



VIRGINIA

REGISTER OF REGULATIONS

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December 19, 2022

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Virginia Code Commission

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 V.A.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.

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PUBLICATION SCHEDULE AND DEADLINES

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

January 2023 through January 2024

| <u>Volume: Issue</u> | <u>Material Submitted By Noon*</u> | <u>Will Be Published On</u> |
|-----------------------------|---|------------------------------------|
| 39:10 | December 13, 2022 (Tuesday) | January 2, 2023 |
| 39:11 | December 27, 2022 (Tuesday) | January 16, 2023 |
| 39:12 | January 11, 2023 | January 30, 2023 |
| 39:13 | January 25, 2023 | February 13, 2023 |
| 39:14 | February 8, 2023 | February 27, 2023 |
| 39:15 | February 22, 2023 | March 13, 2023 |
| 39:16 | March 8, 2023 | March 27, 2023 |
| 39:17 | March 22, 2023 | April 10, 2023 |
| 39:18 | April 5, 2023 | April 24, 2023 |
| 39:19 | April 19, 2023 | May 8, 2023 |
| 39:20 | May 3, 2023 | May 22, 2023 |
| 39:21 | May 17, 2023 | June 5, 2023 |
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| 40:1 | August 9, 2023 | August 28, 2023 |
| 40:2 | August 23, 2023 | September 11, 2023 |
| 40:3 | September 6, 2023 | September 25, 2023 |
| 40:4 | September 20, 2023 | October 9, 2023 |
| 40:5 | October 4, 2023 | October 23, 2023 |
| 40:6 | October 18, 2023 | November 6, 2023 |
| 40:7 | November 1, 2023 | November 20, 2023 |
| 40:8 | November 14, 2023 (Tuesday) | December 4, 2023 |
| 40:9 | November 29, 2023 | December 18, 2023 |
| 40:10 | December 13, 2023 | January 1, 2024 |
| 40:11 | December 27, 2023 | January 15, 2024 |

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** following regulations are undergoing a periodic review and a small business impact review:

4VAC20-20, Pertaining to **the** Licensing of Fixed Fishing Devices;

4VAC20-25, Pertaining to Pound Net Siting Public Interest Review;

4VAC20-70, Pertaining to **the** Harvesting of Clams;

4VAC20-80, Pertaining to **the** Setting of Fishing Devices Proximate to Chesapeake Bay Bridge-Tunnel;

4VAC20-100, Pertaining to **the** Taking of Clams on Seaside of Eastern Shore;

4VAC20-110, Pertaining to Lobsters;

4VAC20-120, Pertaining to Public Notice of Applications for Permits for Certain Uses of State-Owned Bottomlands;

4VAC20-130, Pertaining to Prohibited Areas for Use of Patent Tongs;

4VAC20-140, Pertaining to Identification of Crab Pots, Peeler Pots, Eel Pots, and Fish Pots;

4VAC20-150, Pertaining to **the** Dredging of Conchs (Also Known As Whelks);

4VAC20-170, Pertaining to **the** Removal of Nets;

4VAC20-190, Pertaining to Measuring Mesh Size of Menhaden Nets;

4VAC20-220, Pertaining to **the** Taking of Finfish by Gill Nets;

4VAC20-230, Pertaining to **the** Harvesting of Surf Clams;

4VAC20-240, Pertaining to **the** Tangier Island Crab Scrape Sanctuary;

4VAC20-252, Pertaining to **the** Taking of Striped Bass;

4VAC20-260, Pertaining to Designation of Seed Areas and Clean Cull Areas;

4VAC20-270, Pertaining to Blue Crab Fishery;

4VAC20-280, Pertaining to Speckled Trout;

4VAC20-290, Marking of Leased Oyster Planting Ground;

4VAC20-310, Pertaining to **the** Relaying of Shellfish;

4VAC20-320, Pertaining to **the** Taking of Black Drum;

4VAC20-330, Pertaining to **the** Taking of Shellfish from Condemned Areas;

4VAC20-333, Virginia General Permit #1 (VGP#1) for Projects Undertaken by **the** Virginia Department of Transportation in, on or over State-Owned Subaqueous Lands Anywhere Within **the** Commonwealth;

4VAC20-335, Pertaining to on-Bottom Shellfish Aquaculture Activities;

4VAC20-336, General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities;

4VAC20-337, Submerged Aquatic Vegetation (SAV) Transplantation Guidelines;

4VAC20-340, Public Participation Guidelines;

4VAC20-345, General Wetlands Permit for Emergency Situations;

4VAC20-350, Pertaining to Prohibiting **the** Sale of Billfish;

4VAC20-360, Criteria for **the** Siting of Marinas or Community Facilities for Boat Mooring;

4VAC20-370, Pertaining to **the** Culling of Crabs;

4VAC20-380, Pertaining to Grey Trout (Weakfish);

4VAC20-390, Wetlands Mitigation -- Compensation Policy;

4VAC20-395, General Permit for Emergency Situations and Water Quality Improvement Projects;

4VAC20-398, Ballast Water Discharge Reporting;

4VAC20-400, Criteria for **the** Placement of Sandy Dredged Material Along Beaches in **the** Commonwealth;

4VAC20-410, Pertaining to **the** Use of Patent Tongs;

4VAC20-430, Pertaining to **the** Marking and Minimum Mesh Size of Gill Nets;

4VAC20-440, Coastal Primary Sand Dune/Beaches Guidelines: Barrier Island Policy;

4VAC20-450, Pertaining to **the** Taking of Bluefish;

4VAC20-460, Pertaining to **the** Use of Crab Traps and Pounds;

4VAC20-470, Pertaining to Hampton Roads Management Area;

4VAC20-480, Pertaining to Eastern Shore Bayside Management Areas;

4VAC20-490, Pertaining to Sharks;

4VAC20-500, Pertaining to **the** Catching of Eels;

4VAC20-510, Pertaining to Amberjack and Cobia;

Periodic Reviews and Small Business Impact Reviews

4VAC20-520, Pertaining to **the** Use of Patent Tongs;

4VAC20-530, Pertaining to American Shad;

4VAC20-540, Pertaining to Spanish and King Mackerel;

4VAC20-550, Pertaining to **the** Removal of Gill Nets and Other Nonfixed Finfishing Gear;

4VAC20-560, Pertaining to Shellfish Management Areas;

4VAC20-561, Pertaining to **the** Hampton Flats Hard Clam Harvest Area;

4VAC20-566, Pertaining to **the** Hampton Roads Shellfish Relay Area;

4VAC20-570, Pertaining to **the** Use of Firearms to Take Fish;

4VAC20-580, Pertaining to **the** Alteration of Finfish;

4VAC20-590, Pertaining to **the** Taking of Hard Clams;

4VAC20-600, Pertaining to Pound Net License Sales;

4VAC20-610, Pertaining to Commercial Fishing and Mandatory Harvest Reporting;

4VAC20-620, Pertaining to Summer Flounder;

4VAC20-650, Establishment of Oyster Sanctuary Areas;

4VAC20-680, Pertaining to Gill Nets;

4VAC20-700, Pertaining to Crab Pots;

4VAC20-720, Pertaining to Restrictions on Oyster Harvest;

4VAC20-740, Pertaining to **the** Snagging or Towing of Fish;

4VAC20-751, Pertaining to **the** Setting and Mesh Size of Gill Nets;

4VAC20-752, Pertaining to Blue Crab Sanctuaries;

4VAC20-755, Pertaining to Artificial Reefs;

4VAC20-770, Piankatank River Management Area;

4VAC20-780, Patent Tong Restrictions;

