



VIRGINIA

REGISTER OF REGULATIONS

VOL. 40 ISS. 21

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

June 3, 2024

TABLE OF CONTENTS

Register Information Page	1775
Publication Schedule and Deadlines	1776
Periodic Reviews and Small Business Impact Reviews	1777
Notices of Intended Regulatory Action	1780
Regulations	1782
2VAC5-317. Regulations for the Enforcement of the Noxious Weeds Law (Final).....	1782
4VAC15-40. Game: In General (Proposed).....	1782
4VAC15-40. Game: In General (Proposed).....	1783
18VAC15-40. Home Inspector Licensing Regulations (Final)	1784
18VAC15-50. Lead-Based Paint Renovation, Repair, and Painting Regulations (Action Withdrawn).....	1788
18VAC41-20. Barbering and Cosmetology Regulations (Final)	1788
24VAC30-121. Comprehensive Roadside Management Program (Proposed)	1794
Guidance Documents	1799
General Notices	1801
Errata	1804

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; Russel W. Perry, Vice Chair; Ward L. Armstrong; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Christopher R. Nolen; Steven Poppo; 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>).

June 2024 through June 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024
40:25	July 10, 2024	July 29, 2024
40:26	July 24, 2024	August 12, 2024
41:1	August 7, 2024	August 26, 2024
41:2	August 21, 2024	September 9, 2024
41:3	September 4, 2024	September 23, 2024
41:4	September 18, 2024	October 7, 2024
41:5	October 2, 2024	October 21, 2024
41:6	October 16, 2024	November 4, 2024
41:7	October 30, 2024	November 18, 2024
41:8	November 13, 2024	December 2, 2024
41:9	November 26, 2024 (Tuesday)	December 16, 2024
41:10	December 11, 2024	December 30, 2024
41:11	December 23, 2024 (Monday)	January 13, 2025
41:12	January 8, 2025	January 27, 2025
41:13	January 22, 2025	February 10, 2025
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and small business impact review: **8VAC20-110, Regulations Governing Pupil Accounting Records; 8VAC20-210, Classifications of Expenditures; 8VAC20-240, Regulations Governing School Activity Funds; 8VAC20-250, Regulations Governing the Testing of Sight and Hearing of Pupils; 8VAC20-290, Regulations Governing School Lunch Sale of Food Items; 8VAC20-490, Regulations Governing School Boards Local; 8VAC20-521, Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours; 8VAC20-720, Regulations Governing Local School Boards and School Divisions; and 8VAC20-730, Regulations Governing the Collection and Reporting of Truancy-Related Data and Student Attendance Policies.** The review of these regulations will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulations should be repealed, amended, or retained in their current form. Public comment is sought on the review of any issue relating to this regulation, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: 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.



TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **22VAC30-40, Protections of Participants in Human Research.** The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Charlotte Arbogast, Senior Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, FAX (804) 662-7663, TDD (800) 464-9950, or email charlotte.arbogast@dars.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **22VAC40-293, Locality Groupings.** The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Periodic Reviews and Small Business Impact Reviews

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Mark Golden, Temporary Assistance for Needy Families Program Manager, Department of Social Services, 5600 Cox Road, Richmond, VA 23060, telephone (804) 726-7385, FAX (804) 726-7357, or email mark.golden@dss.virginia.gov.

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **22VAC40-685, Virginia Energy Assistance Program - Home Energy Assistance Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Denise Surber, Interim Program Manager, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 726-7386, FAX (804) 726-7358, or email denise.t.surber@dss.virginia.gov.

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **22VAC40-780, Eligibility for Direct Social Services**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine

whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Nikki Clarke Callaghan, Legislation, Regulations, and Guidance Manager, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23219, telephone (804) 726-7943, or email nikki.callaghan@dss.virginia.gov.

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and small business impact review: **22VAC40-890, Human Subject Research Regulations**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 3, 2024, and ends June 24, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Gail Jennings, Senior Research Associate, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 726-7490, or email gail.jennings@dss.virginia.gov.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

MOTOR VEHICLE DEALER BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Motor Vehicle Dealer Board conducted a periodic review and a small business impact review of **24VAC22-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated December 21, 2023, to support this decision.

The regulation meets the criteria for effectiveness and is clearly written and easily understandable. On May 13, 2024, the Motor Vehicle Dealer Board voted to retain the current regulation without changes. The board received no complaints or comments regarding the need to repeal or amend this regulation. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. This regulation was last reviewed on January 15, 2020.

Contact Information: William Childress, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100 extension 3002, FAX (804) 367-1053, or email william.childress@mvdv.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Motor Vehicle Dealer Board conducted a periodic review and a small business impact review of **24VAC22-20, Motor Vehicle Dealer Fees**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated January 4, 2024, to support this decision.

The regulation meets the criteria for effectiveness and is clearly written and easily understandable. On May 13, 2024, the Motor Vehicle Dealer Board voted to retain the current regulation without changes. The board received no complaints or comments regarding the need to repeal or amend this regulation. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. This regulation was last amended September 10, 2014. Those amendments included authorizing the board to set most fees up to the limits allowed in the Code of Virginia without the need to adopt regulations. The only fees that were not included in that regulatory action are the registration fees for dealer license plates, which are already spelled out specifically in the Code of Virginia.

Contact Information: William Childress, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100 extension 3002, FAX (804) 367-1053, or email william.childress@mvdv.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Motor Vehicle Dealer Board conducted a periodic review and a small business impact review of **24VAC22-30, Motor Vehicle Dealer Advertising Practices and Enforcement Regulations**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated January 4, 2024, to support this decision.

The regulation meets the criteria for effectiveness and is clearly written and easily understandable. On May 13, 2024, the Motor Vehicle Dealer Board voted to retain the current regulation without change. The board received no complaints or comments regarding the need to repeal or amend this regulation. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulation, and this regulation had a comprehensive review on December 1, 2015.

Contact Information: William Childress, Executive Director, Motor Vehicle Dealer Board, 2201 West Broad Street, Suite 104, Richmond, VA 23220, telephone (804) 367-1100 extension 3002, FAX (804) 367-1053, or email william.childress@mvdv.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Commonwealth Transportation Board conducted a periodic review and a small business impact review on **24VAC30-121, Comprehensive Roadside Management Program**. The Notice of Intended Regulatory Action, which is published in this issue of the Virginia Register, serves as the report of findings for the reviews.

Contact Information: Jo Anne Maxwell, Director, Governance and Legislative Affairs, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, or email joanne.maxwell@vdot.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 4. CONSERVATION AND NATURAL RESOURCES

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending **4VAC50-20, Impounding Structure Regulations**. The purpose of the proposed action is to amend the regulation following a periodic review. Specifically, the board is considering amendments related to (i) roadways on or below an impounding structure for hazard potential classifications, (ii) the incremental damage analysis process, (iii) the potential expansion of special criteria low hazard dams, and (iv) simplifying the emergency preparedness plan requirements.

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

Statutory Authority: § 10.1-605 of the Code of Virginia.

Public Comment Deadline: July 3, 2024.

Agency Contact: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, FAX (804) 786-6141, or email lisa.mcgee@dcr.virginia.gov.

VA.R. Doc. No. R24-7875; Filed May 15, 2024, 9:18 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending **18VAC10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**. The purpose of the proposed action is to undertake a general review of the regulation in accordance with the regulatory reduction goal of Executive Directive Number One (2022). The regulation provides for the licensure of architects, professional engineers,

land surveyors, and landscape architects; certification of interior designers; and registration of business entities offering or rendering related professional services in Virginia. The goals of the action include (i) reviewing discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare or are not necessary to effectively administer the licensure program; (ii) ensuring the regulation conforms to current Virginia law and meets applicable federal requirements, is organized, clear, and understandable, and provides minimal burdens on regulants while still protecting the public; and (iii) ensuring the regulation reflects current Department of Professional and Occupational Regulation procedures and policies, along with any other changes determined to be necessary and appropriate.

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

Statutory Authority: §§ 54.1-201 and 54.1-404 of the Code of Virginia.

Public Comment Deadline: July 3, 2024.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email apelscidla@dpor.virginia.gov.

VA.R. Doc. No. R24-7640; Filed May 15, 2024, 8:54 a.m.

CEMETERY BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Cemetery Board intends to consider amending **18VAC47-20, Cemetery Board Rules and Regulations**. The purpose of the proposed action is to undertake a general review of the regulation in accordance with the regulatory reduction goal of Executive Directive Number One (2022). The regulation provides for the licensure of cemetery companies and registration of sales personnel. The goals of the action include (i) reviewing discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare or are not necessary to effectively administer the licensure program; (ii) ensuring the regulation conforms to current Virginia law and meets applicable federal requirements, is organized, clear, and understandable, and provides minimal burdens on regulants while still protecting the public; and (iii) ensuring the regulation reflects current Department of Professional and Occupational Regulation procedures and policies, along with any other changes determined to be necessary and appropriate.

Notices of Intended Regulatory Action

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

Statutory Authority: §§ 54.1-201 and 54.1-2313 of the Code of Virginia.

Public Comment Deadline: July 3, 2024.

Agency Contact: Anika Coleman, Executive Director, Cemetery Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 826-8863, or email cemetery@dpor.virginia.gov.

