



VIRGINIA

REGISTER OF REGULATIONS

VOL. 40 ISS. 23

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

July 1, 2024

TABLE OF CONTENTS

Register Information Page	1893
Publication Schedule and Deadlines	1894
Periodic Reviews and Small Business Impact Reviews	1895
Notices of Intended Regulatory Action	1897
Regulations	1897
2VAC5-205. Rules and Regulations Pertaining to Shooting Enclosures (Fast-Track)	1898
2VAC5-270. Virginia Grade Standards for Breeder Swine (Fast-Track)	1899
2VAC5-318. Rules and Regulations for Enforcement of the Virginia Pest Law - Thousand Cankers Disease (Fast-Track)	1901
18VAC41-20. Barbering and Cosmetology Regulations (Fast-Track)	1903
18VAC41-70. Esthetics Regulations (Fast-Track).....	1903
18VAC47-20. Cemetery Board Rules and Regulations (Final)	1908
Guidance Documents	1910
General Notices	1914

Virginia Code Commission

<http://register.dls.virginia.gov>

THE VIRGINIA REGISTER OF REGULATIONS (USPS 001-831) is published biweekly for \$263.00 per year by Matthew Bender & Company, Inc., 3 Lear Jet Lane, Suite 102, P.O. Box 1710, Latham, NY 12110. Periodical postage is paid at Easton, MD and at additional mailing offices. POSTMASTER: Send address changes to The Virginia Register of Regulations, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his

authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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

Members of the Virginia Code Commission: Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popps; 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>).

July 2024 through July 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF VETERINARY MEDICINE

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Veterinary Medicine conducted a periodic review and a small business impact review of **18VAC150-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 4, 2024, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets forth the framework for public participation in board business, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The Board of Veterinary Medicine has reviewed this regulation and determined that it is clearly written and understandable.

The board voted to retain the chapter as is. The public participation guidelines are model regulations from the Department of Planning and Budget that all agencies adopt and are only changed when new model regulations are created. The board reviewed the regulation and determined no changes were needed.

The public needs to be able to engage in business of the board that affects them, and this regulation allows that. The board received no complaints regarding this specific regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated in 2018. The model regulations have not changed since then. There is no impact on small businesses in this limited and focused regulation.

Contact Information: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4130, FAX (804) 767-1011, or email leslie.knachel@dhp.virginia.gov.

TITLE 22. SOCIAL SERVICES

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: **22VAC40-41, Neighborhood Assistance Tax Credit 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 July 1, 2024, and ends July 22, 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: Wanda Stevenson, Neighborhood Assistance Program Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7924, or email wanda.stevenson@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: **22VAC40-80, General Procedures and Information for Licensure**. 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 July 1, 2024, and ends July 22, 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: Samantha Fogt, Licensing Consultant, Department of Social Services, 5600 Cox Road, Glen Allen, VA 23060, telephone (804) 845-0308, FAX (804) 726-7132, or email samantha.fogt@dss.virginia.gov.

Periodic Reviews and Small Business Impact Reviews

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: **22VAC40-901, Community Services Block Grant 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 July 1, 2024, and ends July 22, 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: Matt Fitzgerald, Community Service Program Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7088, FAX (800) 726-7088, or email matt.fitzgerald@dss.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 13. HOUSING

VIRGINIA MANUFACTURED HOUSING 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 Manufactured Housing Board intends to consider amending **13VAC6-20, Manufactured Housing Licensing and Transaction Recovery Fund 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) and Executive Order 19 (2022). The goal of the action includes the review of discretionary requirements related to the Virginia Manufactured Housing Transaction Recovery Fund (§ 36-85.31 et seq. of the Code of Virginia), including the expertise and perspective of stakeholders and the solicitation of public comments.

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

Statutory Authority: § 36-85.18 of the Code of Virginia.

Public Comment Deadline: July 31, 2024.

Agency Contact: Chase Sawyer, Senior Policy Analyst, Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 310-5872, FAX (804) 371-7090, TDD (804) 371-7089, or email chase.sawyer@dhcd.virginia.gov.

V.A.R. Doc. No. R24-7851; Filed June 5, 2024, 10:58 a.m.

REGULATIONS

For information concerning the different types of regulations, see the Register 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 in final regulations indicate changes from the proposed regulation.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: 2VAC5-205. Rules and Regulations Pertaining to Shooting Enclosures (repealing 2VAC5-205-10 through 2VAC5-205-110).

Statutory Authority: § 3.2-6039 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 31, 2024.

Effective Date: August 15, 2024.

Agency Contact:Carolynn Bissett, Program Manager, Office of Veterinary Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, TDD (800) 828-1120, or email carolynn.bissett@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the board as a policy board. Section 3.2-6039 of the Code of Virginia directs the board to adopt regulations to carry out the provisions of Article 4 (§ 3.2-6035 et seq.) of Chapter 60 of Title 3.2 of the Code of Virginia pertaining to shooting enclosures. Section 3.2-6039 of the Code of Virginia directs the board to adopt regulations relating to the requirements for operating a shooting enclosure in Virginia and requires the board to establish specific criteria relating to the specific species of goats, sheep, or hogs that may be held within a shooting enclosure, as well as their health and care requirements.

Purpose: Section 3.2-6036 of the Code of Virginia directs the Virginia Department of Agriculture and Consumer Services (VDACS) to issue a license for shooting enclosures only to those enclosures that were in operation on or before January 1, 1995. The last remaining shooting enclosure in the Commonwealth failed to renew its registration and permanently closed in 2017. As there are no longer any shooting enclosures in operation in Virginia and VDACS does not have statutory authority to issue a shooting enclosure license to a new enclosure, this action proposes to repeal the regulation.

Rationale for Using Fast-Track Rulemaking Process: There are no longer any shooting enclosures in operation in Virginia, and VDACS does not have statutory authority to issue a shooting

enclosure license to a new enclosure. The agency anticipates this regulatory action will be noncontroversial as the regulation is no longer used or needed.

Substance: The proposed regulatory action will repeal the entire regulation.

Issues: As shooting enclosures are no longer legally permissible and the last shooting enclosure has ceased operations, the repeal of this regulation provides no advantage or disadvantage to the public. There is an advantage to the agency to repeal this regulation, as it will no longer need to maintain or review this unused regulatory text. The repeal of this regulation does not disadvantage the agency.

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. As a result of a 2022 periodic review,² the Board of Agriculture and Consumer Services (board) proposes to repeal this regulation, which pertains to shooting enclosures, as no shooting enclosures currently operate in Virginia and the Department of Agriculture and Consumer Services no longer has the statutory authority to issue licenses for new shooting enclosures.

Background. This regulation, Rules and Regulations Pertaining to Shooting Enclosures (2VAC5-205), was originally promulgated in 1998 as a result of a 1995 legislative mandate.³ Specifically, this regulation implements what are now §§ 3.2-6036 and 3.2-6039 of the Code of Virginia.⁴ § 3.2-6036 of the Code of Virginia directs the agency to issue licenses for shooting enclosures, specifying that licenses may only be issued to shooting enclosures that were in operation on or before January 1, 1995; § 3.2-6039 of the Code of Virginia directs the agency to adopt regulations relating to the requirements for operating a shooting enclosure in Virginia.⁵ The agency reports that the last licensed shooting enclosure permanently closed in 2017 and the regulation is no longer necessary since no new shooting enclosures can be licensed.⁶

Estimated Benefits and Costs. Repealing this regulation would largely serve to keep the Virginia Administrative Code up to date. The proposed change would not generate any costs or benefits as no licensed shooting enclosures are currently operating in Virginia and no new shooting enclosures can legally obtain licensure.