4VAC20-790, Open Public Oyster Rocks, Pocomoke Sound;

4VAC20-810, Opening of John East Turn and Poynter Rocks and Closing Beaseley Bay Rock and Deep Creek Channel, Buoy No. 7;

4VAC20-830, A Change in **the** Oyster Cull Size for Oysters Harvested from Russ Rock, Rappahannock River;

4VAC20-850, Expansion of **the** Jail Island Clean Cull Area;

4VAC20-860, A Change in **the** Oyster Cull Size for Oysters Harvested from Little Carters Rock, Rappahannock River;

4VAC20-880, Pertaining to Hard Crab Pot Limits;

4VAC20-890, Pertaining to Channeled Whelk;

4VAC20-900, Pertaining to Horseshoe Crab;

4VAC20-910, Pertaining to Scup (Porgy);

4VAC20-950, Pertaining to Black Sea Bass;

4VAC20-960, Pertaining to Tautog;

4VAC20-970, Pertaining to Spadefish;

4VAC20-980, Pertaining to on-Shore Loading and Unloading of Shellfish from Condemned Areas;

4VAC20-995, Pertaining to Commercial Hook-And-Line Fishing;

4VAC20-1000, Pertaining to Dredging in Submerged Aquatic Vegetation;

4VAC20-1020, Pertaining to Bay Scallops;

4VAC20-1030, Management Plan for **the** Ungranted State Lands in Accomack and Northampton Counties;

4VAC20-1040, Pertaining to Commercial Crab Fishery Licenses;

4VAC20-1070, Pertaining to Haul Seines;

4VAC20-1080, Pertaining to Monkfish (Goosefish);

4VAC20-1090, Pertaining to Licensing Requirements and License Fees;

4VAC20-1100, Pertaining to Shellfish Handling;

4VAC20-1110, Pertaining to Sheepshead;

4VAC20-1120, Pertaining to Tilefish and Grouper;

4VAC20-1130, General Permit No. 4 for Temporary Protective Enclosures for Shellfish;

4VAC20-1140, Prohibition of Crab Dredging in Virginia Waters;

4VAC20-1180, Pertaining to Fishing Guides, Charter Boat, and Head Boat Fisheries;

4VAC20-1190, Pertaining to Gill Net Control Date;

4VAC20-1200, Pertaining to **the** Special Oyster Relay Season in **the** Rappahannock River;

4VAC20-1220, Pertaining to Separation Between Nets;

4VAC20-1230, Pertaining to Restrictions on Shellfish;

4VAC20-1250, Pertaining to **the** Tagging of Shellfish;

4VAC20-1260, Pertaining to River Herring;

Periodic Reviews and Small Business Impact Reviews

4VAC20-1270, Pertaining to Atlantic Menhaden;

4VAC20-1290, Pertaining to Restrictions on the Harvest of Shellfish and in Condemned Shellfish Areas;

4VAC20-1300, Living Shoreline Group 1 General Permit for Certain Living Shoreline Treatments Involving Tidal Wetlands;

4VAC20-1310, Pertaining to Jonah Crab;

4VAC20-1330, Living Shoreline Group 2 General Permit for Certain Living Shoreline Treatments Involving Submerged Lands, Tidal Wetlands, or Coastal Primary Sand Dunes and Beaches.

The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins December 19, 2022, and ends January 9, 2023.

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: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC5-540, Emergency Generator General Permit.** The review will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this 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.

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Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973.

VIRGINIA WASTE MANAGEMENT BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC20-110, Regulations Governing the Transportation of Hazardous Materials.** The review will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this 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 December 19, 2022, and ends January 9, 2023.

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: Leslie A. Romanchik, Environmental Manager II, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 912-7218.



Periodic Reviews and Small Business Impact Reviews

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-408, Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated October 17, 2022, to support this decision.

The regulation of quality of care provided to covered persons by Managed Care Health Insurance Plan (MCHIP) licensees is necessary for the protection of public health, safety, and welfare because health insurance coverage and adequate health care provider networks maintained by MCHIP licensees plays a large role in the quality of care delivered to consumers of health care in the Commonwealth, and effective regulation can expand access to and availability of care, particularly primary care. There is room for improvement on the clarity and understandability of the regulatory language.

The board intends to repeal 12VAC5-408 and replace it with a new chapter. This regulation has not been comprehensively reviewed and updated in nearly 20 years. The health care delivery system, particularly reimbursement and insurance coverage, has changed significantly over that time. For the board to have an effective regulatory framework to accomplish the goals set in Article 1.1 (§ 32.1-137.1 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, a significant overhaul is necessary. The most efficient method to make the regulation more clearly written and easily understandable; consistent with the Code of Virginia and Virginia Administrative Code style and format; and accommodate changes in the industry is to repeal the current regulation and replace it.

There is a continued need for the regulation as the board is required by § 32.1-137.3 of the Code of Virginia to promulgate regulations governing the quality of care provided to covered persons by an MCHIP licensee. The topic of provider credentialing and what constitutes an adequate provider network has been the subject of many comments informally directed to Virginia Department of Health staff. Much of the complexity of administering the regulation comes from the fact that it is outdated and not clearly written. There is some overlap with federal regulations for plans that are offered on the Affordable Care Act health exchanges regarding network adequacy requirements; however, not all MCHIPs in the Commonwealth are operated on the exchange, so state-level oversight is needed. The board estimates that very few, if any, of the regulated MCHIP licensees qualify as small businesses.

Contact Information: Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2157.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **12VAC5-475, Regulations Implementing the Virginia Donor Registry**. The review will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this 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 December 19, 2022, and ends January 9, 2023.

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: Rick Sikon, Operational Director, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-201, Permanency Services - Prevention, Foster Care, Adoption and Independent Living**. The review will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Periodic Reviews and Small Business Impact Reviews

Public comment period begins December 19, 2022, and ends January 9, 2023.

Comments must include **the** commenter's name and address (physical or email) information in order to receive a response to **the** comment from **the** agency. Following **the** close of **the** public comment period, a report of both reviews will be posted on **the** Virginia Regulatory Town Hall and published in **the** Virginia Register of Regulations.

Contact Information: Nikki Clarke Callaghan, Legislation, Regulations and Guidance Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7943.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** following regulation is undergoing a periodic review and a small business impact review: **22VAC40-411, General Relief Program**. **The** review will be guided by **the** principles in Executive Order 19 (2022). **The** purpose of a periodic review is to determine whether this 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 December 19, 2022, and ends January 9, 2023.

Comments must include **the** commenter's name and address (physical or email) information in order to receive a response to **the** comment from **the** agency. Following **the** close of **the** public comment period, a report of both reviews will be posted on **the** Virginia Regulatory Town Hall and published in **the** Virginia Register of Regulations.

Contact Information: Mark L. Golden, Temporary Assistance for Needy Families Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 840-8730, or email mark.golden@dss.virginia.gov.

TITLE 23. TAXATION

DEPARTMENT OF TAXATION

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** Department of Taxation conducted a periodic

review and a small business impact review of **23VAC10-20, General Provisions Applicable to All Taxes Administered by the Department of Taxation**, and determined that this regulation should be retained as is. **The** department is publishing its report of findings dated November 15, 2022, to support this decision.

The Department of Taxation has determined that **the** regulation is necessary for **the** administration of taxes and thus necessary for **the** protection of public health, safety, and welfare. **The** department has determined that **the** regulation is clearly written and easily understandable by **the** individuals and entities affected.

The Department of Taxation amended this regulation in several actions filed in 2007, 2008, 2009, and 2017 to conform **the** regulation to statutory changes and changes in **the** department's procedures and policies. As no significant changes in **the** statutory law relevant to **the** regulation have occurred, **the** department has determined that **the** regulation should be retained as is without making changes.

