firms may be filed with the Department of Professional and Occupational Regulation at any time during business hours, pursuant to § 54.1-1114 of the Code of Virginia.

B. The following acts are prohibited acts:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board.

2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license.

3. Failure of the responsible management, designated employee, or qualified individual to report to the board, in writing, the suspension or revocation of a contractor license by another state or conviction in a court of competent jurisdiction of a building code violation.

4. Publishing or causing to be published any advertisement relating to contracting that contains an assertion, representation, or statement of fact that is false, deceptive, or misleading.

5. Negligence or incompetence in the practice of contracting or residential building energy analyses.

6. Misconduct in the practice of contracting or residential building energy analyses.

7. A finding of improper or dishonest conduct in the practice of contracting by a court of competent jurisdiction or by the board.

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or the licensee's agent.

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract that contains the following minimum requirements:

a. When work is to begin and the estimated completion date;

b. A statement regarding total cost of the project with regards to the type of contract being specified:

(1) Standard total value project: a statement of the total cost of the project;

(2) Cost plus: a statement identifying the type of cost-plus contract, fee or percentage, and a cap that the total dollar amount cannot exceed; or

(3) Time and materials: a fixed price for labor that includes wages, overhead, general and administrative costs, and cost of materials;

c. The amounts and schedule for progress payments, including a specific statement on the amount of the down payment;

d. A listing of specified materials and work to be performed, which is specifically requested by the consumer;

e. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating timeframes for payment or performance;

f. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;

g. Disclosure of the cancellation rights of the parties;

h. A signed acknowledgment by the consumer that the consumer has been provided with and read the Department of Professional and Occupational Regulation statement of protection available to consumers through the Board for Contractors;

i. Contractor's name, address, license number, class of license, and classifications or specialty services;

j. A statement providing that any modification to the contract that changes the cost, materials, work to be performed, or estimated completion date must be in writing and signed by all parties; and

k. A statement notifying consumers of the existence of the Virginia Contractor Transaction Recovery Fund that includes information on how to contact the board for claim information.

10. Failure to make prompt delivery to the consumer before commencement of work of a fully executed copy of the contract as described in subdivisions 8 and 9 of this subsection for construction or contracting work.

11. Failure of the contractor to maintain for a period of five years from the date of contract a complete and legible copy of all documents relating to that contract, including the contract and any addenda or change orders.

12. Refusing or failing, upon request, to produce to the board, or any of its agents, any document, book, record, or copy of it in the licensee's possession concerning a transaction covered by this chapter or for which the licensee is required to maintain records.

13. Failing to respond to an agent of the board or providing false, misleading, or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor. Failing or refusing to claim certified mail sent to the licensee's address of record shall constitute a violation of this regulation.

14. Abandonment, defined as the unjustified cessation of work under the contract for a period of 30 days or more.

15. The intentional and unjustified failure to complete work contracted for or to comply with the terms in the contract.

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

17. Making any misrepresentation or making a false promise that might influence, persuade, or induce.

18. Assisting another to violate any provision of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or this chapter or combining or conspiring with or acting as agent, partner, or associate for another.

19. Allowing a firm's license to be used by another.

20. Acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business.

21. Action by the firm, responsible management as defined in this chapter, designated employee, or qualified individual to offer, give, or promise anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of the employee's duties, any federal, state, or local law, regulation, or ordinance governing the construction industry.

22. Where the firm, responsible management as defined in this chapter, designated employee, or qualified individual has been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or non-marijuana misdemeanor, there being no appeal pending therefrom or the time of appeal having elapsed.

23. Failure to inform the board in writing, within 30 days, that the firm, a member of responsible management as defined in this chapter, its designated employee, or its qualified individual has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or of a Class 1 misdemeanor or any non-marijuana misdemeanor conviction for activities carried out while engaged in the practice of contracting.

24. Having been disciplined by any county, city, town, or any state or federal governing body, including action by the Virginia Department of Health, which action shall be reviewed by the board before it takes any disciplinary action of its own.

25. Failure to abate a violation of the Virginia Uniform Statewide Building Code (13VAC5-63).

26. Failure of a contractor to comply with the notification requirements of the Virginia Underground Utility Damage Prevention Act, Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia (Miss Utility).

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

28. Failure to satisfy any judgments.

29. Contracting with an unlicensed or improperly licensed contractor or subcontractor in the delivery of contracting services.

30. Failure to honor the terms and conditions of a warranty.

31. Failure to obtain written change orders, which are signed by both the consumer and the licensee or the licensee's agent, to an already existing contract.

32. Failure to ensure that supervision, as defined in this chapter, is provided to all helpers and laborers assisting licensed tradesman.

33. Failure to obtain a building permit or applicable inspection, where required.

34. Failure of a residential building energy analyst firm to ensure that residential building energy analyses conducted by the firm are consistent with the requirements set forth by the board, the U.S. Environmental Protection Agency, the U.S. Department of Energy, or the Energy Star Program.

35. Failure of a residential building energy analyst firm to maintain the general liability insurance required in 18VAC50-22-62 C at any time while licensed by the board.

36. Failure of a contractor holding the drug lab remediation specialty to ensure that remediation work conducted by the firm or properly licensed subcontractors is consistent with the guidelines set forth by the U.S. Environmental Protection Agency, Virginia Department of Environmental Quality, Virginia Department of Health, or Virginia Department of Forensic Science.

37. Failure of a contractor to appropriately classify all workers as employees or as independent contractors as provided by law.

38. Failure to comply with the provisions of 18VAC50-22-265.

18VAC50-22-265. Solar energy systems contracts; required disclosures.

A. In accordance with § 54.1-1117.1 of the Code of Virginia, any sale, lease, or power purchase agreement for a solar energy system requires the execution of a written contract that meets the requirements of § 54.1-1117.1 of the Code of Virginia and this section. The provisions of this section do not preclude compliance with applicable provisions of 18VAC50-22-260 pertaining to those engaged in residential contracting. As used in this section, the terms "lease," "power purchase agreement," "solar energy system," and "solar installation company" have the meanings ascribed to them in § 54.1-1117.1 A of the Code of Virginia.

B. Any contract for sale, lease, or power purchase agreement of a solar energy system must include the following in at least 10-point font:

1. The name, address, telephone number, email address, and Virginia contractor license number of the solar installation company and third party providing the lease, as applicable;

2. If the solar installation company will be using subcontractors known at the time the contract is executed, the name, address, telephone number, email address, and Virginia contractor license number, if applicable, of each subcontractor used. If information on subcontractors is not available at the time of executing the written contract, the installer must provide such information to the customer within five business days of contracting with any subcontractor;

3. Information on the amounts and schedule for progress payments, including a specific statement of the down payment amount;

4. Solar energy system design assumptions, including system size, estimated first year production, estimated annual system production degradation, presence of energy storage, energy storage capacity, maximum power output of energy storage, and energy storage model information. If there are equipment substitutions that differ from the contracted system design, the solar installation company must notify the customer within five business days. A copy of any documents presented to the customer or purchaser using solar energy system design assumptions, such as sales proposals, must be provided at the same time as the written contract;

5. Payment due dates, the manner in which the customer will receive invoices, and how to pay for the lease of the solar energy system or the purchase of power from the solar energy system. No payment will be due from the customer to a third-party owner of a solar energy system until the solar energy system is installed, has achieved permission to operate and interconnection, and is functioning;

6. Any one-time or recurring fees, including the circumstances triggering any late fees, estimated solar energy system removal fees, Uniform Commercial Code notice removal and refiling fees, Internet connection fees, or Automated Clearing House fees. If the solar installation company obtains, arranges for, negotiates, places, or finds credit for the consumer in connection with the purchase of a solar energy system, the solar installation company must disclose all loan fees, dealer fees, program fees, or buyer or

seller points, provided that the provisions of this subdivision do not affect or limit disclosures otherwise required under the laws of the Commonwealth or federal law;

7. A description of all performance or production guarantees or estimates of performance or production; and

8. The right to cancel the contract, without penalty, within five business days of contract execution.

C. Any sale, lease, or power purchase agreement for a solar energy system must include the written disclosures required by this subsection in at least 10-point font. Such disclosures must be provided to the customer or purchaser either through a separate document signed by the consumer or purchaser prior to execution of the written contract, or through disclosures that are included as a cover sheet to the written contract. A solar installation company must provide such disclosures through a board-provided disclosure form that must be signed by the consumer or purchaser and the solar installation company. The following disclosures are required:

1. Whether and to what extent maintenance and repairs are included, and any solar energy system maintenance costs for which the customer will be responsible.

2. The following statement: "Comparable equipment may be installed. Such comparable equipment shall be substantially similar equipment to the proposed solar energy system and will not result in a reduction of the estimated first-year production by more than five percent, a decrease in the solar energy system's kilowatts-AC and kilowatts-DC size, or an increase in the purchase price for the solar energy system."