Regulations

Businesses and Other Entities Affected. As mentioned previously, the last licensed shooting enclosure closed permanently in 2017 and statute prohibits any new businesses from obtaining a license under this regulation. An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁷ Repealing this regulation would not generate any increase in net cost or reduction in net benefit. Thus, an adverse impact is not indicated.

Small Businesses⁸ Affected.⁹ The proposed amendments would not adversely affect small businesses.

Localities¹⁰ Affected.¹¹ The proposed amendments neither disproportionately affect any particular localities, nor affect costs for local governments.

Projected Impact on Employment. The proposed regulation would not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments do not appear to affect the value of private property. Real estate development costs would not be affected.

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

² See <https://townhall.virginia.gov/ViewPReview.cfm?PRid=2113>.

³ See Chapter 822 of the 1995 Acts of Assembly at <https://lis.virginia.gov/cgi-bin/legp604.exe?951+ful+CHAP0822>.

⁴ These sections were recodified in 2008; see <https://lis.virginia.gov/cgi-bin/legp604.exe?081+sum+HB1331>.

⁵ See <https://law.lis.virginia.gov/vacode/title3.2/chapter60/section3.2-6036/> and <https://law.lis.virginia.gov/vacode/title3.2/chapter60/section3.2-6039/> respectively.

⁶ See the Agency Background Document, page 1 at https://townhall.virginia.gov/GetFile.cfm?File=48\6233\9995\AgencyStatement_VDACS_9995_v1.pdf.

⁷ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁸ Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

⁹ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving

the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹⁰ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹¹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

As result of a periodic review of the regulation, the amendments repeal 2VAC5-205, Rules and Regulations Pertaining to Shooting Enclosures.

VA.R. Doc. No. R23-7331; Filed June 5, 2024, 12:09 p.m.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: 2VAC5-270. Virginia Grade Standards for Breeder Swine (repealing 2VAC5-270-10 through 2VAC5-270-40).

Statutory Authority: § 3.2-4302 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 31, 2024.

Effective Date: August 15, 2024.

Agency Contact: Tracy Fitzsimmons, Program Manager, Livestock Marketing Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (540) 209-9143, FAX (540) 432-1357, TDD (800) 828-1120, or email tracy.fitzsimmons@vdacs.virginia.gov.

Basis: Section 3.2-4302 of the Code of Virginia authorizes the Commissioner of Agriculture and Consumer Services to adopt regulations governing the voluntary use of grades for agricultural products that will indicate quality, condition, and other characteristics.

Purpose: As the Virginia Department of Agriculture and Consumer Services (VDACS) has not received a request from industry to evaluate breeder swine in recent years, the agency has determined that this regulation is no longer needed. As the commercial swine industry no longer relies on this regulation to support its economic welfare, the repeal of this regulation will neither impact its welfare nor the health or safety of the Commonwealth.

Rationale for Using Fast-Track Rulemaking Process: VDACS has determined that this regulation is no longer needed. The repeal of this regulation is expected to be noncontroversial. When the agency contacted swine industry stakeholders during

the summer of 2023 to inquire into whether the industry would have concerns with the repeal of this regulation, swine industry stakeholders presented no concerns to the agency.

Substance: This regulatory action will repeal the regulation, which establishes criteria by which to appraise breeding stock's suitability for breeding purposes and the desirability of their progeny.

Issues: As the commercial swine industry no longer relies on this regulation, the repeal of this regulation provides no advantage or disadvantage to the public. There is an advantage to the agency to repeal this regulation, as the agency will no longer need to maintain or review this unused regulatory text. The repeal of this regulation does not disadvantage the agency.

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. The Commissioner of the Department of Agriculture and Consumer Services (commissioner) proposes to repeal Virginia Grade Standards for Breeder Swine (2VAC5-270) in its entirety.

Background. The Virginia Grade Standards for Breeder Swine establish criteria by which the Virginia of Agriculture and Consumer Services (VDACS) is to appraise breeding stock's suitability for breeding purposes and the desirability of their progeny. The appraisal service is not required. VDACS has not received a request from industry to evaluate breeder swine in recent years. As such, the agency has determined that the regulation is no longer needed.

Subsequent to the initial adoption of the regulation, the hog industry shifted to become more vertically integrated, with processors providing piglets from their breeding operation to farmers, who would bring them to market weight.² The agency speculates that this changed the dynamics of the Virginia industry as a whole and reduced the need for individual farmers to have their breeder swine graded or to purchase graded breeder swine.

Estimated Benefits and Costs. VDACS contacted swine industry stakeholders during the summer of 2023 to inquire into whether the industry would have concerns with the repeal of this regulation. Swine industry stakeholders did not present any concerns to the agency. Thus, the repeal of this regulation would not likely have a substantive impact.

Businesses and Other Entities Affected. As described, the repeal of the regulation would not likely have a substantive impact. If anyone would be affected, it would be swine farmers.³

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As described, the repeal of the regulation would not likely increase cost or reduce benefit for any entity. Thus, no adverse impact is indicated.

Small Businesses⁶ Affected.⁷ The proposed repeal of the regulation does not appear to adversely affect small businesses.

Localities⁸ Affected.⁹ The proposed repeal of the regulation neither disproportionately affects any particular locality, nor introduce costs for local governments.

Projected Impact on Employment. The proposed repeal of the regulation does not appear to affect total employment.

Effects on the Use and Value of Private Property. The proposed repeal of the regulation does not appear to affect the use and value of private property or real estate development costs.

¹Section 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 Source: VDACS

³ The number of swine farmers was not provided by the agency.

⁴ Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

⁷ If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Regulations

⁸ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁹ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

Summary:

The amendments repeal 2VAC5-270, Virginia Grade Standards for Breeder Swine.

V.A.R. Doc. No. R24-7704; Filed June 5, 2024, 12:36 p.m.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Fast-Track Regulation

Title of Regulation: 2VAC5-318. Rules and Regulations for Enforcement of the Virginia Pest Law - Thousand Cankers Disease (repealing 2VAC5-318-10 through 2VAC5-318-140).

Statutory Authority: § 3.2-703 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 31, 2024.

Effective Date: August 15, 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, TDD (800) 828-1120, or email david.gianino@vdacs.virginia.gov.

Basis: Section 3.2-109 of the Code of Virginia establishes the board as a policy board and authorizes the board to adopt regulations in accordance with the provisions of Title 3.2 of the Code of Virginia. Pursuant to § 3.2-703 of the Code of Virginia, the board may quarantine the Commonwealth or any portion thereof when it determines that such action is necessary to prevent or retard the spread of a pest into, within, or from the Commonwealth.