VA.R. Doc. No. R24-7843; Filed May 15, 2024, 8:39 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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 Professional and Occupational Regulation (DPOR) intends to consider repealing **18VAC120-40, Professional Boxing and Wrestling Event Regulations**, and promulgating **18VAC120-41, Boxing Event Regulations; 18VAC120-44, Martial Arts Events Regulations; and 18VAC120-47, Wrestling Events Regulations**. 18VAC120-40 provides for the licensure of boxing, martial arts, and wrestling events, including promoters, matchmakers, boxers, martial artists, wrestlers, managers, trainers, and corners. The purpose of the proposed action is to divide the provisions of 18VAC120-40 into three new regulations: Boxing Event Regulations (18VAC120-41), Martial Arts Events Regulations (18VAC120-44), and Wrestling Events Regulations (18VAC120-47) in accordance with the regulatory reduction goal of Executive Directive Number One (2022). The goals of the action include (i) reviewing discretionary requirements imposed on regulated parties to determine whether such requirements impose burdens that are not necessary to protect the public health, safety, and welfare or are not necessary to effectively administer the licensure programs; (ii) ensuring the regulations conform to current Virginia law and meet applicable federal requirements, are organized, clear, and understandable, and provide minimal burdens on regulants while still protecting the public; and (iii) ensuring the regulations reflect current DPOR procedures and policies, along with any other changes determined to be necessary and appropriate.

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

Statutory Authority: § 54.1-831 of the Code of Virginia.

Public Comment Deadline: July 3, 2024.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email boxing@dpor.virginia.gov.

VA.R. Doc. No. R24-7839; Filed May 15, 2024, 8:52 a.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

Title of Regulation: **2VAC5-317. Regulations for the Enforcement of the Noxious Weeds Law (amending 2VAC5-317-20).**

Statutory Authority: § 3.2-802 of the Code of Virginia.

Effective Date: July 4, 2024.

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, or email david.gianino@vdacs.virginia.gov.

Summary:

The amendments add 12 plant species to the current noxious weeds list - one to the list of Tier 2 noxious weeds and 11 to the list of Tier 3 noxious weeds.

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.

2VAC5-317-20. Tier 1, Tier 2, and Tier 3 noxious weeds.

A. The following plants are hereby declared Tier 1 noxious weeds:

1. *Salvinia molesta*, Giant salvinia.
2. *Solanum viarum*, Tropical soda apple.
3. *Heracleum mantegazzianum*, Giant hogweed.

B. The following plants are hereby declared Tier 2 noxious weeds:

1. *Imperata cylindrica*, Cogon grass.
2. *Lythrum salicaria*, Purple loosestrife.
3. *Ipomoea aquatica*, Water spinach.
4. *Vitex rotundifolia*, Beach vitex.
5. *Oplismenus hirtellus* spp. *undulatifolius*, Wavyleaf basketgrass.
6. *Corydalis incisa*, Incised fumewort.

7. *Trapa bispinosa*, Two-horned trapa.

C. The following plants are hereby declared Tier 3 noxious weeds:

1. *Ailanthus altissima*, Tree of heaven.
2. *Ampelopsis brevipedunculata*, Porcelain berry.
3. *Celastrus orbiculatus*, Oriental bittersweet.
4. *Hydrilla verticillata*, Hydrilla.
5. *Persicaria perfoliata*, Mile-a-minute weed.
6. *Alliaria petiolata*, Garlic mustard.
7. *Dioscorea polystachya*, Chinese yam.
8. *Elaeagnus umbellata*, Autumn olive.
9. *Ficaria verna*, Lesser celandine.
10. *Lespedeza bicolor*, Bicolor lespedeza.
11. *Lonicera maackii*, Amur honeysuckle.
12. *Lonicera japonica*, Japanese honeysuckle.
13. *Phragmites australis*, Common reed.
14. *Pueraria montana*, Kudzu.
15. *Reynoutria japonica*, Japanese knotweed.
16. *Ulmus pumila*, Siberian elm.

VA.R. Doc. No. R21-6889; Filed May 15, 2024, 9:27 a.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-40. Game: In General (adding 4VAC15-40-310).**

Statutory Authority: §§ 29.1-103 and 29.1-501 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 5, 2024.

Agency Contact: Aaron Proctor, Policy Planning Specialist II, Department of Wildlife Resources, 7870 Villa Park Drive, Villa Park 3, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Background: Global positioning system (GPS) is the current best technology for hunters to track hunting dogs and is in widespread use. GPS aids in dog recovery by showing the location of the dog and tracking the dog's movement patterns, which assists in predicting where the dog may be going, to help facilitate recovery at opportune places and reduce hunting hound conflicts with private landowners. GPS tracking also allows a hunter, should the hunter desire, to show where hunting dogs have been over the course of a hunt.

Summary:

The proposed amendments require that deer and bear hunters use GPS tracking with basic capabilities on any dog actively engaged in a hunt.

4VAC15-40-310. Global positioning system tracking collars for bear and deer hunting with dogs.

A. Any dog not under physical restraint that is being used to hunt bear or deer shall have a fully functional global positioning system (GPS) tracking device affixed to it.

B. Tracking is required from the casting of the dog until recovery. Tracking may be suspended where signal is lost but shall resume when signal is reacquired.

VA.R. Doc. No. R24-7844; Filed May 15, 2024, 10:19 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: **4VAC15-40. Game: In General (adding 4VAC15-40-320).**

Statutory Authority: §§ 29.1-103 and 29.1-501 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 5, 2024.

Agency Contact: Aaron Proctor, Policy Planning Specialist II, Department of Wildlife Resources, 7870 Villa Park Drive, Villa Park 3, Suite 400, Henrico, VA 23228, telephone (804) 801-8199, or email aaron.proctor@dwr.virginia.gov.

Background: Frequent and repeated instances of unwanted dog presence on private land are at the source of many complaints, as opposed to isolated instances. Department of Wildlife

Resources (DWR), Law Division receives complaints and requests for service related to hunting with dogs throughout the hunting seasons. During the past year, 2,002 of 6,128 calls for service for hunting complaints mentioned dogs. By far, the most common complaint received is hunting dogs being present on private land without landowner permission. Section 18.2-132.1 of the Code of Virginia addresses the intentional release of dogs on posted lands without permission but does not reach other situations that are the root of more common complaints. Current law and regulation largely do not provide recourse for repeat and unwanted presence of dogs, leaving landowners without law enforcement recourse in most situations where assistance is requested. DWR's Hunting Hounds-Private Landowner Stakeholder Advisory Committee (SAC) recommends a complaint or notice-driven process to (i) avoid creating new requirements for unproblematic situations, (ii) allow both hunter and law enforcement efforts to be concentrated on avoiding or resolving potential conflict situations, and (iii) address repetitive cases rather than single or isolated incidents that may not recur or that may be informally resolved. Rather than a trespass approach, the proposal focuses on the efforts made by the hunter in an iterative fashion.

Summary:

The proposed amendments require hunters using dogs to hunt deer or bear to make reasonable efforts to prevent the dogs from entering a landowner's property and provide examples of reasonable efforts, when reasonable efforts may be discontinued, and when reasonable efforts are unnecessary.

4VAC15-40-320. Reasonable efforts for deer and bear hunting with dogs.

A. A deer or bear hunter using dogs shall make reasonable efforts to prevent the hunter's dogs from entering a landowner's property after receiving notification that the hunter's hunting dogs are not desired on the landowner's property. The notification may be made by either (i) individual communication from the landowner or the landowner's agent or (ii) a conservation police officer, following receipt of a valid complaint that the hunter's dogs have been present on the landowner's property without permission.

B. The hunter shall determine the type and number of efforts to be implemented on a site-specific basis. The efforts selected, whether individually or in combination, shall be reasonably expected to be effective in preventing the hunter's dogs from entering the landowner's property. The efforts may include considerations such as (i) the number and breed of dogs cast; (ii) casting locations; (iii) timing of hunts; (iv) stander and handler locations and actions; (v) retrieval efforts; (vi) use of tracking or correction technology; (vii) if desired by the landowner, landowner notification; (viii) the development of a written plan for the hunt; or (ix) other considerations

Regulations

appropriate to the circumstances. Efforts shall be amended if initially unsuccessful.

C. The hunter may discontinue efforts undertaken to comply with subsection B of this section if the landowner grants written permission for the hunter's dogs to be present on the landowner's property.

D. Notwithstanding the requirement that reasonable efforts be made at all times following notification, presence of the hunter's deer or bear hunting dogs on the landowner's property without permission on two or more occasions within any 12-month period following receipt of the initial notification shall create a rebuttable presumption that reasonable efforts have not been undertaken.

VA.R. Doc. No. R24-7845; Filed May 15, 2024, 10:22 a.m.

◆ ————— ◆

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Final Regulation

Title of Regulation: **18VAC15-40. Home Inspector Licensing Regulations (amending 18VAC15-40-10, 18VAC15-40-120, 18VAC15-40-130).**

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: August 1, 2024.

Agency Contact: Cameron Parris, Administrator, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-9183, FAX (866) 350-5354, or email cameron.parris@dpor.virginia.gov.

Summary:

Pursuant to Chapter 398 of the 2022 Acts of Assembly, the amendments (i) add a definition for "good working order," (ii) require that a home inspection report include a determination of whether readily accessible smoke alarms are in good working order, and (iii) prohibit a home inspector from excluding the inspection and assessment of smoke alarms from the home inspection contract.

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.

18VAC15-40-10. Definitions.

A. Section 54.1-500 of the Code of Virginia provides definitions of the following terms and phrases as used in this

chapter:

"Board"

"Home inspection"

"Home inspector"

"Person"

"Residential building"

B. Section 54.1-517.2:1 of the Code of Virginia provides definitions of the following terms and phrases as used in 18VAC15-40-130:

"Bonding"

"Corrugated stainless steel tubing"

"Grounding"

C. The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Address of record" means the mailing address designated by the licensee to receive notices and correspondence from the board.