3. A description of the workmanship warranty that covers repairs for any damage to the customer's residential property in connection with the solar energy system installation.

4. For a lease, whether the cost of removal of the solar energy system is included in the contract.

5. A brief description of the basis for any savings estimates that were provided to the customer or purchaser, with a copy of such savings estimates, which must include the applicable electric utility rates for service, assumptions for increases to future rates for electric service, estimated solar energy system production, and the availability of programs that provide utility compensation for excess energy generated by the solar energy system at the time of contract execution.

6. Information concerning the retention and ownership of any renewable energy credits associated with the solar energy system.

7. The individual or entity responsible for obtaining electric interconnection approval for the solar energy system.

8. A notice that the customer or purchaser has the right to cancel the contract, without penalty, within five business days of contract execution, including the date and time at which such right expires and the method for canceling the contract.

9. The following statement: "The assumptions used to estimate savings such as utility rates may change. There may be fees and standby and demand charges that cannot be offset with solar energy, and excess electricity sent back to the grid may be credited at rates below what you pay for electricity. For further information regarding rates, you may contact your local utility or the State Corporation Commission. Tax and other state and federal incentives are subject to change or termination by executive, legislative, or regulatory action, which may impact savings estimates. Please read your contract carefully for more details."

10. If applicable, whether the owner or lessor of the solar energy system will be submitting a financing statement for the system. If a solar financing statement is submitted, the following statement must also be included: "A solar loan, lease, or power purchase agreement may affect your ability to sell your home. A buyer may not be willing to assume such obligations, which may affect a home sale."

11. If applicable, information regarding transferability of the lease and any conditions for lease transfers in connection with a customer selling the customer's home.

D. A contract for the sale of a solar energy system must list the total cost of the system, including the costs of all equipment, the energy storage system, and other charges, as well as reasonable estimates of labor and installation costs. Any adjustment to the total cost of the system after execution arising from equipment substitutions, code or permitting requirements, interconnection requirements, or unforeseen site conditions requires a written change order signed by both parties before additional or modified work is performed.

E. A lease must also include the following information:

1. The term and amount of monthly payments under the lease, including any payment increases and the date of the first increase; and

2. The total number of payments and estimated payments over the term of the lease.

F. A power purchase agreement must also include the following information:

1. The term and amount of monthly payments under the power purchase agreement, including any payment increases and the date of the first increase;

2. Rates applicable for the first year under the power purchase agreement; and

3. The total number of payments and estimated payments over the term of the power purchase agreement.

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (18VAC50-22)

Contractor Licensing Information, A501-27INTRO-v8 (rev. 9/2025)

Requirements for Qualified Individuals, A501-27EXINFO-v10 (rev. 9/2025)

Contractor's License Application, A501-27LIC-v16 (rev. 9/2025)

Surety Bond Form, A501-27BOND-v1 (eff. 7/2017)

Additional Specialty Designation Application, A501-27ADDSP-v15 (rev. 9/2025)

Adverse Financial History Reporting Form, A406-01AFIN-v2 (eff. 7/2020)

Change in Qualified Individual or Designated Employee Application, A501-27CH_QIDE-v14 (rev. 9/2025)

Change of Responsible Management Application, A501-27CHRM-v6 (rev. 9/2025)

Certificate of License Termination, A501-27TERM-v4 (rev. 12/2015)

Criminal Conviction Reporting Form, A406-01CCR-vs6 (eff. 9/2025)

Disciplinary Action Reporting Form, A406-01DAR-v3 (eff. 7/2020)

Education Provider Registration/Course Approval Application, A501-27EDREG-v5 (rev. 1/2014)

Education Provider Listing Application, A501-27EDLIST-v4 (rev. 1/2014)

Financial Statement, A501-27FINST-v4 (rev. 12/2012)

Change in License Class Application, A501CHLIC-v15 (rev. 9/2025)

Firm - Residential Building Energy Analyst Application, A501-2707LIC-v6 (rev. 8/2025)

Statement of Consumer Protections (eff. 7/2025)

Solar Energy System Disclosure Form, A501-27DIS-v1 (eff. 1/2027)

Contractor Temporary License Application, A501-2703LIC-v11 (rev. 9/2025)

Expedited Class A License Application, A501-2705A_ELIC-v17 (rev. 9/2025)

VA.R. Doc. No. R27-8733; Filed September 14, 2026, 10:17 a.m.

BOARD OF DENTISTRY

Fast-Track Regulation

Titles of Regulations: **18VAC60-25. Regulations Governing the Practice of Dental Hygiene (amending 18VAC60-25-110).**

18VAC60-30. Regulations Governing the Practice of Dental Assistants (amending 18VAC60-30-10, 18VAC60-30-140).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: November 4, 2026.

Effective Date: November 19, 2026.

Agency Contact: Jamie Sacksteder, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4581, fax (804) 698-4266, or email jamie.sacksteder@dhp.virginia.gov.

Basis: Regulations of the Board of Dentistry are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which states that the general powers and duties of health regulatory boards is to promulgate regulations that are reasonable and necessary to effectively administer the regulatory system.

Purpose: This regulatory change is essential to protect the health, safety, and welfare of citizens because the General Assembly has directed the board to regulate the profession of dentistry and inaccurate references can confuse the public.

Rationale for Using Fast-Track Rulemaking Process: This regulatory change is expected to be noncontroversial and is appropriate for the fast-track rulemaking process because it eliminates references to regulations that no longer exist.

Substance: This action corrects three regulatory references located in 18VAC60-25-110, 18VAC60-30-10, and 18VAC60-30-140. The regulations referenced were repealed in earlier regulatory actions and the references were missed at that time.

Issues: The primary advantages to the public are correct references to requirements in regulation, which help avoid confusion by regulated individuals and the public. There are no disadvantages to the public. There are no advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. The Board of Dentistry (board) proposes amendments to eliminate two outdated references and update a third outdated reference.

Background. The current 18VAC60-30-10 Definitions section of Regulations Governing the Practice of Dental Assistants defines "Dental assistant II" as "a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures as specified in 18VAC60-30-60 and 18VAC60-30-70". 18VAC60-30-60 and 18VAC60-30-70 were repealed in 2024.[2] Thus, the board proposes to truncate the definition to "a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures". 18VAC60-30-140 A states that an applicant for registration by endorsement as a dental assistant II shall provide evidence of the following: "3. A credential, registration, or certificate from another state with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 or, if the qualifications were not substantially equivalent, documented experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24 of the past 48 months preceding application for registration in Virginia." 18VAC60-30-60 was repealed in 2024. Thus, the pathway mentioned after the "or" in 18VAC60-30-140 A 3 ceased to be available when 18VAC60-30-60 was repealed. According to the Department of Health Professions, this pathway has never been used. Consequently, the board proposes to eliminate the text 18VAC60-30-140 A 3 from "or" to the end. 8VAC 0-25-110 A in part states that a dental hygienist shall be responsible for accurate and complete information in patient records for those services provided by a hygienist or a dental assistant under direction to include the following: "6. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in 18VAC60-25-60 C"; The board proposes to replace "18VAC60-25-60 C" with the current correct reference "18VAC60-21-120".

Estimated Benefits and Costs. The proposed elimination and replacement of outdated references would have no impact on requirements but could be beneficial in that it would reduce the likelihood that readers of the regulations would be misled by outdated information.

Businesses and Other Entities Affected. The proposed amendments primarily affect readers of the regulation. The regulations pertain to the 6,105 licensed dental hygienists and 62 registered dental assistants II in the Commonwealth.[3] The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] The proposed amendments neither increase net costs nor reduce net benefits for any entity. Thus, no adverse impact is indicated.

Small Businesses[6] Affected.[7] The proposed amendments do not adversely affect small businesses.

Localities[8] Affected.[9] The proposed amendments neither disproportionately affect any particular localities nor affect costs for local governments.

Projected Impact on Employment. The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments neither affect the use and value of private property nor real estate development costs.

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[1] Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] See Action 6149 https://townhall.virginia.gov/L/ViewAction.cfm?actionid=6149.

[3] Data source: https://www.dhp.virginia.gov/about/stats/2026Q3/04CurrentLicenseCountQ3FY2026.pdf.

[4] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

[6] Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[7] If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[8] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[9] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Dentistry concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments remove or update obsolete cross-references.

18VAC60-25-110. Patient records; confidentiality.

A. A dental hygienist shall be responsible for accurate and complete information in patient records for those services provided by a hygienist or a dental assistant under direction to include the following:

1. Patient's name on each page in the patient record;

2. A health history taken and documented at the initial appointment, which is updated when local anesthesia or nitrous oxide/inhalation analgesia is to be administered and when medically indicated and at least annually;

3. Options discussed and documented written consent in the patient record for any treatment rendered with the exception of prophylaxis;

4. List of drugs administered and the route of administration, quantity, dose, and strength;

5. Radiographs, digital images, and photographs clearly labeled with the patient's name, date taken, and teeth identified;

6. A notation or documentation of an order required for treatment of a patient by a dental hygienist practicing under general supervision as required in ~~18VAC60-25-60-C~~ 18VAC60-21-120; and

7. Notation of each treatment rendered, date of treatment, and the identity of the dentist and the dental hygienist providing service.