Purpose: In 2021, the United States Department of Agriculture Export Specialists met with state departments of agriculture to reassess the damages caused by Thousand Cankers Disease (TCD), the rate of spread of the walnut twig beetle (WTB), and the need for state-level quarantines for export purposes. Export specialists solicited information from importing countries regarding their import requirements and whether a quarantine was necessary for trade purposes. It was determined that pest-free status, determined by approved trapping and survey protocols, would be sufficient to allow products to be exported from Virginia or other states to other countries. State departments of agriculture also had internal discussions regarding the need for continued regulation of TCD, as it was

consistently observed through surveys that the disease complex did not have the impact on walnut trees that was originally predicted. The Virginia Department of Agriculture and Consumer Services (VDACS) will continue surveying for TCD and WTB for accurate reporting of pest status in Virginia.

Since the establishment of the quarantine, there have not been any other significant finds throughout the Commonwealth, and the areas under quarantine are urban sites where trees become stressed more easily. Trees under physiological stress are more susceptible to pests and pathogens and are more attractive to wood-boring beetles, such as the walnut twig beetle. Research has shown that TCD is less impactful to tree health when the trees are not experiencing environmental stresses such as drought or unusually high temperatures for several years. Virginia has locations that were positive for TCD but have since recovered from the disease and infections are no longer present.

Based on survey data, import requirements, and recent research, VDACS believes that the quarantine is no longer necessary to slow the spread of the disease. Repeal of this quarantine, which includes restrictions on the movement of articles capable of spreading TCD, will support the economic welfare of industries transporting such articles from or through a currently quarantined area.

Rationale for Using Fast-Track Rulemaking Process: The repeal of this regulation is not the result of a directive from the General Assembly, the federal government, or a court. Since 2012, there have been no significant TCD detections in the Commonwealth. Over the past four years, more than 220 sites have been surveyed, with traps placed near at-risk sites, such as public parks, rest areas, and nurseries. Since 2018, only one WTB has been detected and only 11 of the 220 sites had trees infested with TCD, and these were sites where TCD had been confirmed in previous years. The positive WTB detection was found in urban settings, not in a forested setting or at a high-risk pathway. No additional areas of spread of the WTB or TCD were observed during this timeframe.

The repeal of this regulation is expected to be noncontroversial because VDACS has been surveying for TCD and WTB since the regulation was established and trapping data indicates that there are limited populations of the insect, minimal levels of the pathogen, and the impact that the disease has on trees is primarily dependent on drought or other environmental stressors. Repealing the quarantine will allow industry to move with no restrictions walnut logs, trees, and other products out of those counties currently under quarantine. Repealing the quarantine is not expected to result in the spread of TCD in Virginia.

Substance: This regulatory action will repeal the regulation, which will allow for the unrestricted movement of walnut logs, trees, and other products out of the counties currently under quarantine.

Issues: The primary advantage of this regulatory change is the elimination of regulatory requirements placed on those

businesses that must currently comply with the regulation. Businesses required to comply with the regulation include those that move walnut trees and logs and other regulated articles out of the quarantined areas. The primary advantage to the Commonwealth is removal of administrative processes related to ensuring compliance with the regulation. There are no known disadvantages to this regulatory change for businesses, citizens, 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. As a result of a 2022 periodic review,² the Board of Agricultural and Consumer Services (board) proposes to repeal this regulation pertaining to the quarantine related to Thousand Cankers Disease (TCD) because such requirements are no longer necessary to slow the spread of the disease.

Background. As explained in the agency background document (ABD), TCD is native to the western United States and primarily affects black walnut trees.³ The Virginia Department of Agriculture and Consumer Services (VDACS) first received reports of black walnut trees exhibiting symptoms of TCD in Chesterfield County in 2011; additional VDACS surveys revealed that TCD was also present in Henrico County and the City of Richmond. Accordingly, this regulation was originally promulgated in 2011 to establish quarantine requirements to restrict the spread of TCD; additional localities were added to the quarantine in 2012.⁴

The regulation specifies the list of regulated articles, the localities covered by the quarantine requirements, the conditions governing the intrastate movement of regulated articles, the issuance of certifications and permits for the movement of regulated articles, compliance agreements, the prohibition on entry of regulated articles into Virginia from certain other states. The regulation (2VAC5-318-140) also specifies that this regulation may be revoked by the board when the Board is satisfied that the need for this quarantine no longer exists.

VDACS reports that since 2012, there have been no significant TCD detections in the Commonwealth, and that several trees that were positive for TCD have since recovered from the disease.⁵ VDACS surveys for TCD indicate that there are limited populations of the insect that spreads TCD, minimal levels of the pathogen, and the impact that the disease has on trees is primarily dependent on drought or other environmental stressors. Thus, the board proposes to repeal this regulation.

Estimated Benefits and Costs. Repealing this regulation would primarily benefit businesses that move walnut logs, trees, and other products from or through localities currently under

quarantine. These businesses currently have to obtain a certificate or limited permit from a VDACS inspector, as required by 2VAC5-318-70; once the regulation is repealed, such inspection would no longer be required. As there is no cost to the business for VDACS to conduct an inspection and issue a limited permit, or to enter into a compliance agreement, there would be no cost savings from the elimination of any permit fees. However, regulants would save time from not having to wait for an inspection or to receive a permit.

VDACS has also entered into compliance agreements with two entities (a landscaping supply business and a local government) to regulate the movement of walnut bark and hardwood mulch from an infested area to a non-infested area. The compliance agreements require that commercial shipments of walnut plants and plant parts be chipped and composted using a specific process, within the quarantined area, before the mulch could be shipped within the state. This process entails heating and composting over at least eight days and requires heavy equipment to move and turn the compost piles to ensure proper aeration and that a temperature of 140-degrees Fahrenheit is reached and maintained. If a business had the required equipment and the necessary space, VDACS estimates that it could cost \$30 to \$600 for the labor and gas required to process a minimum compost pile of 200 cubic yards, which translates to \$4.48 to \$8.96 per three-cubic-yard shipment of mulch. These costs would be eliminated by the repeal of this regulation. The compliance agreement also requires these entities to issue a certificate for each shipment, which states that the shipment meets the requirements of this regulation, and to maintain a record of all intrastate shipments for two years. These requirements would all be removed once the regulation is repealed.

Lastly, although shipments would no longer be inspected, VDACS reports that they will continue surveying for TCD even after the regulation is repealed. This would limit any future costs that may arise from a possible resurgence of TCD.

Businesses and Other Entities Affected. As mentioned previously, repealing this regulation would primarily benefit businesses that transport black walnut trees, including parts and products, out of or through quarantined localities; VDACS does not have data on the number of such businesses. Repealing this regulation would also benefit Yard Works LLC (Moseley, VA) and Hanover County, the two entities currently under a compliance agreement with VDACS, which carries specific requirements for the treatment of mulch before it can be transported outside the county. An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ Repealing this regulation would not generate any increase in net cost or reduction in net benefit. Thus, an adverse impact is not indicated.

Small Businesses⁷ Affected.⁸ The proposed amendments would not adversely affect small businesses.

Regulations

Localities⁹ Affected.¹⁰ Hanover County, which has a compliance agreement with VDACS for the transportation of walnut bark and mulch, would benefit from not having to treat the mulch or inspect and certify shipments. Other localities that were included in the quarantine may benefit indirectly to the extent that repealing the regulation reduces costs to local businesses that transport black walnut trees, including parts or products. This includes the entire counties of Chesterfield, Fairfax, Goochland, Hanover, Henrico, King and Queen, King William, New Kent, Powhatan, and Prince William, and the entire cities of Colonial Heights, Fairfax, Falls Church, Manassas, Manassas Park, and Richmond.