The regulation provides guidance to taxpayers, **tax** practitioners, and Department of Taxation employees concerning issues common to **the** different taxes administered by **the** department, such as **the** requirements of taxpayer confidentiality and **the** procedures for filing of **tax** returns and filing of appeals and other administrative remedies, requesting rulings, and submitting offers in compromise. **The** regulation continues to be necessary to clarify **the** administration of taxes. **The** department has received no complaints or comments from **the** public concerning **the** 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 revised in 2017. **The** department is not aware of any technology, economic conditions, or other factors that have changed in **the** area affected by **the** regulation. As **the** regulation is concise and up-to-date, **the** regulation has no economic impact on any businesses, including small businesses.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of **the** Code of Virginia, **the** Department of Taxation conducted a periodic review and a small business impact review of **23VAC10-220, Aircraft Sales and Use Tax**, and determined that this regulation should be retained as is. **The** department is publishing its report of findings dated November 15, 2022, to support this decision.

The Department of Taxation has determined that **the** regulation is necessary for **the** administration of taxes and thus necessary for **the** protection of public health, safety, and welfare. **The**

Periodic Reviews and Small Business Impact Reviews

department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The department amended the regulation in 2007 and 2017 to conform to changes in the statutory law. As no subsequent significant changes in the statutory law relevant to the regulation have occurred, the department has determined that the regulation should be retained as is without making changes.

The regulation continues to be necessary to clarify the administration of the tax. The department has received no complaints or comments from the public concerning the regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The department is not aware of any technology, economic conditions, or other factors that have changed in the area affected by the regulation. As the regulation is concise and up-to-date, the regulation has no economic impact on any businesses, including small businesses.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Taxation conducted a periodic review and a small business impact review of **23VAC10-320, Recordation Tax Regulations**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated November 15, 2022, to support this decision.

The Department of Taxation has determined that the regulation is necessary for the administration of taxes and thus necessary for the protection of public health, safety, and welfare. The department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

As no significant change in the statutory law relevant to the regulation has occurred in many years, the department has determined that the regulation should be retained as is without making changes.

The regulation continues to be necessary to clarify the administration of the Recordation Tax. The department has received no complaints or comments from the public concerning the regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The department is not aware of any technology, economic conditions, or other factors that have changed in the area affected by the regulation. As the regulation is concise and up-to-date, the regulation has no economic impact on any businesses, including small businesses.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Taxation conducted a periodic review and a small business impact review of **23VAC10-340, Intangible Personal Property Tax Regulations**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated November 15, 2022, to support this decision.

The Department of Taxation has determined that the regulation is necessary for the administration of taxes and thus necessary for the protection of public health, safety, and welfare. The department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The department promulgated the current regulation in 1985. As no substantive legislative changes to the tax needing regulatory interpretation have occurred, the department has determined that the regulation should be retained as is without making changes.

The regulation continues to be necessary to clarify the administration of the tax. The department has received no complaints or comments from the public concerning the regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The department is not aware of any technology, economic conditions, or other factors that have changed in the area affected by the regulation. As the regulation is concise and up-to-date, the regulation has no economic impact on any businesses, including small businesses.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Taxation conducted a periodic review and a small business impact review of **23VAC10-500, Business, Professional and Occupational License Tax Regulations**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated November 15, 2022, to support this decision.

The Department of Taxation has determined that the regulation is necessary for the administration of taxes and thus necessary for the protection of public health, safety, and welfare. The department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Reviews and Small Business Impact Reviews

As no significant change in the statutory law relevant to the regulation has occurred in many years, the department has determined that the regulation should be retained as is without making changes.

The regulation continues to be necessary to clarify the administration of the local Business, Professional and Occupational License Tax. The department has received no complaints or comments from the public concerning the regulation. The regulation is not complex. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was promulgated in 2008 and revised in 2017. The department is not aware of any technology, economic conditions, or other factors that have changed in the area affected by the regulation. As the regulation is concise and up-to-date, the regulation has no economic impact on any businesses, including small businesses.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Contractors intends to consider amending **18VAC50-22, Board for Contractors Regulations**. The purpose of the proposed action is to examine and consider amending the board's contractor license eligibility requirements, including experience, education, and companion licensure or certification. The amendments being considered may affect applicants for classes A, B, and C contractors licenses; residential building energy analyst firm licenses; classes A, B, and C temporary licenses; and qualification for licensure by reciprocity or substantial equivalency. The action is in response to and in accordance with Governor Youngkin's Executive Directive 1.

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

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

Public Comment Deadline: January 18, 2023.

Agency Contact: Eric L. Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, or email contractors@dpor.virginia.gov.

VA.R. Doc. No. R23-7429; Filed November 21, 2022; 9:52 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Final Regulation

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

Title of Regulation: **4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-50, 4VAC15-20-200).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) update the department's "List of Native and Naturalized Fauna of Virginia" incorporated by reference; (ii) remove fees for use of boat ramps; and (iii) set late fees for exhibitor and rehabilitator permits issued by the department.

4VAC15-20-50. Definitions; "wild animal," "native animal," "naturalized animal," "nonnative (exotic) animal," and "domestic animal".

A. In accordance with § 29.1-100 of the Code of Virginia, the following terms shall have the meanings ascribed to them by this section when used in regulations of the board:

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's ~~2020~~ 2022 "List of Native and Naturalized Fauna of Virginia," with copies available in the headquarters and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia that have established wild, self-sustaining populations, as included in the department's ~~2020~~ 2022 "List of Native and Naturalized Fauna of Virginia," with copies available in the headquarters and regional offices of the department.

"Nonnative (exotic) animal" means those species and subspecies of animals not naturally occurring in Virginia, excluding domestic and naturalized species.

The following animals are defined as domestic animals:

Domestic dog (*Canis familiaris*), including wolf hybrids.

Domestic cat (*Felis catus*), including hybrids with wild felines.

Domestic horse (*Equus caballus*), including hybrids with *Equus asinus*.

Domestic ass, burro, and donkey (*Equus asinus*).

Domestic cattle (*Bos taurus* and *Bos indicus*).

Domestic sheep (*Ovis aries*) including hybrids with wild sheep.

Domestic goat (*Capra hircus*).

Domestic swine (*Sus scrofa*), including pot-bellied pig and excluding any swine that are wild or for which no claim of ownership can be made.

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

Camels (*Camelus bactrianus* and *Camelus dromedarius*).

Domesticated races of hamsters (*Mesocricetus* spp.).

Domesticated races of mink (*Mustela vison*) where adults are heavier than 1.15 kilograms or their coat color can be distinguished from wild mink.

Domesticated races of guinea pigs (*Cavia porcellus*).

Domesticated races of gerbils (*Meriones unguiculatus*).

Domesticated races of chinchillas (*Chinchilla laniger*).

Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).

Domesticated races of mice (*Mus musculus*).

Domesticated breeds of European rabbit (*Oryctolagus cuniculus*) recognized by the American Rabbit Breeders Association, Inc. and any lineage resulting from crossbreeding recognized breeds. A list of recognized rabbit breeds is available on the department's website.

Domesticated races of chickens (*Gallus*).

Domesticated races of turkeys (*Meleagris gallopavo*).

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Domesticated races of ducks and geese distinguishable morphologically from wild birds.

Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.

Domesticated races of guinea fowl (*Numida meleagris*).

Domesticated races of peafowl (*Pavo cristatus*).