B. No dental hygienist shall willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the hygienist shall not be considered negligent or willful.

C. A dental hygienist practicing under remote supervision shall document in the patient record that the dental hygienist has obtained (i) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (ii) verbal confirmation from the patient that the patient does not have a dentist of record whom the patient is seeing regularly.

18VAC60-30-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2700 of the Code of Virginia:

"Board"

"Dental hygiene"

"Dental hygienist"

"Dentist"

"Dentistry"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"CODA" means the Commission on Dental Accreditation of the American Dental Association.

"Dental assistant I" means any unlicensed person under the direction of a dentist or a dental hygienist who renders assistance for services provided to the patient as authorized under this chapter but shall not include an individual serving in purely an administrative, secretarial, or clerical capacity.

"Dental assistant II" means a person under the direction and direct supervision of a dentist who is registered by the board to perform reversible, intraoral procedures ~~as specified in 18VAC60-30-60 and 18VAC60-30-70~~.

"Direct supervision" means that the dentist examines the patient and records diagnostic findings prior to delegating restorative or prosthetic treatment and related services to a dental assistant II for completion the same day or at a later date. The dentist prepares the teeth to be restored and remains immediately available in the office to the dental assistant II for guidance or assistance during the delivery of treatment and related services. The dentist examines the patient to evaluate the treatment and services before the patient is dismissed.

"Direction" means the level of supervision (i.e., immediate, direct, indirect, or general) that a dentist is required to exercise with a dental hygienist, a dental assistant I, or a dental assistant II or that a dental hygienist is required to exercise with a dental assistant to direct and oversee the delivery of treatment and related services.

"General supervision" means that a dentist completes a periodic comprehensive examination of the patient and issues a written order for hygiene treatment that states the specific services to be provided by a dental hygienist during one or more subsequent appointments when the dentist may or may not be present. Issuance of the order authorizes the dental hygienist to supervise a dental assistant performing duties delegable to dental assistants I.

"Immediate supervision" means the dentist is in the operatory to supervise the administration of sedation or provision of treatment.

"Radiographs" means intraoral and extraoral radiographic images of hard and soft tissues used for purposes of diagnosis.

18VAC60-30-140. Registration by endorsement as a dental assistant II.

A. An applicant for registration by endorsement as a dental assistant II shall provide evidence of the following:

1. Current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board or another national credentialing organization recognized by the American Dental Association;

2. Current authorization to perform expanded duties as a dental assistant in a jurisdiction of the United States;

3. A credential, registration, or certificate from another state with qualifications substantially equivalent in hours of instruction and course content to those set forth in 18VAC60-30-120 ~~or, if the qualifications were not substantially equivalent, documented experience in the restorative and prosthetic expanded duties set forth in 18VAC60-30-60 for at least 24 of the past 48 months preceding application for registration in Virginia~~.

B. An applicant shall also be certified to be in good standing from each jurisdiction of the United States in which the applicant is currently registered, certified, or credentialed or in which the applicant has ever held a registration, certificate, or credential.

VA.R. Doc. No. R27-8468; Filed September 10, 2026, 3:31 p.m.

BOARD OF PHARMACY

Notice of Extension of Emergency Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-112, 18VAC110-20-276; adding 18VAC110-20-277).**

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

The Governor has approved the request of the Board of Pharmacy to extend the expiration date of the emergency regulation for 18VAC110-20 for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation is continued in effect through June 14, 2027. This extension is required to avoid a negative impact on pharmacy business practices in Virginia or a delay of patient care due to chain drug store inability to utilize central fill pharmacies to fill prescriptions. The board is currently waiting for the Governor's Office to approve the proposed regulation. The emergency regulation was published in 41:23 VA.R. 2551-2554 June 30, 2025.

Effective Date Extended Through: June 14, 2027.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, fax (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R25-7968; Filed September 9, 2026, 1:18 p.m.

BOARD OF PSYCHOLOGY

Proposed Regulation

Title of Regulation: **18VAC125-20. Regulations Governing the Practice of Psychology (amending 18VAC125-20-42).**

Statutory Authority: §§ 54.1-2400, 54.1-3605, and 54.1-3606.3 of the Code of Virginia.

Public Hearing Information:

November 2, 2026 - 10:01 a.m. - Department of Health Professions, 9960 Mayland Drive, 2nd Floor Conference Center, Board Room 3, Henrico, Virginia 23233

Public Comment Deadline: December 4, 2026.

Agency Contact: Maria S. Stransky, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4697, or email maria.stransky@dhp.virginia.gov.

Basis: Regulations of the Board of Psychology are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which states that the general powers and duties of health regulatory boards is to promulgate regulations that are reasonable and necessary to administer effectively the regulatory system.

Purpose: This regulatory change is essential to protect the health, safety, and welfare of citizens because more behavioral health practitioners are needed in Virginia to address current behavioral health needs.

Substance: The amendments (i) allow the board to accept evidence of a retired or expired license from another jurisdiction as part of an application for licensure by endorsement, (ii) remove the requirement that applicants attest to having read the laws and regulations of Virginia pertaining to psychology, and (iii) state that verification of an active license in good standing held in another jurisdiction must be provided to obtain licensure by endorsement.

Issues: The primary advantages to the public are eligibility of more psychologists to obtain licensure by endorsement in Virginia, potentially increasing the availability of such psychologists for treatment of the public. There are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation. For licensure by endorsement, the Board of Psychology (board) proposes to (i) allow the board to consider granting licensure to applicants who have a retired or expired license from another jurisdiction of the United States or Canada that was in good standing prior to retirement or expiration, (ii) remove a requirement that applicants attest to having read and agreed to

comply with the current Standards of Practice and laws governing the practice of psychology in Virginia, and (iii) add clarifying language.

Background. This action results from a 2023 petition for rulemaking to allow documentation of a retired license to practice psychology from another jurisdiction to be acceptable for an application for licensure by endorsement.[2] According to the Department of Health Professions (DHP), in considering whether to grant licensure by endorsement to applicants who have a retired or expired license from another jurisdiction that was in good standing prior to retirement or expiration, the board would primarily consider the amount of time that has elapsed since practice. Although the license that was retired must have been in good standing, according to the agency the board could also consider former disciplinary actions taken on other registrations or certifications held by the applicant when they make this determination. The board also proposes to eliminate the attestation requirement, noting that the requirement is unnecessary because it does not protect public health, safety, or welfare.

Estimated Benefits and Costs. Enabling some psychologists formerly licensed in other jurisdictions to become licensed by endorsement in the Commonwealth would be beneficial for those formerly licensed psychologists and could be beneficial for Virginia consumers of psychological services. The proposed reduced barrier may increase the number of qualified psychologists available to provide these services. This may reduce the difficulty some Virginians have finding available psychological services. According to an August 2025 report from the Virginia Healthcare Workforce Data Center,[3] less than one percent of clinical psychologists in the Commonwealth are involuntarily unemployed, which suggests that openings for psychologist services for new clients may be limited in some areas and waiting times for psychologist appointments for current clients may be long. Increasing the number of qualified psychologists available to provide services in Virginia could also benefit employers of psychologists in that they may be able to find more productive or less costly people to hire. Some current Virginia psychologists may face greater competition and have somewhat less leverage to negotiate pay increases; if they have their own practice, they may have less ability to raise rates for service due to the increased competition. Licensed psychologists are required to abide by the statutes and regulations governing the practice of psychology in Virginia whether or not they sign a statement attesting to having read and understood such statutes and regulations. Eliminating the attestation requirement saves a small amount of time and paperwork and would have no other substantive impact.

Businesses and Other Entities Affected. The proposed amendments would particularly affect applicants for licensure by endorsement. In 2025, via licensure by endorsement, no individuals became licensed as applied psychologists, 243 individuals became licensed as clinical psychologists, and four individuals became licensed as school psychologists.[4] The proposed reduction in barriers to become licensed by endorsement may lead to more individuals gaining licensure than otherwise would occur. Consumers of psychological services, employers of psychologists, and the 26 applied psychologists, 5,180 clinical psychologists, and 111 school psychologists currently licensed in the Commonwealth may be affected as well.[5] According to survey data from the Virginia Healthcare Workforce Data Center report titled Virginia Licensed Clinical Psychologist Workforce: 2025, the primary types of employers of licensed clinical psychologist by establishment type in the Commonwealth are distributed as follows:

Primary Employers of Licensed Clinical Psychologists by Type	Percentage
Private Practice, Solo	31%
Private Practice, Group	23%
Hospital, General	8.0%
Mental Health Facility, Outpatient	7.0%
Academic Institution (Teaching Health Professions Students)	7.0%
Community-Based Clinic or Health Center	4.0%
School (Providing Care to Clients)	4.0%
Hospital, Psychiatric	3.0%
Community Service Board	1.0%
Physician Office	1.0%
Administrative or Regulatory	1.0%
Corrections or Jail	1.0%
Rehabilitation Facility	1.0%
Residential Mental Health/Substance Abuse Facility	1.0%
Other Practice Setting	7.0%

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[6] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[7] The proposed amendments neither increase net costs nor reduce net benefits for any entity. Thus, no adverse impact is indicated.