"Adjacent" means adjoining or within three feet of the residential building and that may affect the residential building.

"Applicant" means an individual who has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Client" means a person who engages the services of a home inspector for a home inspection.

"Compensation" means the receipt of monetary payment or other valuable consideration for services rendered.

"Component" means a part of a system.

"Contact hour" means 50 minutes of participation in a structured training activity.

"CPE" means continuing professional education.

"Department" means the Department of Professional and Occupational Regulation.

"Financial interest" means financial benefit accruing to an individual or to a member of ~~his~~ an individual's immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds or may be reasonably anticipated to exceed \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, forgiveness of debt, or benefits from the use of property, or any combination of it, paid or provided by a business that exceeds or may be reasonably

expected to exceed \$1,000 annually; (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits, or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds 3.0% of the asset value of the business; or (vi) an option for ownership of a business, real property, or personal property if the ownership interest will consist of clause (i) or (iv) of this definition.

"Fireplace" means an interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented.

"Foundation" means the element of a structure that connects to the ground and transfers loads from the structure to the ground. Foundations may be shallow or deep.

"Good working order" means, with respect to a smoke alarm inspected during a home inspection, that the smoke alarm is securely attached, not physically damaged, and operation of the test function is successful.

"Licensee" means a home inspector as defined in Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without such license.

"New residential structure" or "NRS" means a residential structure for which the first conveyance of record title to a purchaser has not occurred or the purchaser has not taken possession, whichever occurs later.

"NRS specialty" means a designation granted by the board to a home inspector that authorizes such individual to conduct home inspections on any new residential structure.

"Outbuilding" means any structure on the property that is more than three feet from the residential building and that may affect the residential building.

"Prelicense education course" means an instruction program approved by the board and is one of the requirements for licensure effective July 1, 2017.

"Readily accessible" means available for access without requiring moving or removing of any obstacles.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the licensee having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Residential structure" means a structure consisting of no more than two dwelling units or a townhouse.

"Smoke alarm" means (i) a single station or multiple station alarm responsive to smoke; or (ii) a "smoke detector" as used in Chapter 398 of the 2022 Acts of Assembly.

"Solid fuel burning appliances" means a hearth and fire chamber or similarly prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney, and related factory-made parts designed for unit assembly without requiring field construction.

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Virginia Residential Code" means the provisions of the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63) applicable to R-5 residential structures and that includes provisions of the International Residential Code as amended by the Board of Housing and Community Development.

18VAC15-40-120. Home inspection contract.

A. For the protection of both the client and the licensee, both parties shall sign a legible, written contract clearly specifying the terms, conditions, and limitations and exclusions of the work to be performed.

B. At a minimum, the written contract shall include:

1. Name, business name (if applicable), business address, and telephone number of the home inspector.
2. License number of the home inspector, and notation of NRS specialty, if applicable.
3. Name of the clients.
4. Physical address of the residential property to be inspected.
5. Cost of the home inspection.
6. A listing of all areas and systems to be inspected, including those inspections that are either partial or limited in scope.
7. A statement in the contract that the home inspection does not include a review for compliance with regulatory requirements (Virginia Uniform Statewide Building Code or other codes, regulations, laws, ordinances, etc.).
8. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions in the inspection contract:
 - a. The condition of systems or components that are not readily accessible.
 - b. The remaining life of any system or component.
 - c. The strength, adequacy, effectiveness, or efficiency of any system or component.

Regulations

- d. The causes of any condition or deficiency.
- e. The methods, materials, or costs of corrections.
- f. Future conditions, including failure of systems and components.
- g. The suitability of the property for any specialized use.
- h. The market value of the property or its marketability.
- i. The advisability of the purchase of the property.
- j. The presence of diseases harmful to humans or potentially hazardous plants or animals, including wood destroying organisms and mold.
- k. The presence of any environmental hazards, including toxins, carcinogens, noise, asbestos, lead-based paint, mold, radon, and contaminants in soil, water, and air.
- l. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.
- m. The operating costs of systems or components.
- n. The acoustical properties of any system or component.
- o. The presence of components involved in manufacturer's recalls.
- p. The inspection of outbuildings.

To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the home inspection contract.

9. Estimated delivery date to the client of the home inspection report.

10. Dated signatures of both the home inspector and the client or the client's authorized representative.

C. The home inspection contract shall make written disclosure that the home inspection report is based upon visual observation of existing conditions of the inspected property at the time of the inspection and is not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance. This provision does not prevent a home inspector from offering a separate guarantee, warranty, or any form of insurance if he so chooses.

D. The requirements of 18VAC15-40-130 D regarding smoke alarms will not be excluded from the home inspection contract.

E. If the home inspector recommends a person to the client for repairs or modifications to the inspected property, the home inspector shall disclose to the client all financial interests that the home inspector has with the recommended person. The disclosure shall be written within the home inspection contract.

18VAC15-40-130. Home inspection report.

A. Home inspection reports shall contain:

- 1. Information pertaining to the licensee, including:
 - a. Licensee's name;

- b. Business address;
 - c. Telephone number; and
 - d. License number and expiration date, to be followed by "NRS" if so designated and performing a home inspection on a new residential structure;
- 2. The name, address, and telephone number of the client or the client's authorized representative, if available at the time of the inspection;
 - 3. The physical address of the residential property inspected; and
 - 4. The date, time (to include both start and finish times of the home inspection), and weather conditions at the time of the home inspection.

B. In conducting a home inspection and reporting its findings, the home inspector, at a minimum, shall inspect the condition of and shall describe in writing the composition or characteristics of the following readily accessible components and readily observable defects, except as may be limited in the home inspection contract agreement:

- 1. Structural system.
 - a. Foundation.
 - b. Framing.
 - c. Stairs.
 - d. Crawl space; the method of inspecting the crawl space shall be noted and explained in the home inspection report. If the crawl space cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
 - e. Crawl space ventilation and vapor barriers.
 - f. Slab floor, when present.
 - g. Floors, ceilings, and walls.
- 2. Roof structure, attic, and insulation.
 - a. Roof covering. The method of inspecting the roof covering shall be noted and explained in the home inspection report. If the roof covering cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.
 - b. Roof ventilation.
 - c. Roof drainage system, to include gutters and downspouts.
 - d. Roof flashings, if readily visible.
 - e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.
 - f. Roof framing and sheathing.
 - g. Attic, unless area is not readily accessible.
 - h. Attic insulation.
- 3. Exterior of residential building or NRS.

- a. Wall covering, flashing, and trim.
 - b. Readily accessible doors and windows, but not the operation of associated security locks, devices, or systems.
 - c. Decks, balconies, stoops, steps, porches, attached garages, carports, and any associated railings that are adjacent to the residential building or NRS and on the same property but not associated screening, shutters, awnings, storm windows, detached garages, or storm doors.
 - d. Eaves, soffits, and fascias where readily accessible from ground level.
 - e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.
 - f. Vegetation, trees, grading, drainage, and any retaining walls adjacent to the residential building or NRS.
 - g. Visible exterior portions of chimneys.
4. Interior of residential building or NRS.
- a. Interior walls, ceilings, and floors of residential building or NRS and any adjacent garage.
 - b. Steps, stairways, railings, and balconies and associated railings.
 - c. Countertops and installed cabinets, including hardware.
 - d. Doors and windows, but not the operation of associated security locks, devices, or systems.
 - e. Garage doors and permanently mounted and installed garage door operators. The automatic safety reverse function of garage door openers shall be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when the test can be safely performed and will not risk damage to the door, the opener, any nearby structure, or any stored items.
 - f. Fireplaces, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals, and gaskets.
 - g. Solid fuel burning appliances, if applicable.
5. Plumbing system.
- a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
 - b. Water drainage, waste, and vent systems, including all fixtures.
 - c. Drainage sumps, sump pumps, and related piping.
 - d. Water heating equipment, including energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
 - e. Fuel storage and distribution systems for visible leaks.
6. Electrical system.
- a. Service drop.
 - b. Service entrance conductors, cables, and raceways.
 - c. Service equipment and main disconnects.
 - d. Service grounding.
 - e. Interior components of service panels and sub panels, including feeders.
 - f. Conductors.
 - g. Overcurrent protection devices.
 - h. Readily accessible installed lighting fixtures, switches, and receptacles.
 - i. Ground fault circuit interrupters.
 - j. Presence or absence of smoke ~~detectors~~ alarms.
 - k. Presence of solid conductor aluminum branch circuit wiring.
 - l. Arc fault interrupters shall be noted if installed but not tested if equipment is attached to them.
7. Heating system.
- a. Heating equipment, including operating controls, but not heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.
 - b. Energy source.
 - c. Heating distribution system.
 - d. Vent systems, flues, and chimneys, including dampers.
8. Air conditioning system.
- a. Central and installed wall air conditioning equipment.
 - b. Operating controls, access panels, and covers.
 - c. Energy source.
 - d. Cooling distribution system.
- C. Systems in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The home inspector shall state, in writing, the reason these systems or components were not inspected.
- D. For any smoke alarms that are readily accessible in the residential building or NRS, the home inspection report must include a determination of whether the smoke alarms are in good working order as defined in 18VAC15-40-10.
1. A home inspector is not required to operate the test function of a smoke alarm if the smoke alarm is part of a central alarm system or security system in which such testing will automatically alert a fire department or other authority. To the extent the home inspector is unable to determine whether testing will cause an automatic alert, the home

Regulations

inspector is not required to operate the test function of the smoke alarm.