Projected Impact on Employment. The repeal of this regulation does not appear to affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments do not appear to affect the value of private property. Real estate development costs would not be affected.

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

² See <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=2177>.

³ See ABD, page 1: https://townhall.virginia.gov/l/GetFile.cfm?File=48\6242\10006\AgencyStatement_VDACS_10006_v1.pdf.

⁴ See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=6080>, which created the regulation, and <https://townhall.virginia.gov/l/ViewAction.cfm?actionid=3759> and <https://townhall.virginia.gov/l/ViewAction.cfm?actionid=3839>, which expanded the quarantine. .

⁵ ABD, page 3.

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

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

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

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

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

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

Summary:

As result of a periodic review of the regulation, the amendments repeal the Rules and Regulations for Enforcement of the Virginia Pest Law - Thousand Cankers Disease (2VAC5-318).

VA.R. Doc. No. R23-7458; Filed May 29, 2024, 3:43 p.m.

◆ ————— ◆

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Fast-Track Regulation

Titles of Regulations: 18VAC41-20. **Barbering and Cosmetology Regulations (amending 18VAC41-20-90).**

18VAC41-70. **Esthetics Regulations (amending 18VAC41-70-70).**

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

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: July 31, 2024.

Effective Date: August 15, 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.

Basis: Section 54.1-201 A 5 of the Code of Virginia authorizes the Board for Barbers and Cosmetology to promulgate regulations necessary to ensure continued competency, to prevent deceptive or misleading practices by practitioners, and to effectively administer the regulatory system administered by the regulatory board.

Purpose: The purpose of a 90-day temporary license is to address the delays and challenges associated with the current 45-day temporary license structure. The 90-day temporary license provides individuals with an extended timeframe to work while they go through the examination process. This adjustment acknowledges that many professionals in these fields have already met training requirements through education or apprenticeships. Allowing these individuals to work under the supervision of a licensed professional during the examination phase enables them to earn income and maintain their livelihood while pursuing licensure. By

extending the temporary license to 90 days, individuals have a more reasonable period to schedule and complete the required exams. The amendments protect the health, safety, and welfare of citizens by ensuring compliance, allowing individuals to work under the supervision of a licensed professional during the temporary license period, and ensuring oversight and guidance are in place. This contributes to maintaining a standard of competency and skill in service delivery, thus safeguarding the well-being of consumers. Providing a reasonable timeframe for individuals to complete the necessary exams encourages compliance with licensure requirements. The 90-day temporary license addresses time-consuming challenges with exam scheduling, enable professionals to work and earn income during the exam process, and maintains standards that safeguard the health, safety, and welfare of citizens.

Rationale for Using Fast-Track Rulemaking Process: This action is noncontroversial and suitable for the fast-track rulemaking process as it allows individuals to work while undergoing the exam process. Temporary license holders in barbering, cosmetology, nail, wax, esthetics, and master esthetics can work while scheduling and completing the required examinations. These professionals have fulfilled the training prerequisites through either a school or apprenticeship and can earn income by working under the supervision of a licensed professional during the examination phase. Temporary license holders will operate under the guidance of a licensed individual in their respective profession.

Substance: 18VAC41-20-90 and 18VAC41-70-70 are amended to (i) revise and correct some terms, such as changing "permit" to "license" and clarifying "supervision" to appropriately reflect the term "direct supervision"; (ii) clarify that an individual must work under the direct supervision of an individual who holds the respective license; (iii) specify the professions authorized to oversee temporary license holders under their direct supervision; (iv) extend the term of a temporary license from 45 days to 90 days; (v) remove the provision requiring that an applicant for licensure schedule an examination prior to being issued a temporary license; and (vi) clarify that an individual may not receive a subsequent temporary license.

Issues: The primary advantage of the 90-day temporary license regulatory revision is removing the prerequisite to schedule the first exam before obtaining the temporary license. Eliminating the need for scheduling the exam reduces delays and creates a more efficient procedure for obtaining a temporary license. Individuals will no longer need to wait before applying for a temporary license and can do so after completing their training. This modification promotes economic stability for temporary license holders by allowing those individuals to earn money while awaiting the examination process. Additionally, working under the supervision of licensed professionals guarantees that services delivered under the temporary license holder adhere to regulatory standards, thereby enhancing consumer safety. There are no identifiable disadvantages to the public. There are

no identifiable advantages or disadvantages to the agency or 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. The Board for Barbers and Cosmetology (board) proposes to (i) extend the duration of temporary barbering, master barbering, cosmetology, nail technician, wax technician, esthetician, and master esthetician licenses from 45 days to 90 days, (ii) eliminate a requirement that applicants register with the testing vendor for the license examination prior to being issued a temporary license, and (iii) clarify who can supervise a temporary licensee by type of license.

Background. Under the current regulations, qualified applicants for barbering, master barbering, cosmetology, nail technician, wax technician, esthetician, and master esthetician licenses are granted a 45-day temporary license to work under licensed professionals in the same discipline while waiting to take and pass the relevant professional exam. Additionally, prior to being issued a temporary license, applicants must register with the board's testing vendor to schedule their exam. The board proposes to extend the duration of the temporary licenses for these professions from 45 days to 90 days and eliminate the registration requirement. According to the board, the main purpose of the temporary licenses is to enable the qualified applicants to earn higher wages by working under supervision of a respective full licensee as soon as possible. However, the board states that the current 45-day duration is not sufficient due to prolonged waiting periods for applicants to obtain their temporary licenses. Applicants for a temporary license face two delays in scheduling their examinations. The first delay occurs during the initial exam scheduling process. Under the current regulations, individuals must schedule the first part of their license examination (test on theory) before they can receive the temporary license. Once the license is issued, it remains in effect for 45 days following the examination date. However, because exams are typically offered one to two months after they are requested, applicants have to wait one to two months before they actually get the license. The second delay occurs after the approval of the temporary license. After taking the first exam, the temporary license holder must wait an additional one to two months to take the second part of the exam (test on practice). Therefore, there is a possibility that the current 45-day temporary license may expire during this period, preventing the temporary license holder from the opportunity to continue to earn income.

The board proposes to allow individuals who completed either a training program or a registered apprenticeship, to apply to

Regulations

take the license examination and apply for a temporary license at the same time. Under the proposal, individuals who are issued a 90-day temporary license would be able to work under licensed professionals and earn income while waiting to take and pass the board-required examination on theory and practice. The board also proposes to clarify that temporary license holders must be supervised by fully licensed individuals in their respective discipline. The board has had inquiries from nail technicians wanting to supervise wax technicians and cosmetologists supervise barbers and vice versa. This is not permitted, and the board proposes to make it clear which professions may supervise other professions. As a result, language would be added to clarify that three professions may supervise holders of a temporary waxing license (cosmetologists, estheticians, and master estheticians); cosmetologists may supervise holders of a temporary nail license; master estheticians may supervise holders of a temporary esthetician license; and master barbers may supervise holders of a temporary barber license.