Small Businesses[8] Affected.[9] Types and Estimated Number of Small Businesses Affected: The board regulates individual practitioners, but not their employers. Thus, data on the number of small businesses affected is not available. The types of businesses that are potentially affected and may qualify as small are described in the table. Costs and Other Effects: Some small providers of psychological services may have less ability to raise rates for service due to potentially increased competition. Alternative Method that Minimizes Adverse Impact: There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities[10] Affected.[11] Additional psychologists licensed in a neighboring state or the District of Columbia may choose to become licensed by endorsement in the Commonwealth in response to the proposed reduction in barriers and the resulting potential for more clients. It may be more likely in practice that

residents of localities near the border of neighboring states or the District of Columbia would receive recommendations for psychologists licensed in the nearby jurisdiction than would residents further from the border. Thus, localities near a neighboring state or the District of Columbia may be particularly affected. Local governments may have moderately reduced costs in providing psychological services for their community services boards due to the potential increase in licensed psychologists.

Projected Impact on Employment. The proposed reduced barriers for licensure by endorsement may increase the number of individuals employed as licensed psychologists in the Commonwealth. The number of psychologists licensed in another jurisdiction who would be encouraged to apply for licensure by endorsement in Virginia due to the proposed reduction in barriers is not known.

Effects on the Use and Value of Private Property. Some private providers of psychological services may have reduced costs through the potential increase in supply of psychologists from which to hire, while other private providers may have reduced ability to raise rates for services due to increased competition. Some may face both effects simultaneously. Thus, some private providers of psychological services may moderately increase in value, while others may moderately decrease in value. The proposed amendments do not affect real estate development costs.

[1] Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2] See https://townhall.virginia.gov/L/ViewPetition.cfm?petitionId=390.

[3] See https://www.dhp.virginia.gov/media/dhpweb/docs/hwdc/behsci/0810CP2025.pdf.

[4] Data source: DHP.

[5] Ibid.

[6] Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[7] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

[8] Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[9] If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[10] "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[11] Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to Economic Impact Analysis: The Board of Psychology concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

In response to a petition for rulemaking, the amendments (i) allow the Board of Psychology to accept evidence of a retired or expired license from another jurisdiction as part of an application for licensure by endorsement, (ii) remove the requirement that applicants attest to having read the laws and regulations of Virginia pertaining to psychology, and (iii) state that verification of an active license in good standing held in another jurisdiction must be provided to obtain licensure by endorsement.

18VAC125-20-42. Prerequisites for licensure by endorsement.

Every applicant for licensure by endorsement for applied psychology, clinical psychology, or school psychology shall submit:

1. A completed application;

2. The application processing fee prescribed by the board;

3. ~~An attestation of having read and agreed to comply with the current Standards of Practice and laws governing the practice of psychology in Virginia;~~ Verification of an active psychologist license in good standing in a jurisdiction of the United States or Canada. In the event the applicant retired from practice, evidence of a retired or expired license from another jurisdiction that was in good standing prior to retirement or expiration may be submitted to the board for consideration;

4. ~~Verification~~ Documentation of all other health and mental health professional licenses, certificates, or registrations ever held in Virginia or any jurisdiction of the United States or Canada. In order to qualify for endorsement, the applicant shall not have surrendered a license, certificate, or registration while under investigation and shall have no unresolved action against a license, certificate, or registration;

5. A current report from the National Practitioner Data Bank; and

6. Further documentation of one of the following:

a. A current credential issued by the National Register of Health Service Psychologists;

b. Current diplomate status in good standing with the American Board of Professional Psychology in a category comparable to the one in which licensure is sought;

c. A Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards;

d. Five years of active licensure in a category comparable to the one in which licensure is sought with at least 24 months of active practice within the last 60 months immediately preceding licensure application; or

e. If less than five years of active licensure or less than 24 months of active practice within the last 60 months, documentation of current psychologist licensure in good standing obtained by standards substantially equivalent to the education, experience, and examination requirements set forth in this chapter for the category in which licensure is sought as verified by a certified copy of the original application submitted directly from the out-of-state licensing agency or a copy of the regulations in effect at the time of initial licensure and the following: (i) verification of a passing score on all parts of the Examination for Professional Practice of Psychology that were required at the time of original licensure and (ii) official transcripts documenting the graduate work completed and the degree awarded in the category in which licensure is sought.

VA.R. Doc. No. R24-12; Filed September 10, 2026, 4:13 p.m.

BOARD OF VETERINARY MEDICINE

Emergency Regulation

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine (adding 18VAC150-20-136).**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Dates: September 16, 2026, through March 15, 2028.

Agency Contact: Kelli Moss, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4133, fax (804) 767-1011, or email kelli.moss@dhp.virginia.gov.

Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Pursuant to Chapter 307 of the 2024 Acts of Assembly, the amendments provide for the limited practice of veterinarian trainees.

18VAC150-20-136. Limited practice of veterinary medicine; traineeships.

A. For purposes of this section:

1. "Limited practice of veterinary medicine" means practice under the direct supervision of a licensed veterinarian.

2. "Veterinarian trainee" means an individual who meets the requirements of subsection B of this section.

B. An applicant for licensure as a veterinarian may perform the limited practice of veterinary medicine as part of a traineeship under the following conditions:

1. The applicant is a graduate of either:

a. A college or school of veterinary medicine accredited by the AVMA;

b. A program that fulfills the educational requirements of the Educational Commission of Foreign Veterinary Graduates of the AVMA; or

c. A program that fulfills the educational requirements of the Program for the Assessment of Veterinary Education Equivalence of the AAVSB or any other substantially equivalent credentialing body as determined by the board; and

2. The applicant has not passed the North American Veterinary Licensing Examination in one attempt but has not failed the examination more than twice.

C. A veterinary trainee may practice with the designated title of "veterinarian trainee."

D. The veterinarian trainee may perform the limited practice of veterinary medicine for nine months following graduation.

E. The licensed veterinarian directly supervising the veterinarian trainee shall hold an unrestricted license to practice veterinary medicine in the Commonwealth.

F. Disclosure and informed consent.

1. When a veterinarian trainee is practicing in the establishment, the supervising veterinarian shall disclose such practice to owners. The disclosure shall be by signage clearly visible to the public or by inclusion on an informed consent form.

2. Prior to allowing a veterinarian trainee to perform surgery or administer anesthesia or sedation to a patient, a licensed veterinarian shall receive written informed consent from the owner.

G. Whenever a veterinarian trainee is performing surgery on a patient or administering anesthesia or sedation, the

supervising veterinarian shall provide direct, immediate, and in-person supervision during the procedure.

H. A veterinarian supervising a veterinarian trainee remains responsible for the care and treatment of the patient.

VA.R. Doc. No. R27-7912; Filed September 14, 2026, 10:06 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22VAC40-73. Standards for Licensed Assisted Living Facilities (amending 22VAC40-73-10, 22VAC40-73-210, 22VAC40-73-260, 22VAC40-73-390, 22VAC40-73-990; adding 22VAC40-73-755).**

Statutory Authority: §§ 63.2-217, 63.2-1732, 63.2-1802, 63.2-1805, and 63.2-1808 of the Code of Virginia.

Effective Date: November 4, 2026.

Agency Contact: Daniella Halbleib, Licensing Consultant, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 718-1184, fax (804) 726-7132, or email daniella.halbleib@dss.virginia.gov.

Summary:

Pursuant to Chapter 323 of the 2026 Acts of Assembly, the amendments require all assisted living facilities to have and maintain an automated external defibrillator (AED) and train staff to use the device prior to the issuance of an initial or renewal of a license to operate. Pursuant to Chapter 496 of the 2026 Acts of Assembly, additional amendments (i) permit residents of assisted living facilities to have electronic monitoring devices placed in their rooms and (ii) establish the requirements for the placement, utilization, and associated costs of an electronic monitoring device in a resident's room.

22VAC40-73-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, eating, and feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Administer medication" means to open a container of medicine or to remove the ordered dosage and to give it to the resident for whom it is ordered.

"Administrator" means the licensee or a person designated by the licensee who is responsible for the general administration and management of an assisted living facility and who oversees the day-to-day operation of the facility, including compliance with all regulations for licensed assisted living facilities.