"Wild animal" means any member of the animal kingdom, except domestic animals, including without limitation any native, naturalized, or nonnative (exotic) mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any hybrid of them, except as otherwise specified in regulations of the board, or part, product, egg, or offspring of them, or the dead body or parts of them.

B. Exception for red foxes and European rabbits. Domesticated red foxes (*Vulpes vulpes*) having coat colors distinguishable from wild red foxes and wild European rabbits possessed in captivity on July 1, 2017, may be maintained in captivity until the animal dies, but the animal may not be bred or sold without a permit from the department. Persons possessing domesticated red foxes or European rabbits without a permit from the department must declare such possession in writing to the department by January 1, 2018. This written declaration must include the number of individual animals in possession and date acquired, sex, estimated age, coloration, and a photograph of each fox or European rabbit. This written declaration shall (i) serve as a permit for possession only, (ii) is not transferable, and (iii) must be renewed every five years.

4VAC15-20-200. Fees for miscellaneous permits.

A. Pursuant to §§ 29.1-417, 29.1-418, 29.1-422, and other applicable provisions of the Code of Virginia, except as provided by this chapter the following annual fees shall be paid by applicants for the specified permits before any such permit may be issued.

| Permit Type | Cost | Late Fee |
|--------------------------------|------|----------|
| Boat Ramp Special Use | | |
| Nonprofit Public Use | \$10 | |
| Private/Commercial Use | \$50 | |
| Collect and Sell | \$50 | |
| Commercial Nuisance Animals | \$25 | |
| Exhibitors | | |
| Commercial Use | \$50 | \$25 |
| Educational/Scientific Use | \$20 | \$10 |
| Exotic Importation and Holding | \$10 | |
| Field Trial | \$25 | |

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|---------------------------------|---------|------|
| Foxhound Training Preserves | \$50 | |
| Hold for Commercial Use | \$10 | |
| Propagation | \$12.50 | |
| Rehabilitation | \$10 | \$10 |
| Scientific Collection | \$20 | |
| Special Hunting Permit | \$10 | |
| Striped Bass Tournament | \$10 | |
| Threatened & Endangered Species | \$20 | |
| Trout Catch-Out Pond | \$50 | |

B. Veterinarians shall not be required to pay a permit fee or to obtain a permit to hold wildlife temporarily for medical treatment.

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

~~List of Native and Naturalized Fauna of Virginia, January 2021, Virginia Department of Wildlife Resources~~

[List of Native and Naturalized Fauna of Virginia, April 2022, Virginia Department of Wildlife Resources](#)

[Federal Endangered and Threatened Animal Species as of May 7, 2019](#)

V.A.R. Doc. No. R22-7235; Filed November 30, 2022, 11:11 a.m.

Final Regulation

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

Title of Regulation: 4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25, 4VAC15-320-60).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) clarify the areas where striped bass and white bass may be caught on the Staunton and Dan Rivers, including size limits for striped bass; (ii) change the upstream location limit for walleye and saugeye from Claytor Lake along the New River from Buck Dam in Carroll County to Fries Dam in Grayson County; (iii) clarify the

limits on catch of sunfish, crappie, and blue catfish to include **the** Staunton (Roanoke) River and its tributaries to Difficult Creek in Charlotte County and **the** Dan River and

its tributaries to **the** Banister River in Halifax County; and (iv) clarify **the** issuance of fish stocking authorizations and **the** expiration of such authorizations.

4VAC15-320-25. Creel and length limits.

The creel limits (including live possession) and **the** length limits for **the** various species of fish shall be as follows, unless otherwise excepted by posted rules at department-owned or department-controlled waters (see 4VAC15-320-100 D).

| Type of fish | Subtype or location | Creel and length limits | Geographic exceptions | Creel or length limits for exceptions |
|----------------------------------|---------------------|--|-----------------------|--|
| largemouth bass, smallmouth bass | | 5 per day in the aggregate (combined) No statewide length limits | Lakes | |
| | | | Briery Creek Lake | No largemouth or smallmouth bass 16 to 24 inches; only 1 largemouth or smallmouth bass per day in the aggregate longer than 24 inches |
| | | | Buggs Island (Kerr) | Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches |
| | | | Claytor Lake | No smallmouth bass less than 14 inches |
| | | | Flannagan Reservoir | No smallmouth bass less than 15 inches No largemouth bass less than 12 inches |
| | | | Lake Gaston | Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches |
| | | | Leesville Reservoir | Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches |
| | | | Lake Moomaw | No largemouth or smallmouth bass less than 12 inches |

Regulations

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| | | | Philpott Reservoir | No largemouth or smallmouth bass less than 12 inches |
| | | | Quantico Marine Base waters | No largemouth or smallmouth bass 12 to 15 inches |
| | | | Smith Mountain Lake and its tributaries below Niagara Dam | Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches |
| | | | Rivers | |
| | | | Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell Counties | No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches |
| | | | Levisa Fork River – within the boundaries Buchanan County | No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches |
| | | | Dan River and tributaries downstream from the Union Street Dam, Danville | Only 2 of 5 largemouth or smallmouth bass less than 14 inches |
| | | | James River – Confluence of the Jackson and Cowpasture rivers (Botetourt County) downstream to the 14th Street Bridge in Richmond | No largemouth or smallmouth bass 14 to 22 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 22 inches |
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| | | | <p>New River – Fields Dam (Grayson County) downstream to the VA - WV state line and its tributaries Little River downstream from Little River Dam in Montgomery County, Big Walker Creek from the Norfolk Southern Railroad Bridge downstream to the New River, and Wolf Creek from the Narrows Dam downstream to the New River in Giles County (This does not include Claytor Lake, which is delineated as: The upper end of the island at Allisonia downstream to the dam)</p> | <p>No largemouth or smallmouth bass 14 to 22 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 22 inches</p> |
| | | | <p>North Fork Holston River - Rt. 91 bridge upstream of Saltville, VA downstream to the VA - TN state line</p> | <p>No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches</p> |
| | | | <p>Potomac River - Virginia tidal tributaries above Rt. 301 bridge</p> | <p>No largemouth or smallmouth bass less than 15 inches from March 1 through June 15</p> |
| | | | <p>Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte County</p> | <p>Only 2 of 5 largemouth or smallmouth bass in the aggregate less than 14 inches</p> |

Regulations

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| | | | Shenandoah River, South Fork Shenandoah River, North Fork Shenandoah River | No largemouth or smallmouth bass 11 to 14 inches |
| | | | Staunton River - Leesville Dam (Campbell County) downstream to the mouth of Difficult Creek, Charlotte County | No largemouth or smallmouth bass less than 20 inches; only 1 largemouth or smallmouth bass in the aggregate per day longer than 20 inches |
| Alabama bass, spotted bass | | No statewide daily limit No statewide length limit | | |
| striped bass | landlocked striped bass and landlocked striped bass - white bass hybrids | 4 per day in the aggregate No fish less than 20 inches | Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River <u>and its tributaries</u> to Leesville Dam and the Dan River <u>and its tributaries</u> to Union Street Dam (Danville) | October 1 - May 31: 2 per day in the aggregate; no striped bass or hybrid striped bass less than 20 inches <u>or greater than 26 inches</u> June 1 - September 30: 4 per day in the aggregate; no length limit |
| | | | Claytor Lake and its tributaries | September 16 – June 30: 2 per day in the aggregate; no striped bass or hybrid bass less than 20 inches July 1 – September 15: 4 per day in the aggregate; no length limit |
| | | | Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam | 2 per day in the aggregate November 1 - May 31: No striped bass 30 to 40 inches June 1 - October 31: No length limit |