Estimated Benefits and Costs. The proposed changes would enable temporarily licensed barbers, master barbers, cosmetologists, nail technicians, wax technicians, estheticians, and master estheticians to earn higher wages for an additional 45-day period before they are fully licensed. Temporary licenses are issued only one time, for free, and cannot be extended or renewed. The board reports that monthly median income for barbers, hairstylists, and cosmetologists is \$2,783, or \$4,175 for a 45-day period. Thus, considering a temporary license holder would be at the beginning of their career and would likely earn below the median, they would be able to earn up to an additional \$4,174 during the term of the temporary permit under the proposal. On average, the board issues approximately 250 temporary permits per year, which equates to an additional income of up to \$1,043,500 per year in total. Also, working for an extended period under supervision could help individuals transition to their future careers with more ease. Thus, temporary license holders would likely benefit the most from the proposed changes.

In addition to the benefits to the temporary licensees, employers also are likely to gain from this proposal. According to the board, it is an industry practice for licensed professionals to pay a salon, shop, parlor, or a spa a booth rental fee to practice there. The average booth rental fee is \$400 per month. As a result, such businesses would receive approximately an additional \$600 in booth rental income individually, representing an additional \$150,000 total industry income from 250 applicants per year. Furthermore, a longer temporary license duration would reduce the chances of potentially having to cease work compared to the status quo. This should benefit both licensees and their employers in terms of avoiding a potential disruption in their employment arrangement. However, it cannot be ruled out that some of the temporary permit holders may fail the theory or practice parts of the licensing exam, although the board has no data on failure rates. If the exam is a good indicator for competency as it should be,

allowing a temporary license holder to practice who later fails the exam may be viewed as a potential risk to customers. The board believes that such a potential risk is minimal by pointing out to the fact that these professionals have fulfilled the training prerequisites through either a school or apprenticeship program and that they would operate under the supervision of a fully licensed individual in their respective profession. For these reasons, the board believes that the proposal maintains an appropriate standard of competency and skill in service delivery, thus safeguarding the well-being of consumers.

Businesses and Other Entities Affected. The board has averaged around 250 temporary licenses issued annually. Also, there are approximately 6,973 business licenses for shops, salons, parlors, and spas where temporary license holders may work. The proposal does not disproportionately affect any temporary license applicants.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.³ As noted, the proposal would allow temporary license holders to earn higher income for a longer period and would generate additional booth rental income for employers. The board also believes there are adequate safeguards in place to avoid any potential risk to well-being of consumers. Thus, no adverse impact appears to be indicated based on the board's assessment.

Small Businesses⁴ Affected.⁵ The Board considers all 6,793 businesses where temporary licensees may work as small businesses. However, the proposed amendments do not adversely affect small businesses.

Localities⁶ Affected.⁷ The proposed amendments do not introduce costs or other effects for localities.

Projected Impact on Employment. The proposed changes can be expected to reduce under-employment by allowing approximately 250 individuals to earn higher wages for an additional 45-day period. The extension of temporary licenses would likely add to the supply of professionals affected. However, the magnitude of the net impact on total employment cannot be determined as some of these individuals may have taken other jobs during that 45-day period.

Effects on the Use and Value of Private Property. The proposed action is expected to generate additional booth rental income for employers. Thus, the asset values of such businesses may be positively affected. No effects on the real estate development costs are expected.

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

affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

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

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

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

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

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

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

Agency's Response to Economic Impact Analysis: The Board for Barbers and Cosmetology concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments (i) extend the duration of temporary barbering, master barbering, cosmetology, nail technician, wax technician, esthetician, and master esthetician licenses from 45 days to 90 days; (ii) eliminate a requirement that applicants register with the testing vendor for the license examination prior to being issued a temporary license; and (iii) clarify who can supervise a temporary licensee by type of license.

18VAC41-20-90. Barber, master barber, cosmetology, nail technician, and wax technician temporary permits licenses.

A. A temporary ~~permit~~ license to work under the ~~direct~~ supervision of a currently licensed ~~barber, master barber, cosmetologist, nail technician, or wax technician~~ individual may be issued only to applicants for initial licensure who the board finds eligible for the applicable examination. There ~~shall~~ be ~~is~~ no fee for a temporary ~~permit~~ license. Except as provided

in this section, an applicant holding a temporary license must be supervised by an individual holding a license in the same scope of practice.

Licensed cosmetologists may also supervise nail and waxing temporary license holders. Licensed estheticians and master estheticians may also supervise waxing temporary license holders. Licensed master barbers may also supervise barber temporary license holders.

B. The temporary ~~permit shall~~ license will remain in force for ~~45 90 days following the examination date, and no subsequent temporary license will be issued. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.~~

C. Any person continuing to practice barbering, master barbering, cosmetology, nail care, or waxing services after a temporary ~~permit~~ license has expired may be prosecuted and fined by the Commonwealth under §§ 54.1-111 A 1 and 54.1-202 of the Code of Virginia.

~~D. No applicant for examination shall be issued more than one temporary permit.~~

~~E. D.~~ Temporary ~~permits shall~~ licenses will not be issued where grounds may exist to deny a license pursuant to § 54.1-204 of the Code of Virginia or 18VAC41-20-20.

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 and Master 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)~~

[Temporary License Application, A450-1213TEMP-vs4 \(rev. 8/2024\)](#)

Regulations

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

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

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

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

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

[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~~ Application A450-1213ULR-v1 \(eff. 7/2023\)](#)

18VAC41-70-70. Esthetician temporary license and master esthetician temporary license.

A. A temporary license to work under the direct supervision of a currently licensed ~~esthetician or master esthetician individual~~ individual may be issued only to applicants for initial licensure ~~that who~~ the board finds eligible for the applicable examination. There ~~shall be~~ is no fee for a temporary license. Except as provided in this section, an applicant holding a temporary license must be supervised by an individual holding a license in the same scope of practice.

Licensed master estheticians may supervise estheticians and waxing temporary license holders. Licensed estheticians may supervise waxing temporary license holders.

B. The temporary license ~~shall~~ will remain in force for ~~45~~ 90 days ~~following the examination date, and no subsequent temporary license shall be issued. The examination date shall~~

~~be the first test date after the applicant has successfully submitted an application to the board.~~

C. Any person continuing to practice esthetics services after a temporary license has expired may be prosecuted and fined by the Commonwealth under §§ 54.1-111 A 1 and 54.1-202 of the Code of Virginia.

~~D. No applicant for examination shall be issued more than one temporary license.~~

~~E. D. Temporary permits shall~~ licenses will not be issued where grounds may exist to deny a license pursuant to § 54.1-204 of the Code of Virginia or 18VAC41-70-20.