"Admission" means the date a person actually becomes a resident of the assisted living facility and is physically present at the facility.

"Advance directive" means, as defined in § 54.1-2982 of the Code of Virginia, (i) a witnessed written document~~,~~ voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia or (ii) a witnessed oral statement~~,~~ made by the declarant subsequent to the time the declarant is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia.

"Ambulatory" means the condition of a resident who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by 13VAC5-63, the Virginia Uniform Statewide Building Code, without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such resident may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Assisted living facility" or "facility" means, as defined in § 63.2-100 of the Code of Virginia, any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged or infirm or who have disabilities and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to that individual by blood or marriage; (iii) a facility or portion of a facility serving individuals who are infirm or who have

disabilities between ~~the ages of~~ 18 and 21 years of age, or 22 years of age if enrolled in an educational program for individuals with disabilities pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, but including any portion of the facility not so licensed; and (iv) any housing project for individuals who are 62 years of age or older or individuals with disabilities that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, ~~by~~ the U.S. Department of Agriculture, or ~~by~~ the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more adults who are aged or infirm or who have disabilities. Maintenance or care means the protection, general supervision, and oversight of the physical and mental well-being of an individual who is aged or infirm or who has a disability.

"Attorney-in-fact" means strictly, one who is designated to transact business for another: a legal agent.

"Automated external defibrillator" or "AED" means the same as defined in § 32.1-111.1 of the Code of Virginia.

"Behavioral health authority" means the organization, appointed by and accountable to the governing body of the city or county that established it, that provides mental health, developmental, and substance abuse services through its own staff or through contracts with other organizations and providers.

"Board" means the State Board of Social Services.

"Building" means a structure with exterior walls under one roof.

"Cardiopulmonary resuscitation" or "CPR" means an emergency procedure consisting of external cardiac massage and artificial respiration; the first treatment for a person who has collapsed, has no pulse, and has stopped breathing; and attempts to restore circulation of the blood and prevent death or brain damage due to lack of oxygen.

"Case management" means multiple functions designed to link clients to appropriate services. Case management may include a variety of common components such as initial screening of needs, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and client follow-up.

"Case manager" means an employee of a public human services agency who is qualified and designated to develop and coordinate plans of care.

~~"Chapter" or "this chapter" means these regulations, that is, Standards for Licensed Assisted Living Facilities, 22VAC40-73, unless noted otherwise.~~

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms or symptoms from mental illness or intellectual disability and that prohibits the resident from reaching the resident's highest level of functioning.

"Commissioner" means the commissioner of the department, the commissioner's designee, or an authorized representative.

"Community services board" or "CSB" means a public body established pursuant to § 37.2-501 of the Code of Virginia that provides mental health, developmental, and substance abuse programs and services within the political subdivision participating on the board.

"Companion services" means assistance provided to residents in such areas as transportation, meal preparation, shopping, light housekeeping, companionship, and household management.

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited conservator" or a "temporary conservator." The term includes (i) a local or regional program designated by the Department for Aging and Rehabilitative Services as a public conservator pursuant to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5 of the Code of Virginia or (ii) any local or regional tax-exempt charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code to provide conservatorial services to incapacitated persons. Such tax-exempt charitable organization shall not be a provider of direct services to the incapacitated person. If a tax-exempt charitable organization has been designated by the Department for Aging and Rehabilitative Services as a public conservator, it may also serve as a conservator for other individuals.

"Continuous licensed nursing care" means around-the-clock observation, assessment, monitoring, supervision, or provision of medical treatments provided by a licensed nurse. Individuals requiring continuous licensed nursing care may include:

1. Individuals who have a medical instability due to complexities created by multiple, interrelated medical conditions; or

2. Individuals with a health care condition with a high potential for medical instability.

"Days" means calendar days unless noted otherwise.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as an authorized agent of the Commissioner of Social Services.

"Dietary supplement" means a product intended for ingestion that supplements the diet, is labeled as a dietary supplement, is not represented as a sole item of a meal or diet, and contains a

dietary ingredient (e.g., vitamins, minerals, amino acids, herbs or other botanicals, dietary substances such as enzymes, and concentrates, metabolites, constituents, extracts, or combinations of the preceding types of ingredients). Dietary supplements may be found in many forms, such as tablets, capsules, liquids, or bars.

"Direct care staff" means supervisors, assistants, aides, or other staff of a facility who assist residents in the performance of personal care or daily living activities.

"Discharge" means the movement of a resident out of the assisted living facility.

"Electronic monitoring" means the use of a surveillance device with a fixed position video camera or audio recording device or a combination thereof that is installed in a resident's room and broadcasts or records activities or sounds occurring within the confines of the room. "Electronic monitoring" does not include use of a device that enables audio communication into the resident's room from another source.

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Emergency placement" means the temporary status of an individual in an assisted living facility when the person's health and safety would be jeopardized by denying entry into the facility until the requirements for admission have been met.

"Emergency restraint" means a restraint used when the resident's behavior is unmanageable to the degree an immediate and serious danger is presented to the health and safety of the resident or others.

"General supervision and oversight" means assuming responsibility for the well-being of residents, either directly or through contracted agents.

"Guardian" means a person appointed by the court who is responsible for the personal affairs of an incapacitated person, including responsibility for making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of involuntary admission, residence. Where the context plainly indicates, the term includes a "limited guardian" or a "temporary guardian." The term includes (i) a local or regional program designated by the Department for Aging and Rehabilitative Services as a public guardian pursuant to Article 6 (§ 51.5-149 et seq.) of Chapter 14 of Title 51.5 of the Code of Virginia or (ii) any local or regional tax-exempt charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code to provide guardian services to incapacitated persons. Such tax-exempt charitable organization shall not be a provider of direct services to the incapacitated person. If a tax-exempt charitable organization has been designated by the Department for Aging and Rehabilitative Services as a public guardian, it may also serve as a guardian for other individuals.

"Habilitative service" means activities to advance a normal sequence of motor skills, movement, and self-care abilities or to prevent avoidable additional deformity or dysfunction.

"Health care provider" means a person, corporation, health care facility, or institution licensed by the Commonwealth to provide health care or professional services, including a physician or hospital, dentist, pharmacist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, or health maintenance organization.

"Household member" means any person domiciled in an assisted living facility other than residents or staff.

"Imminent physical threat or danger" means clear and present risk of sustaining or inflicting serious or life-threatening injuries.

"Independent clinical psychologist" means a clinical psychologist who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the facility.

"Independent living status" means that the resident is assessed as capable of performing all activities of daily living and instrumental activities of daily living independently without requiring the assistance of another person and is assessed as capable of taking medications without the assistance of another person. If the policy of a facility dictates that medications are administered or distributed centrally without regard for ~~the residents'~~ resident capacity, this policy shall not be considered in determining independent status.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the facility.

"Individualized service plan" or "ISP" means the written description of actions to be taken by the licensee, including coordination with other services providers, to meet the assessed needs of the resident.

"Instrumental activities of daily living" or "IADLs" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Intellectual disability" means a disability~~,~~ originating before ~~the age of~~ 18 years~~,~~ of age characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of

intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

"Intermittent intravenous therapy" means therapy provided by a licensed health care professional at medically predictable intervals for a limited period of time on a daily or periodic basis.

"Legal representative" means a person legally responsible for representing or standing in the place of the resident for the conduct of the resident's affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney ("durable power of attorney" defines the type of legal instrument used to name the attorney-in-fact and does not change the meaning of attorney-in-fact), trustee, or other person expressly named by a court of competent jurisdiction or the resident as the resident's agent in a legal document that specifies the scope of the representative's authority to act. A legal representative may only represent or stand in the place of a resident for the functions for which the legal representative has legal authority to act. A resident is presumed competent and is responsible for making all health care, personal care, financial, and other personal decisions that affect the resident's life unless a representative with legal authority has been appointed by a court of competent jurisdiction or has been appointed by the resident in a properly executed and signed document. A resident may have different legal representatives for different functions. For any given standard, the term "legal representative" applies solely to the legal representative with the authority to act in regard to the functions relevant to that particular standard.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of that health care professional's profession, such as a nurse practitioner, registered nurse, licensed practical nurse (nurses may be licensed or hold multistate licensure pursuant to § 54.1-3000 of the Code of Virginia), clinical social worker, dentist, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, and speech-language pathologist. Responsibilities of physicians referenced in this chapter may be implemented by nurse practitioners or physician assistants in accordance with their protocols or practice agreements with their supervising physicians and in accordance with the law.

"Licensee" means any person, association, partnership, corporation, company, or public agency to whom the license is issued.

"Manager" means a designated person who serves as a manager pursuant to 22VAC40-73-170 and 22VAC40-73-180.

"Mandated reporter" means persons specified in § 63.2-1606 of the Code of Virginia who are required to report matters giving reason to suspect abuse, neglect, or exploitation of an adult.