Regulations

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| | | | Lake Gaston | 4 per day in the aggregate October 1 - May 31: No striped bass or hybrid striped bass less than 20 inches June 1 - September 30: No length limit |
| | anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay | Creel and length limits shall be set by the Virginia Marine Resources Commission for recreational fishing in tidal waters | | |
| | anadromous (coastal) in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay | 2 per day No striped bass less than 18 inches | | |
| white bass | | 5 per day No statewide length limits | Buggs Island (Kerr) Reservoir, including the Staunton (Roanoke) River and <u>its tributaries</u> to Leesville Dam and the Dan River and <u>its tributaries</u> to Union Street Dam (Danville) | 10 per day; no white bass less than 14 inches |
| | | | Lake Gaston | 10 per day; no white bass less than 14 inches |
| walleye, saugeye | | 5 per day in the aggregate No walleye or saugeye less than 18 inches | Claytor Lake and the New River upstream of Claytor Lake Dam to Buck Dam in Carroll County <u>Fries Dam in Grayson County</u> | 2 walleye per day; no walleye 19 to 28 inches |
| sauger | | 2 per day No statewide length limits | | |

Regulations

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| yellow perch | | No statewide daily limit No statewide length limits | Lake Moomaw | 10 per day |
| | | | Below the fall line in all coastal rivers of the Chesapeake Bay | No yellow perch less than 9 inches; no daily limit |
| chain pickerel | | 5 per day No statewide length limits | Gaston and Buggs Island (Kerr) Reservoirs | No daily limit |
| northern pike | | 2 per day No pike less than 20 inches | | |
| muskellunge | | 2 per day No muskellunge less than 30 inches | New River - Fields Dam (Grayson County) downstream to Claytor Dam, including Claytor Lake | 1 per day; no muskellunge less than 42 inches |
| | | | New River - Claytor Dam downstream to the VA - WV state line | 1 per day June 1 - last day of February: No muskellunge 40 to 48 inches March 1 - May 31: No muskellunge less than 48 inches |
| bluegill (bream) and other sunfish excluding crappie, rock bass (redestye) and Roanoke bass | | 50 per day in the aggregate No statewide length limits | Gaston and Buggs Island (Kerr) Reservoirs, <u>including the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County</u> and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County | No daily limit |
| crappie (black or white) | | 25 per day in the aggregate No statewide length limits | Lake Gaston and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County | No daily limit |

Regulations

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| | | | Buggs Island (Kerr) Reservoir, including <u>the Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and the Dan River and its tributaries to the Banister River, Halifax County</u> | No crappie less than 9 inches |
| | | | Briery Creek and Sandy River Reservoirs | No crappie less than 9 inches |
| | | | Flannagan and South Holston Reservoirs | No crappie less than 10 inches |
| rock bass (redeye) | | 25 per day; in <u>the</u> aggregate with Roanoke bass No statewide length limits | Gaston and Buggs Island (Kerr) Reservoirs and that portion of <u>the</u> New River from <u>the</u> VA - NC state line downstream to <u>the</u> confluence of <u>the</u> New and Little Rivers in Grayson County | No daily limit |
| | | | Nottoway, Meherrin, Blackwater (Franklin County), Falling, and Smith Rivers and their tributaries | 5 per day in <u>the</u> aggregate with Roanoke bass; no rock bass less than 8 inches |
| Roanoke bass | | 25 per day in <u>the</u> aggregate with rock bass No statewide length limits | Nottoway, Meherrin, Blackwater (Franklin County), Falling, and Smith Rivers and their tributaries | 5 per day in <u>the</u> aggregate with rock bass; no Roanoke bass less than 8 inches |
| trout | See 4VAC15-330. Fish: Trout Fishing. | | | |
| catfish | channel, white, and flathead catfish | 20 per day; No length limits | All rivers below <u>the</u> fall line | No daily limit |
| | blue catfish | 20 per day; No statewide length limits | Lake Gaston | No daily limit, except only 1 blue catfish per day longer than 32 inches |
| | | | Kerr Reservoir, including <u>the</u> Staunton (Roanoke) River and its tributaries to Difficult Creek, Charlotte County and <u>the</u> Dan River and its tributaries to <u>the</u> Banister River, Halifax County | 20 per day, except only 1 blue catfish per day longer than 32 inches |

Regulations

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| | | | James River and its tributaries below the fall line, Rappahannock River and its tributaries below the fall line, and York River and its tributaries (including the Pamunkey River and Mattaponi River) below the fall line | No daily limit, except only 1 blue catfish per day longer than 32 inches |
| | | | All rivers below the fall line other than the James River and its tributaries, Rappahannock River and its tributaries, and the York River and its tributaries | No daily limit |
| | yellow, brown, and black bullheads | No daily limit; No length limits | | |
| hickory shad | Above and below the fall line in all coastal rivers of the Chesapeake Bay | Creel and length limits shall be the same as those set by the Virginia Marine Resources Commission in tidal rivers | | |
| | Meherrin River below Emporia Dam Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest Rivers, and their tributaries plus Back Bay | 10 per day No length limits | | |
| American shad | | No possession | | |
| anadromous (coastal) alewife and blueback herring | Above and below the fall line in all coastal rivers of the Chesapeake Bay | Creel and length limits shall be the same as those set by the Virginia Marine Resources Commission for these species in tidal rivers | | |
| | Meherrin River, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest Rivers, and their tributaries plus Back Bay | No possession | | |

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| red drum | Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries | 1 per day No drum less than 18 inches or greater than 27 inches | | |
| spotted sea trout (speckled trout) | Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries | 4 per day No sea trout less than 14 inches | | |
| grey trout (weakfish) | Back Bay and tributaries including Lake Tecumseh and North Landing River and its tributaries | 1 per day No grey trout less than 12 inches | | |
| southern flounder | Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries | 6 per day No flounder less than 15 inches | | |
| northern snakehead | | Anglers may possess snakeheads taken from Virginia waters if they immediately kill the fish and notify the headquarters or a regional office of the department; notification may be made by telephoning (804) 367-2925 No statewide daily limit No statewide length limits | | |
| longnose gar | | <u>July 1 to April 14: 5 per day</u> <u>April 15 to June 30: 1 per day</u> No statewide length limits | | |
| bowfin | | <u>July 1 to April 14: 5 per day</u> <u>April 15 to June 30: 1 per day</u> No statewide length limits | | |
| American eel | | 25 per day No eel less than 9 inches | Back Bay and North Landing River | No possession limit for those individuals possessing a |

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| | | | permit obtained under 4VAC15-340-80 |
| other native or naturalized nongame fish | See 4VAC15-360-10. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use. | | |
| endangered or threatened fish | See 4VAC15-20-130. Definitions and Miscellaneous: In General. Endangered and threatened species; adoption of federal list; additional species enumerated. | | |
| nonnative (exotic) fish | See 4VAC15-30-40. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals. Importation requirements, possession and sale of nonnative (exotic) animals. | | |

4VAC15-320-60. Approval required to stock fish into inland waters.

A. It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth without first obtaining written approval to do so from the department. Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes, except spotted bass, blue catfish, and their hybrids may not be stocked.

B. The Department of Wildlife Resources (department) shall issue a written stocking authorization within 15 business days of receipt of a completed Virginia Fish Stocking Authorization Form, unless the department determines that granting such authorization may (i) endanger any native or naturalized population of fish; (ii) introduce, enable, or enhance the spread of fish diseases, including parasites; or (iii) establish nonnative or exotic aquatic species where such species may displace, threaten, or endanger native or naturalized species. Where an exception to issuance exists, the application shall be denied.