2. If a smoke alarm is not readily accessible or there are any limitations in determining whether it is in good working order, the home inspection report must state that it is not readily accessible or describe such limitations, as applicable.

3. The home inspection report must include the substance of the following: It is recommended that a home have smoke alarms on each level of the dwelling and in every bedroom or sleeping area. Clients should replace any existing smoke alarms that are not in good working order with new ones and install smoke alarms where they may be missing or not properly located. Any test of a smoke alarm during a home inspection only reflects its condition at the time of inspection and is not a guarantee, warranty, or any form of insurance. A test performed during the home inspection does not supersede the smoke alarm manufacturer's testing recommendations. Clients should follow the manufacturer's instructions for proper placement, installation, and maintenance.

E. In accordance with § 54.1-517.2:1 of the Code of Virginia, if a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia Construction Code, effective May 1, 2008, the home inspector shall include that observation in the report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."

VA.R. Doc. No. R23-7350; Filed May 15, 2024, 9:00 a.m.

Action Withdrawn

Title of Regulation: **18VAC15-50. Lead-Based Paint Renovation, Repair, and Painting Regulations (adding 18VAC15-50-10 through 18VAC15-50-460).**

Statutory Authority: § 54.1-501 of the Code of Virginia.

The Virginia Board for Asbestos, Lead, and Home Inspectors has WITHDRAWN the regulatory action for 18VAC15-50, Lead-Based Paint Renovation, Repair, and Painting Regulations, which was published as a Revised Proposed Regulation in **37:20 VA.R. 3268-3295 May 24, 2021**. The purpose of the proposed action was to establish (i) a regulatory program for the licensure of renovators, dust sampling technicians, and renovation contractor firms; (ii) requirements for the approval of accredited renovator and dust sampling technician training programs; and (iii) standards of conduct and work practices that are consistent with the U.S. Environmental Protection Agency (EPA) Lead Renovation, Repair, and Painting Program final rule pursuant to Chapter 819 of the 2009 Acts of Assembly in order to assume control

of the federal regulatory program outlined in the EPA regulation at 40 CFR 745(q). The action was withdrawn by the board on May 9, 2024, in response to Chapters 93 and 94 of the 2024 Acts of Assembly, which removed such programs from the board's regulatory authority.

Agency Contact: Cameron Parris, Administrator, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-9183, FAX (866) 350-5354, or email cameron.parris@dpor.virginia.gov.

VA.R. Doc. No. R10-2367; Filed May 14, 2024, 4:36 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

Final Regulation

Title of Regulation: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-200, 18VAC41-20-210, 18VAC41-20-220).**

Statutory Authority: § 54.1-201 of the Code of Virginia.

Effective Date: September 1, 2024.

Agency Contact: Kelley Smith, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Summary:

The amendments (i) lower the training hours for the cosmetology license to a minimum of 1,000 hours and (ii) add topics and performances required to align the regulation with the cosmetology scope of practice in the Code of Virginia, assigning hour minimums to each topic listed in the curriculum. Changes to the proposed regulation include (i) correcting typographical errors, (ii) correcting miscalculations regarding the number of required performances of sculptured nails, and (iii) clarifying and streamlining language to bring the regulation in line with the statutory scope of practice for cosmetology and the reduced minimum hours requirement.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC41-20-200. General requirements.

A barber, cosmetology, nail, or waxing school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.
3. Employ a staff of and ensure all training is conducted by licensed and certified barber, master barber, cosmetology, nail technician, or wax technician instructors, respectively.
 - a. Licensed and certified cosmetology instructors may also instruct in nail and waxing programs.

- b. Licensed and certified esthetics instructors and master esthetics instructors may also instruct in waxing programs.
- 4. Develop individuals for entry level competency in barbering, master barbering, cosmetology, nail care, or waxing.
- 5. Submit its curricula for board approval. All changes to curricula must be resubmitted and approved by the board.
 - a. Barber curricula shall be based on a minimum of 1,100 clock hours and shall include performances in accordance with 18VAC41-20-220.
 - b. Master barber curricula shall be based on a minimum of 400 clock hours and shall include performances in accordance with 18VAC41-20-220.
 - c. Dual barber/master barber program curricula shall be based on a minimum of 1,500 clock hours and shall include performances in accordance with 18VAC41-20-220.
 - d. Cosmetology curricula shall be based on a minimum of ~~1,500~~ 1,000 clock hours and shall include performances in accordance with 18VAC41-20-220.
 - e. Nail technician curricula shall be based on a minimum of 150 clock hours and shall include performances in accordance with 18VAC41-20-220.
 - f. Wax technician curricula shall be based on a minimum of 115 clock hours and shall include performances in accordance with 18VAC41-20-220.
- 6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the shop or salon in plain view of the public.
- 7. Conduct classroom instruction in an area separate from the clinic area where practical instruction is conducted and services are provided.
- 8. Possess the necessary equipment and implements to teach the respective curriculum. If any such equipment or implement is not owned by the school, then a copy of all agreements associated with the use of such property by the school shall be provided to the board.

18VAC41-20-210. Curriculum requirements.

A. Each barber school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for barbering shall include the following:

- 1. School policies;
- 2. State law, regulations, and professional ethics;
- 3. Business and shop management;

- 4. Client consultation;
- 5. Personal hygiene;
- 6. Cutting the hair with a razor, clippers, and shears;
- 7. Tapering the hair;
- 8. Thinning the hair;
- 9. Shampooing the hair;
- 10. Shaving;
- 11. Trimming a moustache or beard;
- 12. Applying hair color;
- 13. Analyzing skin or scalp conditions;
- 14. Giving scalp treatments;
- 15. Giving basic facial massage or treatment;
- 16. Sanitizing and maintaining implements and equipment; and
- 17. Honing and stropping a razor.

B. Each barber school seeking to add a master barber program shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for master barbering shall include the following:

- 1. Styling the hair with a hand hair dryer;
- 2. Thermal waving;
- 3. Permanent waving with chemicals;
- 4. Relaxing the hair;
- 5. Lightening or toning the hair;
- 6. Hairpieces and wigs; and
- 7. Waxing limited to the scalp.

C. Each school seeking to add a dual barber/master barber program shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for dual barber/master barber program shall include the following:

- 1. School policies;
- 2. State law, regulations, and professional ethics;
- 3. Business and shop management;
- 4. Client consultation;
- 5. Personal hygiene;

Regulations

6. Cutting the hair with a razor, clippers, and shears;
7. Tapering the hair;
8. Thinning the hair;
9. Shampooing the hair;
10. Styling the hair with a hand hair dryer;
11. Thermal waving;
12. Permanent waving with chemicals;
13. Relaxing the hair;
14. Shaving;
15. Trimming a moustache or beard;
16. Applying hair color;
17. Lightening or toning the hair;
18. Analyzing skin or scalp conditions;
19. Giving scalp treatments;
20. Waxing limited to the scalp;
21. Giving basic facial massage or treatment;
22. Hair pieces;
23. Sanitizing and maintaining implements and equipment; and
24. Honing and stropping a razor.

D. Each cosmetology school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for cosmetology shall include the following:

1. Orientation and business topics - minimum of 45 hours of instruction:
 - a. School policies;
 - b. ~~State law, regulations, and professional ethics~~ Management;
 - c. ~~Personal hygiene; and~~ Sales, inventory, and retailing;
 - d. ~~Bacteriology, sterilization, and sanitation.~~ Taxes and payroll;
 - e. Insurance;
 - f. Client records and confidentiality; and
 - g. Professional ethics and practices.
2. Manicuring and pedicuring: a. Anatomy and physiology; b. Diseases and disorders; c. Procedures to include both

~~natural and artificial application; and d. Sterilization~~ Laws and regulations - minimum of 10 hours of instruction.

3. ~~Shampooing and rinsing~~ General sciences - minimum of 55 hours of instruction:

- a. ~~Fundamentals; Principles and practices of infection control;~~
- b. ~~Safety rules; [Material] Safety Data Sheet [(MSDS) (SDS)]; and~~
- c. ~~Procedures; and d. Chemistry, anatomy, and physiology~~ Chemical usage and safety.

4. ~~Scalp treatments:~~ a. Analysis; b. Disorders and diseases; e. ~~Manipulations; and d. Treatments.~~ Applied sciences - minimum of 40 hours of instruction: Anatomy, physiology, and histology.

5. ~~Hair styling:~~ Shampooing, rinsing, and scalp treatments for all hair types, including textured hair - minimum of 25 hours of instruction:

- a. ~~Anatomy and facial shapes; Client consultation and analysis; and~~
- b. ~~Finger waving, molding, and pin curling; c. Roller curling, combing, and brushing; and d. Heat curling, waving, and pressing~~ Procedures, manipulations, and treatments.

6. ~~Hair cutting~~ Hair styling for all hair types, including textured hair - minimum of 65 hours [of instruction]:

- a. ~~Anatomy and physiology~~ Fingerwaving, molding, and pin curling;
- b. ~~Fundamentals, materials, and equipment; Roller curling, combing, and brushing; and~~
- c. ~~Procedures; and d. Safety practices~~ Heat curling, waving, and pressing.