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument. An individual who can participate in any way with performance of the activity is not considered to be totally dependent.

"Medical/orthopedic restraint" means the use of a medical or orthopedic support device that has the effect of restricting the resident's freedom of movement or access to the resident's body for the purpose of improving the resident's stability, physical functioning, or mobility.

"Medication aide" means a staff person who has current registration with the Virginia Board of Nursing to administer drugs that would otherwise be self-administered to residents in an assisted living facility in accordance with the Regulations Governing the Registration of Medication Aides (18VAC90-60). This definition also includes a staff person who is an applicant for registration as a medication aide in accordance with subdivision 2 of 22VAC40-73-670.

"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.

"Mental impairment" means a disability that reduces an individual's ability to reason logically, make appropriate decisions, or engage in purposeful behavior.

"Minimal assistance" means dependency in only one activity of daily living or dependency in one or more of the instrumental activities of daily living as documented on the uniform assessment instrument.

"Moderate assistance" means dependency in two or more of the activities of daily living as documented on the uniform assessment instrument.

"Nonambulatory" means the condition of a resident who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

"Nonemergency restraint" means a restraint used for the purpose of providing support to a physically weakened resident.

"Physical impairment" means a condition of a bodily or sensory nature that reduces an individual's ability to function or to perform activities.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent

to the resident's body that the resident cannot remove easily, ~~which~~ that restricts freedom of movement or access to the resident's body.

"Physician" means an individual licensed to practice medicine or osteopathic medicine in any of the 50 states or the District of Columbia.

"Premises" means a building or group of buildings under one license, together with the land or grounds on which located.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 of the Code of Virginia to issue a prescription.

"Private duty personnel" means an individual hired, either directly or through a licensed home care organization, by a resident, family member, legal representative, or similar entity to provide one-on-one services to the resident, such as a private duty nurse, home attendant, personal aide, or companion. Private duty personnel are not hired by the facility, either directly or through a contract.

"Private pay" means that a resident of an assisted living facility is not eligible for an auxiliary grant.

"Psychopharmacologic drug" means any drug prescribed or administered with the intent of controlling mood, mental status, or behavior. Psychopharmacologic drugs include not only the obvious drug classes, such as antipsychotic, antidepressants, and the antianxiety/hypnotic class, but any drug that is prescribed or administered with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by the U.S. Food and Drug Administration.

"Public pay" means that a resident of an assisted living facility is eligible for an auxiliary grant.

"Qualified" means having appropriate training and experience commensurate with assigned responsibilities, or if referring to a professional, possessing an appropriate degree or having documented equivalent education, training, or experience. There are specific definitions for "qualified assessor" and "qualified mental health professional" in this section.

"Qualified assessor" means an individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of an assisted living facility. For public pay individuals, a qualified assessor is an employee of a public human services agency trained in the completion of the uniform assessment instrument (UAI). For private pay individuals, a qualified assessor is an employee of the assisted living facility trained in the completion of the UAI or an independent private physician or a qualified assessor for public pay individuals.

"Qualified mental health professional" means a behavioral health professional who is trained and experienced in providing psychiatric or mental health services to individuals who have a psychiatric diagnosis, including (i) a physician licensed in Virginia; (ii) a psychologist~~:~~, who is an individual with a master's degree in psychology from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience; (iii) a social worker~~:~~, who is an individual with at least a master's degree in human services or related field (e.g., social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling) from a college or university accredited by an association recognized by the U.S. Secretary of Education, with at least one year of clinical experience providing direct services to persons with a diagnosis of mental illness; (iv) a registered psychiatric rehabilitation provider (RPRP) registered with the International Association of Psychosocial Rehabilitation Services (IAPSRS); (v) a clinical nurse specialist or psychiatric nurse practitioner licensed in the Commonwealth of Virginia with at least one year of clinical experience working in a mental health treatment facility or agency; (vi) any other licensed mental health professional; or (vii) any other person deemed by the Department of Behavioral Health and Developmental Services as having qualifications equivalent to those described in this definition. Any unlicensed person who meets the requirements contained in this definition shall either be under the supervision of a licensed mental health professional or employed by an agency or organization licensed by the Department of Behavioral Health and Developmental Services.

"Rehabilitative services" means activities that are ordered by a physician or other qualified health care professional that are provided by a rehabilitative therapist (e.g., physical therapist, occupational therapist, or speech-language pathologist). These activities may be necessary when a resident has demonstrated a change in ~~the resident's capabilities~~ capability and are provided to restore or improve the resident's level of functioning.

"Resident" means any adult residing in an assisted living facility for the purpose of receiving maintenance or care. The definition of resident also includes adults residing in an assisted living facility who have independent living status. Adults present in an assisted living facility for part of the day for the purpose of receiving day services are also considered residents.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument, although they may not require minimal assistance with the activities of daily living. This definition includes the

services provided by the facility to individuals who are assessed as capable of maintaining themselves in an independent living status.

"Respite care" means services provided in an assisted living facility for the maintenance or care of adults who are aged or infirm or who have a disability for a temporary period of time or temporary periods of time that are regular or intermittent. Facilities offering this type of care are subject to this chapter.

"Restorative care" means activities designed to assist the resident in reaching or maintaining the resident's level of potential. These activities are not required to be provided by a rehabilitative therapist and may include activities such as range of motion, assistance with ambulation, positioning, assistance and instruction in the activities of daily living, psychosocial skills training, and reorientation and reality orientation.

"Restraint" means either "physical restraint" or "chemical restraint" as these terms are defined in this section.

"Safe, secure environment" means a self-contained special care unit for residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia who cannot recognize danger or protect their own safety and welfare. There may be one or more self-contained special care units in a facility or the whole facility may be a special care unit. Nothing in this definition limits or contravenes the privacy protections set forth in § 63.2-1808 of the Code of Virginia.

"Sanitizing" means treating in such a way to remove bacteria and viruses through using a disinfectant solution (e.g., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat).

"Serious cognitive impairment" means severe deficit in mental capability of a chronic, enduring, or long-term nature that affects areas such as thought processes, problem-solving, judgment, memory, and comprehension and that interferes with such things as reality orientation, ability to care for self, ability to recognize danger to self or others, and impulse control. Such cognitive impairment is not due to (i) acute or episodic conditions, (ii) conditions arising from treatable metabolic or chemical imbalances, or (iii) reactions to medication or toxic substances. For the purposes of this chapter, serious cognitive impairment means that an individual cannot recognize danger or protect the individual's own safety and welfare.

"Significant change" means a change in a resident's condition that is expected to last longer than 30 days. It does not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Skilled nursing treatment" means a service ordered by a physician or other prescriber that is provided by and within the scope of practice of a licensed nurse.

"Skills training" means systematic skill building through curriculum-based psychoeducational and cognitive-behavioral interventions. These interventions break down complex objectives for role performance into simpler components, including basic cognitive skills such as attention, to facilitate learning and competency.

"Staff" or "staff person" means personnel working at a facility who are compensated or have a financial interest in the facility, regardless of role, service, age, function, or duration of employment at the facility. "Staff" or "staff person" also includes those individuals hired through a contract with the facility to provide services for the facility.

"Substance abuse" means the use of drugs enumerated in the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), without a compelling medical reason, or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior; and (iii) because of such substance abuse, requires care and treatment for the health of the individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care. All determinations of whether a compelling medical reason exists shall be made by a physician or other qualified medical personnel.

"Systems review" means a physical examination of the body to determine if the person is experiencing problems or distress, including cardiovascular system, respiratory system, gastrointestinal system, urinary system, endocrine system, musculoskeletal system, nervous system, sensory system, and the skin.

"Transfer" means movement of a resident to a different assigned living area within the same licensed facility.

"Trustee" means one who stands in a fiduciary or confidential relation to another; especially one who, having legal title to property, holds it in trust for the benefit of another and owes a fiduciary duty to that beneficiary.

"Uniform assessment instrument" or "UAI" means the department-designated assessment form. There is an alternate version of the form that may be used for private pay residents. Social and financial information that is not relevant because of the resident's payment status is not included on the private pay version of the form.

"Volunteer" means a person who works at an assisted living facility who is not compensated. An exception to this definition is a person who, either as an individual or as part of an

organization, is only present at or facilitates group activities on an occasional basis or for special events.

22VAC40-73-210. Direct care staff training.

A. In a facility licensed only for residential living care, all direct care staff shall attend at least 14 hours of training annually.

B. In a facility licensed for both residential and assisted living care, all direct care staff shall attend at least 18 hours of training annually, except that the requirement for direct care staff who are licensed health care professionals or certified nurse aides is a minimum of 12 hours of training annually.

C. Training for the first year shall commence no later than 60 days after employment.

D. The training shall be in addition to (i) required first aid training; (ii) CPR and automated external defibrillator (AED) training, if taken; and (iii) for medication aides, continuing education required by the Virginia Board of Nursing.