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 (18VAC41-70)

[Esthetician – Esthetics Instructor Examination & and License Application, A450-1261_62EXLIC-v17 \(eff. 5/2022\)](#)

[Master Esthetician – Master Esthetics Instructor Examination & and License Application, A450-1264_65EXLIC-v18 \(eff. 5/2022\)](#)

~~Temporary Permit Application, A450-1213TEMP-v3 (eff. 12/2021)~~

[Temporary License Application, A450-1213TEMP-vs4 \(eff. 8/2024\)](#)

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

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

[Individual - Reinstatement Application, A450-1213REI-v13 \(eff. 9/2022\)](#)

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

[Salon, Shop & and Spa ~~Self Inspection Self-Inspection~~ Form, A450-1213_SSS_INSP-vs2 \(eff. 5/2016\)](#)

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

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

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

~~School Self-Inspection~~ [Self-Inspection Form, A450-1213SCH_INSP-vs5](#) (eff. 1/2022)

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

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

[Experience Verification Form, A450-1261_64EXP-v2](#) (eff. 2/2023)

[Esthetics-Master Esthetics Universal License App Application, A450-1261-65ULR-v1](#) (eff. 7/2023)

VA.R. Doc. No. R24-7768; Filed June 7, 2024, 12:58 p.m.

CEMETERY BOARD

Final Regulation

REGISTRAR'S NOTICE: The Cemetery Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Cemetery Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC47-20. Cemetery Board Rules and Regulations (amending 18VAC47-20-70, 18VAC47-20-140).**

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

Effective Date: August 1, 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.

Summary:

Pursuant to § 54.1-113 of the Code of Virginia, the amendments adopt a temporary reduction in initial salesperson fees and renewal and reinstatement fees for cemetery companies and salespersons. The temporary fees are applicable from August 1, 2024, through July 31, 2026.

18VAC47-20-70. Application fees.

A. Application fees are nonrefundable.

Cemetery company license	\$580 per cemetery
Addition of cemetery	\$580 per cemetery
Sales personnel registration	\$60 per cemetery

B. For sales personnel registration applications received between August 1, 2024, and July 31, 2026, the application fee is as follows:

<u>Sales personnel registration</u>	<u>\$40 per cemetery</u>
-------------------------------------	--------------------------

18VAC47-20-140. Renewal and reinstatement fees.

A. All fees required by the board are nonrefundable. The date on which the fee is received by the department or its agent shall determine whether the licensee or registrant is eligible for renewal or reinstatement or must reapply as a new applicant.

<u>Renewal of cemetery company license</u>	<u>\$580 per cemetery</u>
<u>Renewal of sales personnel registration</u>	<u>\$60 per cemetery</u>
<u>Reinstatement of cemetery company license</u>	<u>\$580 per cemetery</u>
<u>Reinstatement of sales personnel registration</u>	<u>\$60 per cemetery</u>

~~B. For licenses and registrations expiring on May 31, 2022, and before May 1, 2024, the renewal and reinstatement fees received between August 1, 2024, and July 31, 2026, the fees are as follows:~~

<u>Renewal of cemetery company license</u>	<u>\$400 per cemetery</u>
<u>Renewal of sales personnel registration</u>	<u>\$50 per cemetery</u>
<u>Renewal of cemetery company license</u>	<u>\$285 per cemetery</u>
<u>Renewal of sales personnel registration</u>	<u>\$30 per cemetery</u>
<u>Reinstatement of cemetery company license</u>	<u>\$370 per cemetery</u>
<u>Reinstatement of sales personnel registration</u>	<u>\$45 per cemetery</u>

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 (18VAC47-20)

Cemetery ~~Company/Personnel~~ Company and Personnel Forms

Regulations

Cemetery Company License Application, 4901LIC-v2 (rev. 1/2014)

~~Cemetery Company Renewal/Reinstatement Application, 4901RENREI-v2 (rev. 1/2014)~~

~~Sales Personnel Registration Form, 4903REG-v3 (rev. 1/2014)~~

[Cemetery Company Renewal or Reinstatement Application, A462-4901RENREI-v12 \(rev. 8/2024\)](#)

[Sales Personnel Registration Form, A462-4903REG-v5 \(rev. 8/2024\)](#)

Compliance Agent Designee Application, A462-49CAD-v2 (rev. 6/2016)

[Compliance Agent/Officer/Director Agency, Officer, or Director Change Form, A462-49ADO CHG-v2 \(rev. 6/2016\)](#)

Cemetery Addition Form, 4901ADD-v3 (rev. 1/2014)

Perpetual Care Forms

Perpetual Care Fidelity Bond Form, 49PCFBND-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report, 49PCTFR-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report Instructions, 49PCTINS-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report - Schedule A (Statement of Receipts and Expenses), 49PCTFRA-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report - Schedule B (Statement of Required Deposits), 49PCTFRB-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report - Schedule C (Statement of Expenses Incurred for the General Care, Maintenance, Embellishment, and Administration of Cemeteries), 49PCTFRC-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report - Schedule D (Statement of Investment Securities), 49PCTFRD-v1 (rev. 9/2013)

Perpetual Care Trust Fund Financial Report - Schedule E (Cemeteries Covered by Trust Fund), 49PCTFRE-v1 (rev. 9/2013)

Preneed Forms

Preneed Burial Contract (undated)

Preneed Fidelity Bond Form, 49PFBND-v1 (rev. 9/2013)

Preneed Trust Fund Financial Report, 49PTFR-v1 (rev. 9/2013)

Preneed Trust Fund Financial Report Instructions, 49PTINS-v1 (rev. 9/2013)

Preneed Trust Fund Financial Report - Schedule A (Statement of Receipts and Expenses), 49PTFRA-v1 (rev. 9/2013)

Preneed Trust Fund Financial Report - Schedule B (Statement of Financial Deposits), 49PTFRB-v1 (rev. 9/2013)

Preneed Trust Fund Financial Report - Schedule C (Statement of Investment Securities), 49PTFRC-v1 (rev. 9/2013)

Trustee Forms

Perpetual Care Trust Fund Trustee Verification, 49TRVER-v1 (rev. 9/2013)

Trustee Approval Application, 49TRAPP-v1 (rev. 9/2013)

New Trustee ≠ Transfer of Funds Notification Form, 4901NEWTR-v1 (rev. 9/2013)

VA.R. Doc. No. R24-7940; Filed June 5, 2024, 8:04 a.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

CRIMINAL JUSTICE SERVICES BOARD

Title of Document: [Certified Crime Prevention Community Program Certification Guidelines Manual](#).

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Kristi Shalton, Agency Regulatory Coordinator, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23218, telephone (804) 786-7801, or email kristi.shalton@dcjs.virginia.gov.

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Nikki Clarke Callaghan, Legislation, Regulations, and Guidance Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7943, or email nikki.clarke@dss.virginia.gov.

STATE BOARD OF HEALTH

Title of Document: [Children with Special Health Care Needs Pool of Funds Guidelines](#).

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Rebecca Edelstein, Policy Analyst, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 240-1308, or email rebecca.edelstein@vdh.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Titles of Documents: [Appendix A Revision](#).

[VOSH Field Operations Manual; Chapter 11 - Penalties](#).

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Cristin Bernhardt, Regulatory Coordinator and Staff Attorney, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-2392, or email cristin.bernhardt@doli.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Title of Document: [Child and Family Services Manual, Chapter E, Foster Care](#).

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 FOR THE BLIND AND VISION IMPAIRED

Title of Document: [PPD 22-04 Referral](#).

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Deborah Collard, Senior Policy Analyst, Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, VA 23227, telephone (804 887-7343, or email deborah.collard@dbvi.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Titles of Documents: [16VAC25-75, Virginia Unique General Industry Standard for Telecommunications, General, Approach Distances](#).