7. ~~Permanent waving-chemical relaxing;~~ Hair cutting for all hair types, including textured hair - minimum of 125 hours [of instruction]:

- a. ~~Analysis;~~ Fundamentals, materials, and equipment; and
- b. ~~Supplies and equipment; c. Procedures and practical application; d. Chemistry; e. Recordkeeping; and f. Safety~~ Procedures.

8. ~~Hair coloring and bleaching;~~ Permanent waving and chemical relaxing for all hair types, including textured hair - minimum of 115 hours [of instruction]:

- a. ~~Analysis and basic color theory;~~ Chemistry;
- b. Supplies and equipment; and
- c. Procedures and practical application [;] d. ~~Chemistry and classifications; e. Recordkeeping; and f. Safety.~~

9. ~~Skin care and make-up;~~ Hair coloring and bleaching for all hair types, including textured hair - minimum of 160 hours [of instruction]:

- a. ~~Analysis~~; Basic color theory;
 - b. ~~Anatomy~~; Supplies and equipment; and
 - c. ~~Health, safety, and sanitary rules~~; d. ~~Procedures~~; e. ~~Chemistry and light therapy~~; f. ~~Temporary removal of hair~~; and g. ~~Lash and brow tinting~~ Procedures and practical application.
10. Wigs, hair pieces, and related theory - minimum of 15 hours [of instruction]:
- a. ~~Sanitation and sterilization~~;
 - b. ~~a~~. Types; and
 - e. ~~b~~. Procedures.
11. ~~Salon management~~: a. ~~Business ethics~~; and b. ~~Care of equipment~~ Straight razor use and shaving - minimum of 20 hours [of instruction].
12. Manicuring and pedicuring - minimum of 75 hours [of instruction]:
- a. Nail theory, nail structure, and composition;
 - b. Nail procedures, including manicuring, pedicuring, and nail extensions; and
 - c. Electric filing.
13. Skin care - minimum of 160 hours of instruction:
- a. Client skin analysis and consultation;
 - b. Effleurage and related movements and manipulations of the face and body;
 - c. [~~Cleansings~~ Cleansing] procedures;
 - d. Masks;
 - e. Extraction techniques;
 - f. Machines, equipment, and electricity;
 - g. Manual facials and treatments;
 - h. Machine, electrical facials, and treatments; and
 - i. General procedures and safety measures.
14. Makeup - minimum of 35 hours of instruction:
- a. Setup, supplies, and implements;
 - b. Color theory;
 - c. Consultation;
 - d. General and special occasion application;
 - e. Camouflage;
 - f. Application of false lashes and lash extensions;
 - g. Lash [and] tinting;
 - h. Lash perming;
 - i. [~~Lighting~~ Lightening] of the hair on the body except scalp; and
 - j. General procedures and safety measures.
15. Body and other treatments - minimum of 20 hours of instruction:

- a. Body treatments;
 - b. Aromatherapy; and
 - c. General procedures and safety measures.
16. Hair removal - minimum of 35 hours of instruction:
- a. Client consultation and analysis;
 - b. Waxing;
 - c. Mechanical hair removal;
 - d. Tweezing and threading; and
 - e. Chemical hair removal.
- E. Each nail school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for nail care shall include the following:
1. Orientation:
 - a. School policies; and
 - b. State law, regulations, and professional ethics;
 2. Sterilization, sanitation, bacteriology, and safety;
 3. Anatomy and physiology;
 4. Diseases and disorders of the nail;
 5. Nail procedures (i.e., manicuring, pedicuring, and nail extensions); and
 6. Nail theory and nail structure and composition.
- F. Each waxing school shall submit with its application a curriculum, including a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for waxing shall include the following:
1. Orientation:
 - a. School policies;
 - b. State law, regulations, and professional ethics; and
 - c. Personal hygiene.
 2. Skin care and treatment:
 - a. Analysis;
 - b. Anatomy and physiology;
 - c. Diseases and disorders of the skin;
 - d. Health sterilization, sanitation, bacteriology, and safety, including infectious disease control measures; and
 - e. Temporary removal of hair.
 3. Skin theory, skin structure, and composition.
 4. Client consultation:
 - a. Health conditions;

Regulations

- b. Skin analysis;
 - c. Treatments;
 - d. Client expectations; and
 - e. Health forms and questionnaires.
5. Waxing procedures for brow, lip, facial, legs, arms, underarm, chest, back, and bikini areas:
- a. Fundamentals;
 - b. Safety rules; and
 - c. Procedures.
6. Wax treatments:
- a. Analysis;
 - b. Disorders and diseases;
 - c. Manipulations; and
 - d. Treatments.
7. Salon management:
- a. Business ethics; and
 - b. Care of equipment.

G. A licensed school with an approved barber, master barber, dual barber/master barber, cosmetology, nail technician, or wax technician program may conduct an assessment of a student's competence in the respective profession and, based on the assessment, give credit toward the hours requirements specified in the respective subsection of this section and 18VAC41-20-220.

The school shall make the assessment based on a review of the student's transcript and the successful completion of a board-approved competency examination administered by the school. The school may also request a copy of a catalog or bulletin giving the full course description when making the evaluation. The number of credit hours awarded shall not exceed the actual hours of instruction verified on the transcript or the number of hours specified in the board-approved curriculum for a specific topic.

18VAC41-20-220. Hours of instruction and performances.

A. Curriculum and performance requirements shall be offered over a minimum of 1,100 clock hours for barbering, 400 clock hours for master barbering, 1,500 clock hours for dual barber/master barber program and 1,000 hours for cosmetology, 150 clock hours for nail care, and 115 clock hours for waxing.

B. The curriculum requirements for barbering must include the following minimum performances:

Hair and scalp treatments	10
Hair services	320
Hair coloring (including tinting, temporary rinses, and semi-permanent color)	35
Basic facials	5
TOTAL	370

C. The curriculum requirements for master barbering must include the following minimum performances:

Bleaching and frosting	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
TOTAL	120

D. The curriculum requirements for dual barber/master barber program must include the following minimum performances:

Hair and scalp treatments	10
Hair styling services	320
Bleaching and frosting	10
Hair coloring (including tinting, temporary rinses, and semi-permanent color)	35
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Basic facials and waxings	5
TOTAL	490

E. The curriculum requirements for cosmetology must include the following minimum performances:

Hair and scalp treatments	10
Hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5

Finger waving and thermal waving	30
Manicures and pedicures	15
Basic facials and waxings	5
Sculptured nails, nail tips, and wraps	20
TOTAL	525
<u>Shampooing, rinsing, and scalp treatments, for all hair types, including textured hair</u>	<u>20</u>
<u>Hair styling, for all hair types, including textured hair</u>	<u>60</u>
<u>Hair cutting, for all hair types, including textured hair</u>	<u>60</u>
<u>Permanent waving-chemical relaxing, for all hair types, including textured hair</u>	<u>60</u>
<u>Hair coloring and bleaching, for all hair types, including textured hair</u>	<u>50</u>
<u>Wigs, hair pieces, and related theory</u>	<u>5</u>
<u>Straight razor shaving on face and neck</u>	<u>12</u>
<u>Manicuring and pedicuring</u>	<u>15 procedures</u>
<u>Individual sculptured nails and nail tips</u>	<u>[3 full sets 30]</u>
<u>Body and other treatments</u>	<u>[40 5]</u>
<u>Makeup</u>	<u>[30 20]</u>
<u>Skin care</u>	<u>[20 15]</u>
<u>Hair removal</u>	<u>15</u>
<u>TOTAL</u>	<u>[360 367]</u>

F. The curriculum requirements for nail care must include the following minimum performances:

Manicures	30
Pedicures	15
Individual sculptured nails and nail tips	200
Individual removals	10
Individual nail wraps	20
TOTAL	275

G. The curriculum requirements for waxing must include the following minimum performances:

Arms	4
Back	2
Bikini area	6
Brows	12
Chest	1
Facial (i.e., face, chin, and cheek and lip)	6
Leg	3
Underarm	2
TOTAL	36

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 (18VAC41-20)

[Barber - Master Barber - Barber Instructor Examination & License Application, A450-1301_EXLIC-v18 \(rev. 5/2022\)](#)

[Nail Technician – Nail Technician Instructor Examination & License Application, A450-1206_07EXLIC-v19 \(rev. 5/2022\)](#)

[Wax Technician – Wax Technician Instructor Examination & License Application, A450-1214_15EXLIC-v18 \(rev. 5/2022\)](#)

[Cosmetology – Cosmetology Instructor Examination & License Application, A450-1201_04EXLIC-v21 \(rev. 5/2022\)](#)

[Temporary Permit Application, A450-1213TEMP-v3 \(rev. 12/2021\)](#)

~~[License by Endorsement Application, A450-1213END-v18 \(rev. 9/2022\)](#)~~

[License by Endorsement Application, A450-1213END-v19 \(rev. 9/2024\)](#)

[Individuals – Reinstatement Application, A450-1213REI-v13 \(rev. 9/2022\)](#)

[Salon, Shop, Spa & Parlor License/Reinstatement Application A450-1213BUS-v16 \(rev. 9/2022\)](#)

[Salon, Shop & Spa Self Inspection Form, A450-1213_SSS_INSP-v2 \(eff. 5/2016\)](#)

[Instructor Certification Application, A450-1213INST-v17 \(rev. 10/2022\)](#)

Regulations

[Student Instructor – Temporary Permit Application A450-1213ST_TEMP-v4 \(rev. 12/2021\)](#)

[School License Application, A450-1213SCHL-v18 \(rev. 5/2023\)](#)

[School Reinstatement Application A450-1213SCHL-REIN-v9 \(eff. 9/2022\)](#)

[School Self-Inspection Form, A450-1213_SCH_INSP-v5 \(eff. 1/2022\)](#)

[Licensure Fee Notice, A450-1213FEE-v11 \(rev. 9/2022\)](#)

[Change of Responsible Management Application, A450-1213CRM-v6 \(rev. 12/2021\)](#)

[Training Substitution Form, A450-1213TR_SUB-v1 \(rev. 10/2021\)](#)

[Training Verification Form, A450-1213TR-vs1 \(eff. 5/2022\)](#)

[Experience Verification Form A450-1213EXP-v2 \(eff. 7/2022\)](#)

[Barber-Cosmetology Universal License App A450-1213ULR-v1 \(eff. 7/2023\)](#)

VA.R. Doc. No. R23-7333; Filed May 14, 2024, 10:43 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Proposed Regulation

Title of Regulation: 24VAC30-121. Comprehensive Roadside Management Program (amending 24VAC30-121-10 through 24VAC30-121-40).