E. The training shall be relevant to the population in care and shall be provided by a qualified individual through in-service training programs or institutes, workshops, classes, or conferences.

F. At least two of the required hours of training shall focus on infection control and prevention. When adults with mental impairments reside in the facility, at least four of the required hours shall focus on topics related to residents' mental impairments.

G. Documentation of the type of training received, the entity that provided the training, number of hours of training, and dates of the training shall be kept by the facility in a manner that allows for identification by individual staff person and is considered part of the staff member's record.

~~Exception: Direct care staff who are licensed health care professionals or certified nurse aides shall attend at least 12 hours of annual training.~~

22VAC40-73-260. First aid ~~and~~, CPR ~~certification~~, and AED requirements.

A. First aid.

1. Each direct care staff member shall maintain current certification in first aid from the American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute, community college, hospital, volunteer rescue squad, or fire department. The certification must either be in adult first aid or include adult first aid. To be considered current, first aid certification from community colleges, hospitals, volunteer rescue squads, or fire departments shall have been issued within the past three years.

2. ~~Each~~ A direct care staff member who does not have current certification in first aid as specified in subdivision 1 of this subsection shall receive certification in first aid within 60 days of employment.

3. A direct care staff member who is a registered nurse, licensed practical nurse, or currently certified emergency medical technician, first responder, or paramedic does not have to meet the requirements of subdivisions 1 and 2 of this subsection.

4. In each building, there shall either be (i) at least one staff person at all times who has current certification in first aid that meets the specifications of this section; or (ii) an on-duty registered nurse, licensed practical nurse, or currently certified emergency medical technician, first responder, or paramedic.

B. Cardiopulmonary resuscitation (CPR).

1. There shall be at least one staff person in each building at all times who has current certification in CPR from the American Red Cross, American Heart Association, National Safety Council, or American Safety and Health Institute, or who has current CPR certification issued within the past two years by a community college, hospital, volunteer rescue squad, or fire department. The certification must either be in adult CPR or include adult CPR.

2. In facilities licensed for over 100 residents, at least one additional staff person who meets the requirements of subdivision 1 of this subsection shall be available for every 100 residents, or portion thereof. More staff persons who meet the requirements in subdivision 1 of this subsection shall be available if necessary to ensure quick access to residents in the event of the need for CPR.

C. Automated external defibrillator (AED).

1. The facility shall have and maintain an AED for use as needed; and

2. There shall be at least one staff person with access to the AED at all times who has been trained in the use of an AED issued within the past two years.

D. A listing of all staff who have current certification in first aid or CPR~~,~~ or who have been trained in the use of an AED in conformance with ~~subsections A and B of~~ this section~~,~~ shall be posted in the facility so that the information is readily available to all staff at all times. The listing ~~must indicate by staff person whether the~~ shall identify certification ~~is~~ in first aid or CPR or ~~both~~ training in the use of an AED and must be kept up to date.

~~D.~~ E. A staff person with current certification in first aid and CPR shall be present for the duration of facility-sponsored activities off the facility premises, when facility staff are responsible for oversight of one or more residents during the activity.

22VAC40-73-390. Resident agreement with facility.

A. At or prior to the time of admission, there shall be a written agreement or acknowledgment of notification dated and signed by the resident or applicant for admission or the appropriate

legal representative, and by the licensee or administrator. This document shall include the following:

1. Financial arrangement for accommodations, services, and care that specifies:

a. Listing of specific charges for accommodations, services, and care to be made to the individual resident signing the agreement, the frequency of payment, and any rules relating to nonpayment;

b. Description of all accommodations, services, and care that the facility offers and any related charges;

c. For an auxiliary grant recipient, a list of services included under the auxiliary grant rate;

d. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment, except that recipients of auxiliary grants may not be charged an advance payment or deposit payment;

e. The policy with respect to increases in charges and length of time for advance notice of intent to increase charges;

f. If the ownership of any personal property, real estate, money, or financial investments is to be transferred to the facility at the time of admission or at some future date, it shall be stipulated in the agreement; and

g. The refund policy to apply when transfer of ownership, closing of facility, or resident transfer or discharge occurs.

2. Requirements or rules to be imposed regarding resident conduct and other restrictions or special conditions.

3. Those actions, circumstances, or conditions that would result or might result in the resident's discharge from the facility.

4. Specific acknowledgments that:

a. Requirements or rules regarding resident conduct, other restrictions, or special conditions have been reviewed by the resident or the resident's legal representative;

b. The resident or the resident's legal representative has been informed of the policy regarding the amount of notice required when a resident wishes to move from the facility;

c. The resident has been informed of the policy required by 22VAC40-73-840 regarding pets living in the facility;

d. The resident has been informed of the policy required by 22VAC40-73-860 K regarding weapons;

e. The resident or the resident's legal representative or responsible individual as stipulated in 22VAC40-73-550 H has reviewed § 63.2-1808 of the Code of Virginia, Rights and Responsibilities of Residents of Assisted Living Facilities, and that the provisions of this statute have been explained ~~to him~~;

f. The resident or the resident's legal representative or responsible individual as stipulated in 22VAC40-73-550 H has reviewed the facility's policies and procedures for implementing § 63.2-1808 of the Code of Virginia;

g. The resident or the resident's legal representative has reviewed and had explained the facility's policies and procedures for electronic monitoring of resident rooms as required by 22VAC40-73-755 and § 63.2-1808.2 of the Code of Virginia;

h. The resident has been informed that the resident may refuse release of information regarding the resident's personal affairs and records to any individual outside the facility, except as otherwise provided in law and except in case of the resident's transfer to another caregiving facility, notwithstanding any requirements of this chapter;

~~h.~~ i. The resident has been informed that interested residents may establish and maintain a resident council, that the facility is responsible for providing assistance with the formation and maintenance of the council, whether or not such a council currently exists in the facility, and the general purpose of a resident council (See 22VAC40-73-830);

~~i.~~ j. The resident has been informed of the bed hold policy in case of temporary transfer or movement from the facility, if the facility has such a policy (See 22VAC40-73-420 B);

~~j.~~ k. The resident has been informed of the policy or guidelines regarding visiting in the facility, if the facility has such a policy or guidelines (See 22VAC40-73-540 C);

~~k.~~ l. The resident has been informed of the rules and restrictions regarding smoking on the premises of the facility, including those required by 22VAC40-73-820;

~~l.~~ m. The resident has been informed of the policy regarding the administration and storage of medications and dietary supplements;

~~m.~~ n. The resident, upon request, has been notified in writing that the facility maintains liability insurance that provides the minimum amount of coverage set forth in 22VAC40-73-45 to compensate residents or other individuals for injuries and losses from negligent acts of the facility; and

~~n.~~ o. The resident has received written assurance that the facility has the appropriate license to meet the resident's care needs at the time of admission, as required by 22VAC40-73-310 D.

B. Copies of the signed agreement or acknowledgment and any updates as noted in subsection C of this section shall be provided to the resident and, as appropriate, the resident's legal representative and shall be retained in the resident's record.

C. The original agreement or acknowledgment shall be updated whenever there are changes to any of the policies or information referenced or identified in the agreement or acknowledgment and dated and signed by the licensee or administrator and the resident or the resident's legal representative.

22VAC40-73-755. Electronic monitoring in resident rooms.

A. In accordance with § 63.2-1808.2 of the Code of Virginia, electronic monitoring shall be permitted only:

1. Upon the informed consent of the resident or resident's legal representative, which shall be obtained prior to the installation or use of any electronic monitoring device. Consent for electronic monitoring shall be kept in the resident's record;

2. When the resident resides:

a. In a room with no roommates; or

b. In a room with any roommates and obtains written consent to visual recording from such roommates or, if any roommate has been legally deemed incompetent, such roommate's legal representative. When a resident resides with any roommates, only video electronic monitoring shall be permitted pursuant to this subsection;

3. Upon execution of an agreement for the sharing and release of medical data and information protected by the federal Health Insurance Portability and Accountability Act of 1996 (42 USC § 1320d et seq.) signed by the resident or resident's legal representative or, if applicable, any such agreement signed by any roommate or roommate's legal representative shall be kept in all consenting individuals' records; and

4. When the assisted living facility has secured and password-protected wireless Internet access or other means available to operate the electronic monitoring device without modification to the assisted living facility or a change in level or capacity of Internet access.

B. A facility shall allow electronic monitoring when it is conducted in accordance with this section. A facility shall not refuse to admit an individual and shall not discharge or transfer a resident due to a request to conduct authorized electronic monitoring.

C. A written request signed by the resident or the resident's legal guardian shall be on file when a request is made to utilize electronic monitoring in a resident’s room.