[Access to Employee Exposure and Medical Records, § 1910.1020](#).

[Administrative Regulations Manual for the Virginia Occupational Safety and Health Program](#).

[Air Contaminants in Public Sector Shipyard Employment](#).

[Amendments to the Air Contaminants Standards](#).

[Amendments to the Applicability of Standards in 29 CFR Part 1910, § 1928.21](#).

[Amendment Concerning Presence Sensing Device Initiation of Mechanical Power Presses, §§ 1910.211 and 1910.217](#).

[Amendment Concerning Servicing of Single-Piece and Multi-Piece Rim Wheels](#).

[Amendment Concerning Revision of Construction Industry Test and Inspection Records](#).

[Amendment to the Flammable Liquid Standard for General Industry, § 1910.106](#).

[Amendment to Permit-Required Confined Spaces Standard for General Industry, § 1910.146](#).

[Amendment to Vinyl Chloride for General Industry, § 1910.1017; CFR Correction](#).

[Amendment to Virginia Commercial Diving Standard, § 1910.430](#).

[Commercial Diving Operations - Subpart T of Part 1910](#).

[Competent Person, Shipyard Employment, § 1915.7](#).

[Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment, §§ 1915.11 through 1915.16; and Corrections](#).

[Confined Spaces in Construction, Part 1926, Subpart AA, §§ 1926.1200 through 1926.1213; and Other Related Provisions, § 1926.953, Enclosed Spaces; and § 1926.968, Definitions](#).

[Cranes and Derricks in Construction, §§ 1926.1400 through 1926.1442](#).

[Dipping and Coating Operations, General Industry, Revised Final Rule, §§ 1910.122 through 1910.126](#).

[Electric Power Generation, Transmission and Distribution and Amendments, Parts 1910 and 1926; Amendment to Electrical Protective Equipment Standard, § 1910.137; Correcting Amendments](#).

[Electrical Standard, Subpart S of Part 1910, §§ 1910.302 through 1910.308](#).

[Employer Duty to Provide Personal Protective Equipment and Train Each Employee; Clarification of Final Rule; Parts 1910, 1915, 1917, 1918, and 1926; and Correction](#).

[Employer Payment for Personal Protective Equipment; Final Rule](#).

[Ethylene Oxide Standard Construction Industry, § 1926.1147; and Correction](#).

[Excavations Standard, §§ 1926.650 through 1926.652](#).

[Exemption for Religious Reasons for Wearing Hard Hats](#).

[Exit Routes, Emergency Action Plans, and Fire Prevention Plans, §§ 1910.33 through 1910.39, Subpart E; Final Rule and Changes to Related Standards](#).

[Explosive Actuated Fastening Tools](#).

[Fall Protection in General Industry - 1910.23c1, c3, 1910.132a](#).

[Fire Protection in Shipyard Employment, §§ 1915.501 through 1915.509, Public Sector Only](#).

[Gases, Vapors, Fumes, Dusts, and Mists, § 1926.55](#).

[General Working Conditions in Shipyard Employment; Final Rule and Corrections](#).

[Grain Handling Facilities Standard, § 1910.272; Technical Amendment](#).

Hazard Communication Standard, § 1910.1200; and Other Related Standards in Parts 1910, 1915, and 1926; Corrections and Technical Amendment.

Hazardous Waste Operations and Emergency Response, §§ 1910.120 and 1926.65.

Incorporation into Part 1926 those Part 1910 General Industry Safety and Health Standards determined to be Applicable to Construction Work.

Lead Exposure in Construction, § 1926.62.

Lead Standard, General Industry, § 1910.1025; Amendments.

Logging Operations, General Industry, § 1910.266; Corrections.

Longshoring and Marine Terminals, Parts 1910, 1917 and 1918.

Mechanical Power-Transmission Apparatus, §§ 1910.219 and 1926.307; Mechanical Power Presses, § 1910.217; Telecommunications, § 1910.268; and Hydrogen, § 1910.103.

Methylenedianiline in Construction, § 1926.60; Correction.

Occupational Exposure to 1,3--Butadiene, General Industry, § 1910.1051; Final Rule.

Occupational Exposure to Asbestos, General Industry, § 1910.1001, Shipyard Employment, § 1915.1001, and Construction, § 1926.1101; Revised Final Rule.

Occupational Exposure to Beryllium, Construction Industry, § 1926.1124.

Occupational Exposure to Beryllium, General Industry, § 1910.1024.

Occupational Exposure to Beryllium, Public-Sector Shipyard Employment Industry, § 1915.1024.

Occupational Exposure to Bloodborne Pathogens, § 1910.1030.

Occupational Exposure to Cotton Dust, § 1910.1043n4.

Occupational Exposure to Hazardous Chemicals in Laboratories, § 1910.1450 - Non-Mandatory Appendix A, National Research Council Recommendations concerning Chemical Hygiene in Laboratories; Technical Amendment.

Occupational Exposure to Hexavalent Chromium; Revising Notification Requirements in the Exposure Determination Provisions of Hexavalent Chromium Standards, § 1910.1026 d 4 i - General Industry, § 1915.1026 - Shipyards, § 1926 - Construction.

Occupational Exposure to Methylene Chloride, General Industry, § 1910.1052; Shipyard Employment, § 1915.1052; and Construction, § 1926.1152; Revised Final Rule.

Occupational Exposure to Respirable Crystalline Silica; and Correcting Amendment.

Occupational Injury and Illness Recording and Reporting Requirements, 1904.0 through 1904.46; and Amendments.

Occupational Safety and Health Standards for Shipyard Employment; Technical Amendments.

Overhead and Gantry Cranes.

Overhead High Voltage Line Safety Act, §§ 59.1-406 through 59.1-414 of the Code of Virginia.

Personal Protective Equipment for Shipyard Employment, Part 1915; Amendment.

Personal Protective Equipment, Parts 1910, 1915, 1917, and 1926.

Powered Industrial Trucks, Parts 1910, 1915, 1917.1, 1918.1, and 1926; Correction.

Process Safety Management of Highly Hazardous Chemicals, § 1910.119, Amendment to Explosives and Blasting Agents, § 1910.109; and Corrections.

Pulp, Paper, and Paperboard Mills.

Respiratory Protection Standard, § 1910.134, and Other Related Standards in Parts 1910 and 1926.

Retention of Department of Transportation Markings, Placards, and Labels - §§ 1910.1201, 1915.100, 1917.29, 1918.100, and 1926.61.

Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery, and Equipment in General Industry and the Construction Industry, 16VAC25-97.

Revising Standards Referenced in 16VAC25-90-1910.102, Acetylene Standard for General Industry, § 1910.102.

Rigging Equipment for Material Handling Construction Standard, § 1926.251; Correction and Technical Amendment.

Safety Standards for General Industry and Construction; Final Rule; and Technical Amendments.

Safety Standards for Scaffolds Used in the Construction Industry, §§ 1926.450 through 1926.454; Repeal of § 1926.556, Aerial Lifts; Corrections to §§ 1926.451 and 1926.453; and Administrative Stay of § 1926.451b.

Safety Standards for Signs, Signals, and Barricades, Subpart G, §§ 1926.200 through 1926.203.