C. The department shall set an expiration date for each stocking authorization issued, limit the authorization to a specific species of fish, and geographically limit the stocking authorization.

D. The department is authorized to modify or revoke any stocking authorization where the department discovers any situation listed in subsection B of this section to exist or where otherwise permitted by law or regulation.

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, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (4VAC15-320)

[Application/permit for striped bass fishing tournament \(undated\)](#)

[Nonresident Harvester's Permit to Take or Catch Fish in Back Bay and its Tributaries \(eff. 9/2020\)](#)

[Virginia Fish Stocking Authorization Form \(eff. 8/2004\)](#)

V.A.R. Doc. No. R22-7226; Filed November 30, 2022, 11:12 a.m.

Final Regulation

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

Title of Regulation: 4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-150).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendment adds a designated section of the North Fork Moormans River and its tributaries to the list of areas where

trout fishing using artificial lures with a single hook is lawful year-round.

4VAC15-330-150. Special provision applicable to trout fishing using artificial lures with single hook.

It shall be lawful ~~year-around~~ year-round to fish for trout using only artificial lures with single hooks within:

1. **The** Stewarts Creek Trout Management Area in Carroll County.
2. **The** Rapidan and Staunton Rivers and their tributaries upstream from a sign at **the** Lower Shenandoah National Park boundary in Madison County.
3. **The** Dan River and its tributaries between **the** Townes Dam and **the** Pinnacles Hydroelectric Project powerhouse in Patrick County.
4. **The** East Fork of Chestnut Creek (Farmers Creek) and its tributaries upstream from **the** Blue Ridge Parkway in Grayson and Carroll Counties.
5. Roaring Fork and its tributaries upstream from **the** southwest boundary of Beartown Wilderness Area in Tazewell County.
6. That section of **the** South Fork Holston River and its tributaries from **the** concrete dam at Buller Fish Culture Station downstream to **the** lower boundary of **the** Buller Fish Culture Station in Smyth County.
7. North Creek and its tributaries upstream from a sign at **the** George Washington National Forest North Creek Campground in Botetourt County.
8. Spring Run from its confluence with Cowpasture River upstream to a posted sign at **the** discharge for Coursey Springs Hatchery in Bath County.
9. Venrick Run and its tributaries within **the** Big Survey Wildlife Management Area and Town of Wytheville property in **the** County.
10. Brumley Creek and its tributaries from **the** Hidden Valley Wildlife Management Area boundary upstream to **the** Hidden Valley Lake Dam in Washington County.
11. Stony Creek (Mountain Fork) and its tributaries within **the** Jefferson National Forest in Wise and Scott Counties from **the** outlet of High Knob Lake downstream to **the** confluence of Chimney Rock Fork and Stony Creek.
12. Little Stony Creek and its tributaries within **the** Jefferson National Forest in Scott County from **the** Falls of Little Stony Creek downstream to a posted sign at **the** Hanging Rock Recreation Area.
13. Little Tumbling Creek and its tributaries within **the** Clinch Mountain Wildlife Management Area in Smyth and Tazewell Counties downstream to **the** concrete bridge.

14. Big Tumbling Creek and its tributaries within **the** Clinch Mountain Wildlife Management Area in Smyth County from a sign starting at **the** foot of **the** mountain and extending upstream seasonally from October 1 until five days prior to **the** first Saturday in April.

15. South River in **the** City of Waynesboro from **the** Wayne Avenue Bridge downstream 2.2 miles to **the** Second Street Bridge.

16. Wolf Creek and its tributaries within **the** Abingdon Muster Grounds in **the** Town of Abingdon from Colonial Road downstream to Stone Mill Road.

17. Beaver Creek and its tributaries within **the** boundaries of Sugar Hollow Park in **the** City of Bristol.

18. Green Cove Creek in Washington County from Route 859 downstream to its mouth.

19. Whitetop Laurel Creek in Washington County upstream from **the** mouth of Straight Branch to a sign posted at **the** Forest Service boundary just downstream of Taylor Valley, and in Whitetop Laurel Creek in Washington County upstream from **the** first railroad trestle above Taylor Valley to **the** mouth of Green Cove Creek at Creek Junction.

20. Smith Creek in Alleghany County from **the** Clifton Forge Dam downstream to a sign at **the** Forest Service boundary above **the** C & O Dam.

21. Snake Creek in Carroll County below Hall Ford and that portion of Little Snake Creek below **the** junction of Routes 922 and 674, downstream to Route 58.

22. **The** North Fork Moormans River and its tributaries from **the** head of Sugar Hollow Reservoir upstream 0.3 miles to **the** Shenandoah National Park boundary.

All trout caught in these waters must be immediately returned to **the** water. No trout or bait may be in possession at any time in these areas.

VA.R. Doc. No. R22-7227; Filed November 30, 2022, 11:13 a.m.

Final Regulation

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

Title of Regulation: **4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, etc. (amending 4VAC15-350-60, 4VAC15-350-70).**

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of **the** Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive,

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#400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) add and set requirements for the use of limblines as a lawful method for fishing; (ii) clarify that longnose gar is a species that can be taken with a bow and arrow; (iii) prohibit use of poison arrows or arrows with exploding heads for taking for all species; (iv) limit take of bowfin and longnose gar to five fish per day from July 1 to April 14 and one fish per day from April 15 to June 30; and (v) add that any common carp, grass carp, northern snakehead, goldfish, catfish, longnose gar, or bowfin taken with bow and arrow or crossbow may not be released back into or disposed of in the water from which it was taken or be disposed of on publicly-owned land abutting the waters from which the fish was taken.

4VAC15-350-60. Trotlines, juglines, limblines, or set poles.

A. Generally. Except as otherwise provided by local legislation and by subsections B and C of this section, and except on waters stocked with trout and within 600 feet of any dam, it shall be lawful to use trotlines, juglines (single hook, including one treble hook, and line attached to a float), limblines, or set poles for the purpose of taking nongame fish (daily creel (possession) and length limits for nongame fish are found in 4VAC15-320-25) and snapping turtles (limits for snapping turtles are found in 4VAC15-360-10), provided that no live bait is used. Notwithstanding the provisions of this section, live bait other than game fish may be used on trotlines to take catfish in the Clinch River in the Counties of Russell, Scott, and Wise. Any person setting or in possession of a trotline, jugline, limbline, or set pole shall have it clearly marked by permanent means with his name, address, and telephone number, and is required to check all lines at least once each day, remove all fish and animals caught, and completely remove all lines from the water, shoreline, and tree limbs when not in use. This requirement shall not apply to landowners on private ponds, nor to a bona fide tenant or lessee on private ponds within the bounds of land rented or leased, nor to anyone transporting any such device from its place of purchase.

B. Quantico Marine Reservation. It shall be unlawful to fish with trotlines in any waters within the confines of Quantico Marine Reservation.

C. Additional jugline requirements. Jugline sets (except as exempt under subsection A of this section) shall be restricted to 20 per angler and must be attended (within sight) by anglers at all times. Also, in addition to being labeled with the angler's name, address, and telephone number, jugs shall also be labeled with a reflective marker that encircles the jugs to allow for visibility at night.

4VAC15-350-70. Taking of fish with bow and arrow or crossbow.

A. Season. Except as otherwise provided by local legislation or as posted, it shall be lawful to take common carp, northern snakehead, goldfish, and longnose gar from the public inland waters of the Commonwealth, grass carp from public rivers and streams of the Commonwealth except public inland lakes and reservoirs, and bowfin and catfish from below the fall line in tidal rivers of the Chesapeake Bay, except waters stocked with trout, by means of bow and arrow or crossbow.