Statutory Authority: §§ 33.2-210 and 33.2-265 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: August 2, 2024.

Agency Contact: Jo Anne Maxwell, Director, Governance and Legislative Affairs, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, or email joanne.maxwell@vdot.virginia.gov.

Basis: The Virginia Department of Transportation (VDOT) has the authority to implement a comprehensive roadside management program pursuant to § 33.2-265 of the Code of Virginia.

Purpose: The proposed regulatory amendments are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with Executive Order 19 (2022). The regulation addresses

opportunities for participation by individuals, communities, and local governments; safety; landscape materials; services; funding; recognition; and appropriate signing. Under the regulation, acknowledgment signs must comply with safety requirements and the criteria for placement for specific highway systems and access type. As such, the regulation remains necessary for the protection of public health, safety, and welfare.

Substance: The proposed amendments will achieve administrative updates, eliminate redundancy, add clarifying language, and bring the text in line with current practice.

Issues: The proposed amendments benefit the public by removing redundant or outdated language and providing clarity as to current VDOT practice and are not anticipated to present a disadvantage to the public or the Commonwealth.

Department of Planning and Budget's 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 Governor Youngkin's Executive Order 19² (EO 19), the Department of Transportation (VDOT) proposes to eliminate regulatory requirements by (i) removing the restriction that prevents acknowledgment signs that are installed pursuant to this program from remaining in place for more than 10 years, (ii) increasing the trunk base diameter of vegetation that may be pruned or cut within highway rights-of-way from four inches to six inches, and (iii) removing redundant or obsolete language.

Background. This regulation governs the voluntary activities of private businesses, civic organizations, communities, individuals, and local governments that are intended to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the right-of-way. Pursuant to EO 19 and after undertaking a comprehensive review of this regulation, VDOT proposes to remove redundant or obsolete language, reduce regulatory requirements, and streamline the regulatory text.

As currently drafted, the regulatory text contains some language that VDOT states is redundant of already existing requirements elsewhere in the Virginia Administrative Code and some language that is obsolete due to changes in agency practices. VDOT proposes to repeal such language to reduce or clarify the text.

Additionally, two of the proposed changes would alter the existing requirements. One of these changes would remove the restriction that prevents acknowledgment signs that are installed pursuant to this program from remaining in place for more than 10 years. VDOT states that the 10-year timeframe in this regulation is in direct conflict with 24VAC30-121-20 C where the relevant time limit specified is five years, presenting a potential for confusion among entities participating in roadside landscaping activities and for local governments enforcing this requirement.

The purpose for the second change in the existing requirements is similar, in that VDOT proposes to increase the trunk base diameter of vegetation that may be pruned or cut within highway rights-of-way to improve appearance from four inches to six inches to be consistent with 24VAC30-200, Vegetation Control Regulations on State Rights-of-Way, which is broader in its application than this regulation.

Estimated Benefits and Costs. The applicability of this regulation appears to be fairly limited. VDOT reports that they rarely receive applications for this program. The last permit issued under this regulation was before 2019. Since then, there have not been any applications for a roadside landscaping project.

The proposed removal of the 10-year maximum limitation for an acknowledgment sign mainly aims to resolve a conflict within the same regulation that states the limit is five years. VDOT also reports that enforcement of this limit on the signage falls on the local governments, and therefore they do not have any information as to whether and to what extent the 10-year limitation has been enforced in practice. It appears that removing a sign would be fairly easy to accomplish. Additionally, even if the cost of signage removal may be non-negligible, this change only affects the timing of the removal and not whether it would be removed. For these reasons and given the very limited participation in this program, this change is not expected to create a significant economic impact.

Similarly, allowing the pruning or cutting of vegetation that is two inches wider than the current diameter of four inches is also unlikely to create a significant economic impact for the very few applicants for the roadside landscaping projects permitted under this regulation. In addition, the permittee may choose not to prune or cut vegetation between four to six inches of trunk base diameter. However, no data or information exist to indicate the nature and extent of such pruning and the vegetation that may be affected, and thus it is unclear if this change would impose any other costs.

The changes that remove redundant or absolute language are likely to improve the clarity of the regulatory text with no other significant economic impacts.

Businesses and Other Entities Affected. This regulation applies to applicants who wish to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the state right-of-way. The last permit issued under this program was before 2019. No applicant appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ 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.⁴ As noted, the permits issued for this program appears to be an infrequent occurrence; there does not seem to be significant compliance costs associated with the two specific changes discussed; and the participation is voluntary. Thus, an adverse impact is not indicated.

Small Businesses⁵ Affected.⁶ The proposed amendments do not appear to adversely affect small businesses.

Localities⁷ Affected.⁸ Although local governments enforce the limit on the lifespan of an acknowledgment signage, given the small number of applications for projects under this regulation and there being no apparent significant costs to enforce the relevant requirements, the proposed changes do not appear to introduce any significant costs for them.

Projected Impact on Employment. The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property. The proposal applies to landscape activities on the state-maintained right-of-way that is public property. While major improvements in the appearance of such land may positively affect the values of neighboring private property or real estate development costs, the proposed changes in this action does not appear to rise to that level. Thus, neither significant impact on the use and value of private property nor 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 <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/eo/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>.

³ 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.

⁴ 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.

⁵ 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."

⁶ 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.

Regulations

⁷ "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.

⁸ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The Department of Transportation agrees with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The Comprehensive Roadside Management Program enables private businesses, civic organizations, communities, individuals, and local governments to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the right-of-way. The proposed amendments include (i) removing redundant or outdated language and requirements, (ii) adding an exception for limited access highways from some local government provisions, (iii) requiring permittees to maintain any permitted areas for the life of the permit instead of in perpetuity, and (iv) clarifying and streamlining the regulation.

24VAC30-121-10. Purpose.

The Comprehensive Roadside Management Program (program) is administered by the Virginia Department of Transportation (department), and enables private businesses, civic organizations, communities, individuals, and local governments an opportunity to improve the appearance and safety of the ~~state maintained~~ state-maintained right-of-way ~~or real property, herein referred to as right of way,~~ by participating in the ~~project~~ development, establishment, and maintenance of landscaping activities within the state-maintained right-of-way. This chapter sets forth policies and procedures governing the program.

24VAC30-121-20. Participation.

A. Eligible entities. A local government, private business, community, individual, or civic organization may fully fund the development, establishment, ~~or~~ maintenance, or any combination of these; activities of landscaping a segment of the right-of-way upon application to, and approval by, a designated ~~department~~ Virginia Department of Transportation representative. ~~Such entities are~~ Entities eligible to participate ~~as are:~~

1. A single local government;
2. A local government partnership between one or more contiguous local governments; or
3. A private business, civic organization, community, or individual through sponsorship by a local government or local government partnership. Such entities are eligible to participate as a donor through the local government by

providing to the local government cash or noncash contributions.

B. ~~Acknowledgement~~ Acknowledgment signs. Signs acknowledging the name ~~or~~, logo, or both, of participating entities may be authorized for erection at the project site in accordance with 24VAC30-121-40 D 2. ~~However, no acknowledgment signs installed pursuant to this program shall remain in place for more than 10 years.~~

C. In addition to the specifications in 24VAC30-121-40 D 2, in order to be recognized on an ~~acknowledgement~~ acknowledgment sign, an entity must provide a minimum cash or in-kind contribution to the permittee for the landscaping activity as specified ~~below~~ in this subsection. Such contribution shall allow an ~~acknowledgement~~ acknowledgment sign for five years, unless the need arises for removal or relocation of the sign. Cost of the ~~acknowledgement~~ acknowledgment sign shall not count toward the ~~minimum~~ contribution requirement.

1. Noncontrolled access primary and secondary highways: \$7,500 contribution.
2. Controlled access primary and secondary highways: \$8,500 contribution.
3. Interchanges on controlled access primary and secondary highways: \$10,000 contribution.
4. Interstate interchanges: \$20,000 contribution.

24VAC30-121-30. Application requirements.

A. All program activities must be applied for by the local governments within the jurisdiction in which the activity is proposed to occur in accordance with the General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-21) and the Land Use Permit Regulations (24VAC30-151). ~~The Land Use Permit Regulations and the general rules may be obtained from the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or by accessing the Virginia Administrative Code website at <http://lis.virginia.gov/cgi-bin/legp604.exe?000+reg+TOC24030>.~~

1. Single activity or segment permit. A local government may apply for a permit for each individual proposed activity or for all proposed activities on a specific route.
2. Jurisdiction-wide permit. A local government may apply for a jurisdiction-wide permit to cover all proposed activities occurring within that local government's jurisdictional boundaries on the right-of-way, excepting limited access highways. Such jurisdiction-wide permits must be renewed on an annual basis from the date of permit issuance. The local government shall notify the official local Virginia Department of Transportation (department) office (residency) prior to the installation of any landscaping under this permit.