Safety Standards for Steel Erection, §§ 1926.750 through 1926.759, 1926.760 d and e, and § 1926.761; Revised Final Rule.

Sawmills § 1910.265; Amendments.

Special Provisions for Air Contaminants, § 1910.19; Amendment.

Standard Concerning Safety Testing or Certification of Certain Workplace Equipment and Materials.

Guidance Documents

Standards Improvement Project - Phase III SIP - III Parts 1910, 1915, 1917, 1918, 1919, and 1926.

Textiles, § 1910.262; Amendment.

Tree Trimming Operations.

Underground Construction Standard, § 1926.800.

Vehicle-Mounted Elevating and Rotating Work Platforms, § 1910.67.

Virginia Confined Space Standard for the Telecommunications Industry, § 1910.268 t.

Virginia Unique Construction Industry for Sanitation; in General, 16VAC25-160-10, and Field Sanitation Standard, 16VAC25-180-10 (Agriculture).

Virginia Unique Safety Standards for Fall Protection in Steel Erection, Construction Industry, 16VAC25-145, in lieu of 29 CFR 1926.760a, 1926.760b, and 1926.760c.

VOSH Voluntary Protection Program.

Walking-Working Surfaces and Personal Protective Equipment Fall Protection Systems, Final Rule; and Other Related Provisions.

Welding, Cutting, and Brazing Standard, §§ 1910.252 through 1910.257.

Public Comment Deadline: July 31, 2024.

Effective Date: August 1, 2024.

Agency Contact: Cristin Bernhardt, Regulatory Coordinator and Staff Attorney, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-2392, or email cristin.bernhardt@doli.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Town of Colonial Beach

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to the Town of Colonial Beach for alleged violation of the State Water Control Law at 2301 McKinney Boulevard, Colonial Beach, Virginia. A description of the proposed action is available at the office listed or online at www.deq.virginia.gov. DEQ will accept comments by email or postal mail from July 1, 2024, to July 31, 2024.

Contact Information: Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia 23060, telephone (804) 720-4754, or email jefferson.reynolds@deq.virginia.gov.

Proposed Enforcement Action for Town of Kenbridge, Kenbridge Storage Tank Program

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to the Town of Kenbridge for alleged violation of the State Water Control Law at Kenbridge Storage Tank Program, 171 Maple Street, Kenbridge, Virginia. A description of the proposed action is available at the office listed or at www.deq.virginia.gov. DEQ will accept comments by email or postal mail from July 1, 2024, to July 30, 2024.

Contact Information: Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, 4949A Cox Road, Glen Allen, Virginia 23060, telephone (804) 720-4754, or email jefferson.reynolds@deq.virginia.gov.

Proposed Enforcement Action for Powhatan County, Fighting Creek Wastewater Treatment Facility

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to Powhatan County for alleged violation of the State Water Control Law at the Fighting Creek wastewater treatment facility, 2040 Anderson Highway, Powhatan County, Virginia. A description of the proposed action is available at the office listed or at www.deq.virginia.gov. DEQ will accept comments by email or postal mail from July 1, 2024, to July 31, 2024.

Contact Information: Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, 4949A Cox Road, Glen Allen, Virginia 23060, telephone (804) 720-4754, or email jefferson.reynolds@deq.virginia.gov.

Proposed Enforcement Action for Town of Pulaski

The Virginia Department of Environmental Quality (DEQ) proposes to issue an enforcement action for the Town of

Pulaski for violations of various sanitary sewer overflow locations in Pulaski, Virginia to address noncompliance with the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations. A description of the proposed action is available at the office listed or online at www.deq.virginia.gov. DEQ will accept comments by email or postal mail from July 1, 2024, through July 31, 2024.

Contact Information: Timothy Fletcher, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 524-0665, or email timothy.fletcher@deq.virginia.gov.

COMMISSION ON LOCAL GOVERNMENT

Mandates Assessment Schedule for Fiscal Year 2025

The Commission on Local Government has approved the FY25 Mandates Assessment Schedule for all state agencies that administer mandates on local governments. It can be found at <https://www.dhcd.virginia.gov/agency-assessment-mandates-local-government>.

The completed mandate assessments will be considered periodically by the commission at its regular meetings throughout the fiscal year.

Contact Information: LeGrand Northcutt, Senior Policy Analyst, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 310-7151, FAX (804) 371-7090, or email legrand.northcutt@dhcd.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Opportunity for Review for the Renewal of § 1115 Demonstration: Five-Year Extension Request

Pursuant to 42 CFR 431.408, the Department of Medical Assistance Services (DMAS) is providing a notice of intent to submit to the federal Centers for Medicare and Medicaid Services (CMS) a request to extend for five years its Medicaid § 1115 Demonstration Waiver, Building and Transforming Coverage, Services, and Supports for a Healthier Virginia Demonstration. DMAS is providing an opportunity for members of the public to review the extension.

Virginia's Building and Transforming Coverage, Services, and Supports for a Healthier Virginia Demonstration has three components. It provides substance use disorder (SUD) benefits to Medicaid beneficiaries who are short-term residents in residential treatment facilities (RTFs) that meet the definition of an institution for mental disease (IMD). The waiver provides coverage for former foster care youth (FFCY) younger than 26 years of age who were in foster care under the responsibility of another state on the date they turned 18 years of age. The waiver also contains high needs supports benefits, which

Guidance Documents

include (i) a work and community engagement program for certain adult populations, (ii) a health and wellness program that includes premiums and cost-sharing designed to promote healthy behavior for certain adult populations between 100% and 138% of the federal poverty level, and (iii) a housing and employment supports benefit for high-need populations.

DMAS plans to extend the Building and Transforming Coverage, Services, and Supports for a Healthier Virginia Waiver that is scheduled to expire on December 31, 2024. Through this extension, Virginia plans to request to (i) continue to provide SUD benefits, including SUD treatment services to Medicaid beneficiaries who are short-term residents in RTFs that meet the definition of an IMD; (ii) update the authority to specify that DMAS provides Medicaid coverage for FFCY up to age 26 years who aged out of foster care in another state and now reside in Virginia, provided the member turned 18 years of age prior to January 1, 2023; and (iii) sunset the high needs supports benefits because the Virginia General Assembly has not provided funding that has enabled these services to be implemented.

The full public notice; draft Building and Transforming Coverage, Services, and Supports for a Healthier Virginia Extension Application; and information regarding the Demonstration Extension Application are available at <https://www.dmas.virginia.gov/about-us/1115-demonstration-waiver/>. DMAS will update the website throughout the public comment and application process.

DMAS will submit a revised application to CMS. Public comments contributed prior to the comment deadline of June 29 will be posted on the DMAS website along with the demonstration extension application when it is submitted to CMS.

Contact Information: Jason Lowe, Behavioral Health Integration Advisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 659-8732, or email jason.lowe@dmas.virginia.gov.

Opportunity for Review of Eligibility Manual Draft Transmittal

A draft of Transmittal #DMAS-32, which includes policy clarifications, updates, and revisions is available at <https://dmas.virginia.gov/for-applicants/eligibility-guidance/transmittals/> for public review.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email emily.mcclellan@dmas.virginia.gov.

VIRGINIA CODE COMMISSION Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumulstab.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.