B. Poison arrows or explosive-head arrows prohibited. It shall be unlawful to use poison arrows or arrows with explosive heads at any time for the purpose of taking common carp, grass carp, northern snakehead, bowfin, catfish, goldfish, or gar in the public inland waters of the Commonwealth.

C. Fishing license required. All persons taking fish in the manner described in this section shall be required to have a regular fishing license.

D. Creel limits. The creel limits for common carp, grass carp, northern snakehead, goldfish, and catfish shall be unlimited, provided that any angler taking northern snakehead immediately kill such fish and notify the department, as soon as practicable, of such actions and provided that any angler taking grass carp ensure that harvested fish are dead. The creel limit for bowfin and longnose gar shall be five fish per day from July 1 to April 14 and one fish per day from April 15 to June 30.

E. Retention requirement. Any common carp, grass carp, northern snakehead, goldfish, catfish, longnose gar, or bowfin taken with bow and arrow or crossbow must be retained and may not be released back into or disposed of in the water. Any common carp, grass carp, northern snakehead, goldfish, longnose gar, or bowfin taken with bow and arrow or crossbow may not be disposed of on property abutting the body of water of capture. These requirements shall not apply to private bodies of water or private property abutting the body of water of capture.

V.A.R. Doc. No. R22-7228; Filed November 30, 2022, 11:14 a.m.

Final Regulation

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

Title of Regulation: 4VAC15-360. **Fish:** Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (amending 4VAC15-360-10, 4VAC15-360-20).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) clarify that no more than 20 of the 50 individuals of fish bait allowed for possession may be crayfish; (ii) require that any crayfish collected for use as fish bait only be used as fish bait in the water body where the crayfish was captured; (iii) prohibit taking any species of crayfish in the Big Sandy River Basin in Virginia without a permit; and (iv) prohibit taking minnows and chubs for sale from inland waters and eliminate associated recordkeeping requirements.

4VAC15-360-10. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.

A. Possession limits. Except as otherwise provided for in § 29.1-418 of the Code of Virginia, 4VAC15-20-130, 4VAC15-320-40, and the sections of this chapter, it shall be lawful to capture and possess live for private use and not for sale or export no more than one individual of any native or naturalized, as defined in 4VAC15-20-50, species of amphibian or reptile per physical address, and 20 individuals of any single native or naturalized (as defined in 4VAC15-20-50) species of aquatic invertebrate and nongame fish unless specifically listed in this subsection:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, mullet, yellow bullhead, brown bullhead, black bullhead, flat bullhead, snail bullhead, white sucker, northern hogsucker, gizzard shad, threadfin shad, blueback herring (see 4VAC15-320-25 for anadromous blueback herring limits), white perch, yellow perch, alewife (see 4VAC15-320-25 for anadromous alewife limits), stoneroller (hornyhead), fathead minnow, golden shiner, goldfish, and Asian clams. Grass carp may only be harvested in unlimited numbers from public inland rivers and streams of the Commonwealth. It is unlawful to harvest grass carp from any public inland lake and reservoir. Anglers taking grass carp must ensure that all harvested grass carp are dead.

2. See 4VAC15-320-25 for American shad, hickory shad, channel catfish, white catfish, flathead catfish, and blue catfish limits.

3. For the purpose of this chapter, "fish bait" shall be defined as native or naturalized species of minnows and chubs (Cyprinidae), crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, of which no more than 20 individuals may be crayfish, unless said person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders and crayfish which cannot be sold pursuant to the provisions of 4VAC15-360-60 and

4VAC15-360-70. However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

4. Any crayfish collected for use as fish bait may only be used as fish bait in the water body of capture.

5. The daily limit for bullfrogs shall be 15 and for snapping turtles shall be five. Snapping turtles shall only be taken from June 1 to September 30 and must have a minimum curved-line carapace length of 13 inches. Bullfrogs and snapping turtles may not be taken from the banks or waters of designated stocked trout waters.

5. 6. The following species may not be taken or possessed in any number for private use: red-eared slider and all reptile and amphibian Species of Greatest Conservation Need designated in Virginia's 2015 Wildlife Action Plan.

6. 7. Native amphibians and reptiles, as defined in 4VAC15-20-50, that are captured within the Commonwealth and possessed live for private use and not for sale may be liberated under the following conditions:

- Period of captivity does not exceed 30 days;
- Animals must be liberated at the site of capture;
- Animals must have been housed separately from other wild-caught and domestic animals; and
- Animals that demonstrate symptoms of disease or illness or that have sustained injury during their captivity may not be released.

7. 8. Native or naturalized amphibians and reptiles, as defined in 4VAC15-20-50, may not be taken or possessed in any number from state or federal land without an appropriate permit or license.

B. Methods of taking species in subsection A of this section. Except as otherwise provided for in the Code of Virginia, 4VAC15-20-130, 4VAC15-320-40, and other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A of this section may only be taken (i) by hand, hook, and line; (ii) with a seine not exceeding four feet in depth by 10 feet in length; (iii) with an umbrella type net not exceeding five by five feet square; (iv) by small minnow traps with throat openings no larger than one inch in diameter; (v) with cast nets; and (vi) with hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia). Gizzard shad and white perch may also be taken from below the fall line in all tidal rivers of the Chesapeake Bay using a gill net in accordance with Virginia Marine Resources Commission recreational fishing regulations. Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire. Snapping turtles may

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be taken for personal use with hoop nets not exceeding six feet in length with a throat opening not exceeding 36 inches.

C. Areas restricted from taking mollusks. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take the spiny riversnail (Io fluviatilis) in the Tennessee drainage in Virginia (Clinch, Powell, and the North, South, and Middle Forks of the Holston Rivers and tributaries). It shall be unlawful to take mussels from any inland waters of the Commonwealth.

D. Areas restricted from taking crustaceans. Except for the permitted collection of specimens as provided for in § 29.1-418 of the Code of Virginia or the permitted taking for zoological, educational, or scientific purposes as provided for in § 29.1-568 of the Code of Virginia, it shall be unlawful to take any species of crayfish in the Big Sandy River Basin in Virginia (Russell Fork, Pound River, Cranes Nest River, McClure River, Levisa Fork, Dismal Creek, Knox Creek, and tributaries).

E. Reduction of possession limits for native and naturalized amphibians and reptiles. Any person in possession of legally-obtained native and naturalized amphibians and reptiles, as defined in 4VAC15-20-50, prior to the change in personal possession allowances in subsection A of this section, effective July 1, 2021, must declare such possession to the department by January 1, 2022, in a manner prescribed by the department. This declaration shall serve as authorization for possession only and is not transferable.

4VAC15-360-20. Taking minnows and chubs for sale.

A. ~~"Haul seine" defined.~~ "Haul seine," as used in this section, when used in the inland waters of the Commonwealth above where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 15 feet in length; and when used in the public inland waters below where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 100 feet in length. Such a term shall be construed also to include umbrella type nets without limit as to size and also small minnow traps with throat openings no larger than one inch in diameter.

B. ~~Permit required.~~ It shall be lawful ~~unlawful~~ to take minnows and chubs (Cyprinidae) for sale from the inland waters of the Commonwealth with a permit as provided for in § 29.1-416 of the Code of Virginia except that it is unlawful to take threatened and endangered species as listed in 4VAC15-20-130.

C. ~~Permit holder to be present when seine operated; persons assisting.~~ The holder of a permit to seine for minnows and chubs (Cyprinidae) must be present at all times when the seine is being operated to catch minnows and chubs (Cyprinidae). Persons assisting in the operation of the haul seine need not obtain permits.