D. A facility shall have written policies and procedures for electronic monitoring consistent with this section and § 63.2-1808.2 of the Code of Virginia, to include:

1. Prohibiting assigned staff from refusing to enter a resident's room solely because of electronic monitoring; and

2. Prohibiting staff from willfully tampering with electronic monitoring devices in violation of this section. Adjusting or disabling an electronic monitoring device during the provision of patient care shall not constitute willful tampering if such adjusting or disabling is done in order to protect the dignity of a resident or at the direction of the resident or resident's legal representative.

E. A facility shall designate one or more staff persons to be the point of contact for electronic monitoring requests and providing information and policies upon request during normal business hours.

F. A facility shall not allow electronic monitoring if the resident or resident's legal representative indicates objection to electronic monitoring.

G. The facility shall conspicuously post and maintain a notice at the entrance to the resident's room stating that an electronic monitoring device is in operation.

H. The facility shall notify assigned staff for the resident when electronic monitoring is in use in a resident's room pursuant to this section and § 63.2-1808.2 of the Code of Virginia.

I. Should a resident, resident's legal representative or family member choose to install an electronic monitoring device in accordance with this section and § 63.2-1808.2 of the Code of Virginia, the facility shall not be responsible for costs, other than the cost of electricity, associated with the purchase and installation of the electronic monitoring device.

J. The facility shall make reasonable physical accommodations for electronic monitoring devices, including:

1. Providing a reasonable, secure place to mount the device; and

2. Providing reasonable access to power sources if already in proximity to the device.

K. If the facility provides facility-managed electronic monitoring utilizing devices installed and maintained by the facility, then the facility may charge a one-time fee not to exceed $150 for installation and a fee not to exceed $250 as a security deposit for the device. The facility may charge a monthly fee, not to exceed $10, to cover the costs associated with the electronic monitoring device as outlined in § 63.2-1808.2 of the Code of Virginia. The facility shall provide a 45-day notice of an increase in electronic monitoring monthly fees.

L. The resident or resident's legal representative of a room with an electronic monitoring device may describe conditions, verbally or in writing, for the consent to install or use of an electronic monitoring device. If the resident or resident's legal representative or any roommate or roommate's legal representative places conditions on consent, the facility and staff shall ensure that the installation, use, and operation of the electronic monitoring device and any electronic monitoring or other activities conducted in connection to electronic monitoring is in compliance with the conditions. Such conditions on consent may include:

1. The ability of the resident, any roommate, or staff at the request of the resident or any roommate to turn off or disable

the audio or video electronic monitoring device during certain periods of time; or

2. A prohibition on the ability of the assisted living facility to, pursuant to subsection N of this section, choose to assume custodial ownership of any recordings from the electronic monitoring device after the electronic monitoring device has been installed and is operational.

M. An assisted living facility shall require its staff to immediately report any incidents regarding safety or quality of care discovered or reported to staff as a result of viewing a recording from an electronic monitoring device to the administrator of the assisted living facility.

N. Ownership of electronic monitoring recordings.

1. Except as provided in subsection L of this section, assisted living facilities may assume custodial ownership of any recordings from electronic monitoring devices from the resident or resident's legal representative. Recordings from electronic monitoring devices shall not be considered part of the resident's record.

2. If an assisted living facility chooses to assume ownership of recordings from electronic monitoring devices pursuant to subdivision 1 of this subsection, the assisted living facility shall not permit viewings of recordings without consent of the resident or resident's legal representative except to the extent that disclosure is required by law or for quality assurance purposes.

3. An assisted living facility shall not be held liable for any breach of data or privacy related to the presence of the electronic monitoring device.

4. An assisted living facility shall have no obligation to seek access to a recording for which it has not assumed custodial ownership or to have knowledge of a recording's content unless (i) the assisted living facility is aware of a recorded incident of suspected abuse or neglect or of an accident or injury based upon a report received by the facility of such incident, accident, or injury or (ii) the resident, the resident's legal representative, or a government agency seeks to use a recording.

5. Unless an assisted living facility chooses to assume ownership of any recordings from an electronic monitoring device, the resident or resident's legal representative shall be responsible for all aspects of the operation of the electronic monitoring device, including the removal and replacement of recordings; adherence to local, state, and federal privacy laws; and use of firewall protections to prevent images that would violate obscenity laws from being inadvertently shown on the Internet.

O. If the placement or position of the electronic monitoring device creates risk to an assisted living facility employee, resident, or any roommate, or if the resident or resident's legal representative or family member violates the assisted living facility's policies and procedures for electronic monitoring, the equipment may be disabled and removed and the resident, resident's legal representative, or family member responsible for the electronic monitoring device shall be notified of the removal.

22VAC40-73-990. Plan for resident emergencies and practice exercise.

A. Assisted living facilities shall have a written plan for resident emergencies that includes:

1. Procedures for handling medical emergencies, including identifying the staff person responsible for (i) calling the rescue squad, ambulance service, resident's physician, or Poison Control Center; and (ii) providing first aid ~~and,~~ CPR, and the use of an AED when indicated.

2. Procedures for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order.

3. Procedures for making pertinent medical information and history available to the rescue squad and hospital, including a copy of the current medication administration record and advance directives.

4. Procedures to be followed in the event that a resident is missing, including (i) involvement of facility staff, appropriate law-enforcement agency, and others as needed; (ii) areas to be searched; (iii) expectations upon locating the resident; and (iv) documentation of the event.

5. Procedures for notifying the resident's family, legal representative, designated contact person, and any responsible social agency.

6. Procedures for notifying the regional licensing office as specified in 22VAC40-73-70.

B. The procedures in the plan for resident emergencies required in subsection A of this section shall be reviewed by the facility at least every six months with all staff. Documentation of the review shall be signed and dated by each staff person.

C. At least once every six months, all staff currently on duty on each shift shall participate in an exercise in which the procedures for resident emergencies are practiced. Documentation of each exercise shall be maintained in the facility for at least two years.

D. The plan for resident emergencies shall be readily available to all staff, residents' families, and legal representatives.

VA.R. Doc. No. R27-8639; Filed September 4, 2026, 9:16 a.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (http://www.townhall.virginia.gov) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (http://www.townhall.virginia.gov) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: Work Incentives Specialist Advocate (WISA) Manual.

Public Comment Deadline: November 4, 2026.

Effective Date: November 5, 2026.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 5620 Cox Road, Glen Allen, VA 23060, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

BOARD FOR CONTRACTORS

Title of Document: Guidance on Addressing Potential Unknown Costs Related to Installation of Solar Energy Systems.

Public Comment Deadline: November 4, 2026.

Effective Date: January 1, 2027.

Agency Contact: Joe Haughwout, Regulatory Affairs Manager, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8566, or email joseph.haughwout@dpor.virginia.gov.

STATE BOARD OF EDUCATION

Title of Document: Guidelines for Assessment Requirements for Virginia Licensure.

Public Comment Deadline: November 4, 2026.

Effective Date: November 5, 2026.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: Plan First Manual, Chapter 2.

Public Comment Deadline: November 4, 2026.

Effective Date: November 5, 2026.

Agency Contact: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 300, Richmond, VA 23219, telephone (804) 298-3863, or email syreeta.stewart@dmas.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Robert D. and Angela S. Walk

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Robert D. and Angela S. Walk for violations of State Water Control Law, regulations, and applicable permit at the Walk residence sewage treatment plant located in Stafford, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from October 5, 2026, to November 4, 2026.

Contact Information: Holly Shupe, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virginia.gov.

Proposed Enforcement Action for Titan America LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Titan America LLC for violations of State Water Control Law, regulations, and applicable permit at the Titan MA Aggregates Branchville sand mine and processing plant facility located in Branchville, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from October 5, 2026, to November 4, 2026.

Contact Information: Joseph Heller, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, or email joseph.r.heller@deq.virginia.gov.

Proposed Enforcement Action for Virginia Scrap Corporation

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Virginia Scrap Corporation for violations of State Water Control Law, regulations, and applicable permit at the Virginia Scrap Corporation facility located in Haymarket, Virginia. The proposed order is available from the DEQ contact or at https://www.deq.virginia.gov/news-info/shortcuts/public-notices/enforcement-actions. The DEQ contact will accept written comments from October 5, 2026, to November 4, 2026.

Contact Information: Kristen Sadtler, Enforcement Director, Department of Environmental Quality, Central Office, P.O. Box 1105, Richmond, VA 23218, or email kristen.sadtler@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Opportunity for Review of Eligibility Manual Draft Transmittal

A draft transmittal #DMAS-40, the Virginia Medical Assistance Eligibility Manual, which includes policy clarifications, updates, and revisions, is available at https://www.dmas.virginia.gov/media/r0mmjfhu/tn-dmas-40-draft.pdf.

Contact Information: Syreeta Stewart, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 298-3863, fax (804)786-1680, or email syreeta.stewart@dmas.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at https://commonwealthcalendar.virginia.gov.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at http://register.dls.virginia.gov/documents/cumultab.pdf.

Filing Material for Publication in the *Virginia Register of Regulations:* Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.