B. The application shall be in the form prescribed by the Land Use Permit Regulations and shall at a minimum include:

1. The name, telephone number, and complete mailing address of the local government and the authorized local government representative who shall be officially designated by the local government as having full administrative and operational authority over all proposed activities;
2. A maintenance agreement that outlines ~~obligated~~ specific maintenance activities and responsibilities, ~~projected maintenance costs, and related funding commitments necessary~~ to ensure areas are maintained and ~~performing~~ perform as originally permitted; and
3. A formal resolution of endorsement from the local governing body, adopted subsequent to a public hearing during which the proposed landscaping activities are made available for review. The local governing body shall provide written notification to the department of its intention to hold such a hearing no later than 14 days prior to such hearing. Such notification shall be made to the ~~Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219~~ residency that has responsibility for the highways in the locality.

24VAC30-121-40. Conditions.

A. In order to participate in the program, each ~~project~~ activity must comply with the Land Use Permit Regulations and the general, site, and design considerations specified in this section.

B. General considerations. The following general considerations apply to any permitted activity:

1. Qualifications. All work shall be performed by qualified local government personnel or qualified individuals acting as ~~an agent~~ agents of the permitted local government.
2. Compliance. Such work shall comply with all ~~departmental~~ Virginia Department of Transportation (department) specifications, standards, policies, and guidance as provided in the terms of the permit and all applicable federal, state, and local government policies, laws, regulations, and ordinances.
3. Improvement. Any permitted activity must ensure a net improvement to existing right-of-way conditions and impose no net operational or financial burden to the department as determined by the department.
4. The permittee shall be responsible for the maintenance of the permitted areas ~~in perpetuity for the life of the permit~~. In the event the permittee fails to adequately maintain the improvements, the department may, at its discretion, revoke the permit. Prior to such revocation, the department may, at its discretion and at the permittee's expense, return the permitted area to its original condition.

5. The master plan, project concept plan, sketches, drawings, estimates, specifications, and descriptive text of all activities and any required federal, state, or local permits shall be available for review by the department at all times.

C. Site considerations. For ~~sites~~ a site to be approved by the department, the following site conditions must be met. ~~The site must:~~

1. ~~Not~~ The site must not be scheduled for future construction as defined within the department's current six-year improvement plan, which would conflict with the activities proposed on the project;
2. ~~Contain~~ The site must contain sufficient right-of-way to reasonably permit planting and landscaping operations without conflicting with safety, ~~geometric operational, and~~ or maintenance considerations;
3. ~~Not~~ The site must contain no overhead or underground utilities, driveways, pavement, sidewalks, or highway system fixtures, including traffic signage or signalization, that will conflict with the planting or landscaping operations proposed under the project; and
4. ~~Not~~ The proposed activities must not obstruct or interfere with existing drainage conditions along the site.

D. Design considerations. For ~~sites~~ a site to be approved by the department, the following design considerations must be met.

1. The project design shall not include the following design elements:
 - a. Lighting;
 - b. Flagpoles or pennant poles;
 - c. Fountains or water features;
 - d. Landscaping that depicts or represents any logo, name, or constitutes an advertisement in any form;
 - e. Statuary, sculpture, or other art objects;
 - f. Pruning or cutting within highway rights-of-way of vegetation with trunk base diameter greater than ~~four~~ six inches, unless approved by the District Roadside Manager;
 - g. Any improvements intended to provide greater visibility to any existing or future business, advertisement, or advertising structure; or
 - h. Any improvements that obscure or interfere with the view of existing lawfully erected advertising structures from the main traveled way.
2. ~~Acknowledgement~~ Acknowledgment signs and structures installed pursuant to this program must meet the following design specifications:
 - a. Panels per sign structure: a maximum of two ~~acknowledgement~~ acknowledgment panels per sign structure.

Regulations

b. Panel dimensions: ~~6~~ six feet wide by 20 inches tall; ~~3~~ three inches corner radii; ~~1.5~~ 1/2 inch—~~2~~ to two inches thick.

c. Sign material: high density sign foam or equivalent.

d. Background color options: dark blue (Pantone Matching System #288 or equivalent as determined by the department), dark burgundy (Pantone Matching System #188 or equivalent as determined by the department), dark green (Pantone Matching System #349 or equivalent as determined by the department), or off-white (Pantone Matching System Cool Gray 1 or equivalent as determined by the department).

e. Sign border: must be inset ~~1~~ one inch from outside edge to a 3/4-inch wide border formed by sandblasting or routing a depth of ~~1/4 inch~~ 1/4 inch to ~~1/2 inch~~ 1/2 inch; color must be off-white (Pantone Matching System Cool Gray 1 or equivalent as determined by the department) if dark background or dark blue (Pantone Matching System #288 or equivalent as determined by the department), dark burgundy (Pantone Matching System #188 or equivalent as determined by the department), or dark green (Pantone Matching System #349 or equivalent as determined by the department) if off-white background.

f. ~~Acknowledgement~~ Acknowledgment content: a single sponsoring entity may be represented per panel; the representation may be placed within but no closer than ~~1/2 inch~~ 1/2 inch inside the border and formed by sandblasting or routing a depth of 1/4 inch to 1/2 inch.

g. The words "Landscaping by" must be included in the upper left hand area of the border and must be a minimum of three inches tall. The border must be broken and the color of the "Landscaping by" must be the same as the border.

h. Installation: the bottom of the sign at its ~~elosest~~ closest point to the ground shall not be greater than 30 inches above the ground. The distance between panels shall not exceed four inches. Post height shall not exceed five inches above the top of the highest panel, with the top one inch trimmed at a 45-degree angle. Post stain color must be a solid gray (Pantone Matching System #423 or equivalent as determined by the department).

3. In the event an ~~acknowledgement~~ acknowledgment sign structure or panel is damaged, the permittee shall be responsible for repairing or replacing the sign.

4. ~~Acknowledgement~~ Acknowledgment sign structures installed pursuant to this program may be placed within the right-of-way, within the limits of the installed landscaping, at the following locations:

a. Noncontrolled access primary and secondary highways with speed limits of 45 mph or less: no greater than one ~~acknowledgement~~ acknowledgment sign structure per direction per 1/4 mile of main traveled way.

b. Noncontrolled access primary and secondary highways with speed limits greater than 45 mph: one ~~acknowledgement~~ acknowledgment sign structure per direction per 1/2 mile of main traveled way.

c. Controlled access primary and secondary highways with speed limits of 45 mph or less: no greater than one ~~acknowledgement~~ acknowledgment sign structure per direction per 1/4 mile of main traveled way except as specified in subdivision 4 e of this subsection.

d. Controlled access primary and secondary highways with speed limits greater than 45 mph: no greater than one ~~acknowledgement~~ acknowledgment sign structure per direction per 1/2 mile of main traveled way except as specified in subdivision 4 e of this subsection.

e. Interchanges on controlled access interstates, primary, and secondary highways: no greater than one ~~acknowledgement~~ acknowledgment sign structure per turning roadway.

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 (24VAC30-121)

~~Land Use Permit Application, LUP-A (rev. 3/2010).~~

[Land Use Permit Application, LUP-A \(rev. 5/2023\)](#)

VA.R. Doc. No. R24-7634; Filed May 9, 2024, 4:32 p.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: [Farm Market Fresh 2024 Handbook for Farmers.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Titles of Documents: [Education Services Guidance Document.](#)
[Low Vision Manual.](#)

[Orientation and Mobility Guidance Document 2024.](#)

[Rehabilitation Teaching and Independent Living Guidance Document.](#)

[Rehabilitation Technology Guidance Document 2024.](#)

[Virginia Enterprises for the Blind Guidance Document 2024.](#)

[Virginia Rehabilitation Center for the Blind and Vision Impaired Guidance Document.](#)

[Vocational Rehabilitation Guidance Document.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Susan K. Davis, Senior Policy Analyst, Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3184, or email susan.davis@dbvi.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Title of Document: [Project Management Standard.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Joshua Heslinga, Policy Planning Manager, Virginia Information Technologies Agency, 1325 Beaufort Springs Drive, Richmond, VA 23225, telephone (804) 551-2902, or email joshua.heslinga@vita.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Chapter 2, Developmental Disabilities Waivers Manual.](#)

[Pharmacists as Providers Supplement.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, or email meredith.lee@dmas.virginia.gov.

BOARD OF PHARMACY

Title of Document: [Guidance on Virginia Prescription Requirements.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Erin Barrett, Director of Legislative and Regulatory Affairs, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

Guidance Documents

The following guidance documents have been submitted for deletion and the listed agencies have opened up a 30-day public comment period. The listed agencies had previously identified these documents as certified guidance documents, pursuant to § 2.2-4002.1 of the Code of Virginia. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to view the deleted document and comment. This information is also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact.

DEPARTMENT OF CONSERVATION AND RECREATION

Titles of Documents: [The Natural Communities of Virginia - Ecological Groups and Community Types.](#)

[Natural Heritage Resources of Virginia - Rare Animal Species.](#)

[Natural Heritage Resources of Virginia - Rare Plants.](#)

[Virginia's Precious Heritage - A Report on the Status of Virginia's Natural Communities, Plants, and Animals.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Lisa McGee, Policy and Planning Director, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 786-4378, or email lisa.mcgee@dcr.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

Title of Document: [Field Training Officer Requirements.](#)

Public Comment Deadline: July 3, 2024.

Effective Date: July 4, 2024.

Agency Contact: Kristi Shalton, Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-7801, or email kristi.shalton@dcjs.virginia.gov.

GENERAL NOTICES

STATE WATER CONTROL BOARD

Public Meeting and Public Comment Opportunity for a Cleanup Study of Crooked Run, Stony Creek, and Pughs Run in Shenandoah County

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup study, also known as a total maximum daily load (TMDL) report, for Crooked Run, Stony Creek, and Pughs Run in Shenandoah County. These streams are listed as impaired waters and require a cleanup study since monitoring data indicates that the waters do not meet Virginia's water quality standards for aquatic life (benthic impairment). Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. A component of a cleanup study is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Code of Virginia for any future adoption of the WLA into the Water Quality Management Planning Regulation (9VAC25-720) after completion of the study. The adoption of the WLA may require new or additional requirements for entities holding a Virginia Pollutant Discharge Elimination System (VPDES) Permit in these watersheds.

At the meeting, DEQ will introduce the community to the process used in Virginia to improve stream water quality and invite the public to participate in the study by attending community engagement meetings or through a TMDL advisory group (TAG).

Cleanup study location: The cleanup study addresses the following impaired stream segments: Crooked Run stream segment, located in Shenandoah County, is 4.08 miles long and begins at the headwaters of Crooked Run and continues to its confluence with the Mill Creek. Stony Creek stream segment, located in Shenandoah County, is 9.29 miles long and begins at its confluence with Yellow Spring Run and continues to the confluence with the North Fork Shenandoah River. Pughs Run stream segment, also located in Shenandoah County, is 7.00 miles long and begins at the headwaters extending to the confluence with the North Fork Shenandoah River.

TMDL advisory group (TAG): DEQ invites public comment on the establishment of a TAG to assist in development of this cleanup study. A TAG is a standing group of interested parties established by the department for the purpose of advising the department during development of the cleanup study. Any member of the public may attend and observe proceedings. However, only group members who have been invited by the department to serve on the TAG may actively participate in the group's discussions. Persons requesting the department use a TAG or interested in participating should notify the DEQ contact person listed at the end of this notice. Contact the

department by the end of the comment period. A person requesting use of a TAG or to be a member of the TAG must provide their name, address, telephone number, email address, and organization being represented (if any). If DEQ convenes a TAG, each individual who wishes to participate on the TAG will be considered on a case-by-case basis. TAG members will be expected to attend all TAG meetings. Notification of the composition of the panel will be sent to all individuals who request participation.

If DEQ receives no requests to establish a TAG, the department will not establish a standing group but will still solicit public feedback by conducting community engagement meetings during cleanup study development. At these community meetings, which are open to the public and at which any person may participate, DEQ will present its progress on the cleanup study and solicit feedback.

Public meeting: The first public meeting on the development of the cleanup study will be held at the Shenandoah County Public Library, 514 Stoney Creek Boulevard, Edinburg, VA 22824, on June 18, 2024, at 5:30 p.m. In the event of inclement weather, the meeting will be held on June 20, 2024, at the same time and location.

Public comment period: June 18, 2024, to July 18, 2024.

How to comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing address, and telephone number of the commenter or requestor.

Contact Information: Nesha McRae, Valley Regional Office, Department of Environmental Quality, 4411 Early Road, Harrisonburg, Virginia 24401, telephone (540) 217-7173, or email nesha.mcrae@deq.virginia.gov.

Proposed Enforcement Action for the Carroll County Public Service Authority

The Virginia Department of Environmental Quality (DEQ) is proposing an amended enforcement action for the Carroll County Public Service Authority for violations of the State Water Control Law and regulations at the I-77 Exit 1 wastewater treatment plant in Carroll County. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from June 3, 2024, through July 3, 2024.

Contact Information: Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email jonathan.chapman@deq.virginia.gov.

General Notices

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2024-00014

Ex Parte: In the matter of
Rules Governing Balance

ORDER FOR NOTICE AND COMMENT

In 2020, the Virginia General Assembly enacted §§ 38.2-3445.01 through 38.2-3445.07 of the Code of Virginia (Balance Billing Act). The Balance Billing Act prohibits balance billing for certain services, establishing that when an enrollee receives emergency services from an out-of-network health care provider or receives out-of-network surgical or ancillary services at an in-network facility, the enrollee is not required to pay the out-of-network provider any amount that exceeds the applicable in-network cost-sharing requirement specified in the enrollee's health plan contract. The Balance Billing Act also, among other things, directs insurance carriers and providers to negotiate in good faith for payment of a commercially reasonable amount for relevant services and establishes certain arbitration proceedings for addressing disputes regarding claims payment amounts. However, the Balance Billing Act provides that "no carrier or provider shall initiate arbitration with such frequency as to indicate a general business practice."¹

The Bureau of Insurance (bureau) seeks public comment on Virginia's regulations governing balance billing procedures and the balance billing arbitration process under the Balance Billing Act. Effective January 1, 2021, the State Corporation Commission (commission) adopted regulations entitled "Rules Governing Balance Billing for Out-of-Network Health Care Services" (Rules) at 14VAC5-405 of the Virginia Administrative Code to implement the Balance Billing Act. The Rules set forth procedures that address balance billing and the use of arbitration between health carriers and out-of-network providers. Additionally, on November 22, 2021, the bureau issued Administrative Letter 2021-04 addressing issues relating to the Balance Billing Act's prohibition against using arbitration as a general business practice and the requirements that providers and carriers negotiate in good faith regarding the applicable commercially reasonable payment prior to filing an arbitration request.

Following several years of experience after arbitration filings and decisions began in 2021, the Bureau is seeking public comment on the Rules as well as the practices, procedures, and implementation of the Balance Billing Act. In particular, the bureau is interested in receiving comments regarding the "general business practice" standard identified in § 38.2-3445.05 D of the Balance Billing Act and, specifically, what a "general business practice" is, how it may be further clarified

or defined; what other standards or compliance measures can be used to determine that arbitration requests are not being filed "with such frequency as to indicate a general business practice;" and what standards or measurements the bureau could use to monitor and assess a party's compliance with good faith negotiation requirements. Additionally, the bureau is seeking public comment to determine the impact of a series of arbitration outcomes on what is considered a commercially reasonable payment amount.

Now the commission directs the bureau to receive public comment on the Rules, including the definition and application of "general business practice" under the Balance Billing Act, the standards or measurements that the bureau could use to monitor and assess a party's compliance with good faith negotiation requirements, and whether it would be appropriate for carriers to pay an adjusted commercially reasonable amount based on a series of arbitration outcomes.

Accordingly, it is ordered that:

(1) This matter is docketed and assigned Case No. INS-2024-00014 for purposes of receiving input from the public and Life & Health interested persons in this matter.

(2) All persons who desire to provide comments on the Rules may file such comments on or before July 5, 2024, with the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, VA 23218; or may submit comments electronically by following the instructions on the Commission's website at <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All comments shall refer to Case No. INS-2024-00014.

(3) The commission's Division of Information Resources is directed to post this Order on the Commission's website at <https://scc.virginia.gov/pages/Case-Information>.

(4) The bureau shall provide notice of this order to all carriers licensed in Virginia to write accident and sickness insurance and to all Life & Health interested persons.

(5) The commission's Office of General Counsel shall forward a copy of this order to the Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The bureau shall file with the Clerk of the Commission a certificate of compliance with the notice requirements of ordering paragraph (4).

(7) This matter is continued.

A copy hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Eighth Floor, Richmond, VA 23219-3424 at mbrowder@oag.state.va.us; and a copy hereof shall be delivered to the commission's Office of General

Counsel and to the Bureau of Insurance in care of Deputy Commissioner Julie S. Blauvelt.

¹Section 38.2-3445.05 D of the Code of Virginia.

Contact Information: Andy Farmer, Director, Division of Information Resources, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9928, or email andy.farmer@scc.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.

ERRATA

MARINE RESOURCES COMMISSION

Title of Regulation: **4VAC20-1270. Pertaining to Atlantic Menhaden.**

Publication: 40:20 VA.R. 1677 May 20, 2024.

Correction to Agency Decision on Petition for Rulemaking:

Page 1677, second column, line 8, after "VA.R. Doc. No." replace "PFR24-23; Filed December 21, 2023, 4:44" with "PFR24-34; Filed April 26, 2024, 1:52"

VA.R. Doc. No. PFR24-34; Filed May 20, 2024, 1:17 p.m.

BOARD OF COUNSELING

Title of Regulation: **18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

Publication: 40:20 VA.R. 1677 May 20, 2024.

Correction to Agency Decision on Petition for Rulemaking:

Page 1677, second column, last line, after "VA.R. Doc. No." replace "PFR24-28; Filed February 20, 2024, 12:01 p.m." with "PFR24-33; Filed April 22, 2024, 8:31 a.m."

VA.R. Doc. No. PFR24-33; Filed May 20, 2024, 1:26 p.m.

BOARD OF SOCIAL WORK

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

Publication: 39:8 VA.R. 1186 December 5, 2022.

Correction to Forms:

Page 1186, 18VAC140-20 FORMS, next line after "FORMS (18VAC140-20)" strike "Verification of Clinical Supervision (rev. 8/2016)"

VA.R. Doc. No. R23-7425; Filed May 13, 2024, 4:52 p.m.