D. ~~Records.~~ The holder of a permit to take minnows and chubs (Cyprinidae) for sale shall keep a record of the approximate number of minnows and chubs (Cyprinidae) taken by location (name and county of water body) and sold, together with the amount received therefor.

E. ~~Commercial bait operations.~~ C. Commercial bait operations must have a Permit to Hold or Sell Certain Wildlife or a Permit to Propagate and Sell Certain Wildlife. With the exception of those species listed in 4VAC15-20-130, these operations may possess and sell unlimited quantities of minnows and chubs (Cyprinidae), when possession is accompanied by a valid invoice or bill of sale from an individual permitted under subsection B of this section or from a properly permitted aquaculture facility in Virginia or out-of-state.

V.A.R. Doc. No. R22-7229; Filed November 30, 2022, 11:15 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-370. Watercraft: In General (adding 4VAC15-370-45).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments require that watercraft operators (i) clean any aquatic organisms or vegetation from the vessel, trailer, and equipment before departing the boating area and (ii) drain bilge tanks, livewells, and ballast tanks before departing a body of water.

4VAC15-370-45. Invasive species prevention.

Before leaving the area where the watercraft has been removed from the water, all aquatic vegetation must be removed from the vessel, trailer, and equipment. At the same time, watercraft operators must also remove or open water drain plugs from bilges of watercraft. Operators shall take reasonable measures to dry bilges, livewells, baitwells, and ballast tanks on a watercraft before it is used on another body of water.

V.A.R. Doc. No. R22-7230; Filed November 30, 2022, 11:16 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Wildlife Resources is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: 4VAC15-390. **Watercraft: Safe and Reasonable Operation of Vessels (adding 4VAC15-390-85).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) add a requirement that vessel operators give right-of-way and reduce speed to no wake when approaching law-enforcement vessels or emergency services vessels and (ii) provide a Class 3 misdemeanor and mandatory participation in a boating safety class for failing to comply.

4VAC15-390-85. Operators to give right-of-way and reduce speed.

Every motorboat, when approaching or passing within 200 feet of any law-enforcement vessel or emergency services vessel that is displaying flashing blue or red lights shall slow to no wake speed so that the effect of the wake does not disturb the activities of law-enforcement personnel or emergency services personnel. Where the operator of a motorboat fails to comply with the provisions of this section and such failure endangers the life or limb of any person or endangers or damages vessels, the operator shall be guilty of a Class 3 misdemeanor. Upon conviction, the operator shall additionally be required to complete and pass a National Association of State Boating Law Administrators approved safe boating course as required in § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R22-7232; Filed November 30, 2022, 11:19 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of is Wildlife Resources claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: 4VAC15-430. **Watercraft: Safety Equipment Requirements (amending 4VAC15-430-20, 4VAC15-430-160 through 4VAC15-430-200).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of the Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

The amendments (i) clarify the definition of a throwable and wearable personal flotation device to match current U.S. Coast Guard standards; (ii) list the current U.S. Coast Guard website for approved equipment; and (iii) adjust the fire extinguisher classification types and requirements for vessels to match current U.S. Coast Guard standards.

4VAC15-430-20. Definitions.

As used in this chapter the following words and terms shall have the following meanings:

"Coastal waters" means the territorial seas of the United States, and those waters directly connected to the territorial seas (i.e., bays, sounds, harbors, rivers, inlets, etc.) where any entrance exceeds two nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to two miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

"Passenger" means every person carried on board a vessel other than:

1. The owner or his representative;
2. The operator;
3. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or
4. Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

"Personal flotation device" or "PFD" means a device that is approved by the U.S. Coast Guard.

"Racing shell, rowing scull, racing canoe, and racing kayak" means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

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"Recreational vessel" means any vessel being manufactured or operated primarily for pleasure, or leased, rented, or chartered to another for the latter's pleasure. It does not include any vessel engaged in the carrying of any passengers for consideration.

"Sailboard" means a sail-propelled vessel with no freeboard and equipped with a swivel-mounted mast not secured to a hull by guys or stays.

"Throwable PFD" means a PFD that is intended to be thrown to a person in the water. A PFD marked as Type IV or Type V with Type IV performance is considered a throwable PFD unless specifically marked otherwise. A wearable PFD is not a throwable PFD.

"Use" means operate, navigate, or employ.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include surfboards, tubes, swimming rafts, inflatable toys, and similar devices routinely used as water toys or swimming aids.

"Visual distress signal" means a device that is approved by the U.S. Coast Guard or certified by the manufacturer.

"Wearable PFD" means a PFD that is intended to be worn or otherwise attached to the body. A PFD marked as Type I, Type II, Type III, or Type V with Type I, II, or III performance is considered a wearable PFD.

4VAC15-430-160. Fire extinguishing equipment application and general provisions.

A. The provisions of this section through 4VAC15-430-210, with the exception of 4VAC15-430-200, shall apply to all vessels contracted for on or after November 19, 1952. Vessels contracted for prior to that date shall meet the requirements of 4VAC15-430-200.

B. Where equipment in this section is required to be of an approved type, such equipment requires the specific approval of the U.S. Coast Guard. A listing of current and formerly approved equipment and materials may be found at <https://cgmix.uscg.mil/%u200Bequipment>.

C. All hand-portable fire extinguishers, semiportable fire extinguishing systems, and fixed fire extinguishing systems shall be of a type approved by the U.S. Coast Guard and shall have an efficient charge and be in good and serviceable condition as referenced in 4VAC15-430-170.

4VAC15-430-170. Hand-portable fire extinguishers and semiportable fire extinguishing systems.

A. Hand-portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol, the letter indicating the type of fire that the unit could be expected to extinguish, and the number indicating the relative size of the unit.

B. For the purpose of this section, all required hand-portable fire extinguishers and semiportable fire extinguishing systems are of the "B" type; i.e., that is, suitable for extinguishing fires involving flammable liquids, greases, etc.

C. The number designations for size will start with "I" for the smallest to "V" for the largest. For the purpose of this section, only sizes I through III will be considered. Sizes I and II are considered hand portable fire extinguishers and sizes III, IV, and V are considered semiportable fire extinguishing systems that shall be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand portable fire extinguishers and semiportable fire extinguishing systems are set forth in the following table:

| Classification | | Foam (gallons) | Carbon Dioxide (pounds) | Dry Chemical (pounds) |
|----------------|------|-------------------|-------------------------------|-----------------------------|
| Type | Size | | | |
| B | I | 1.75 | 4 | 2 |
| B | II | 2.50 | 15 | 10 |
| B | III | 12.00 | 35 | 20 |

All fire extinguishers must be on board and readily accessible, in good and serviceable working condition, and comply with the following:

1. If the extinguisher has a pressure gauge reading or indicator, it must be in the operable range or position.
2. The extinguisher may not be expired or appear to have been previously used.
3. The lock pin is firmly in place.
4. The discharge nozzle is clean and free of obstruction.
5. The extinguisher does not show visible signs of significant corrosion or damage.

D. All hand-portable fire extinguishers and semiportable fire extinguishing systems shall have permanently attached thereto a metallic name plate giving the name of the item, the rated capacity in gallons, quarts, or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

E. Vaporizing-liquid type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic vaporizing liquids are not acceptable as equipment required by this section.

F. Hand-portable or semiportable extinguishers that are required on their name plates to be protected from freezing shall not be located where freezing temperatures may be expected.

G. The use of dry chemical, stored pressure, fire extinguishers not fitted with pressure gauges or indicating devices, manufactured prior to January 1, 1965, may be permitted on motorboats and other vessels so long as such extinguishers are maintained in good and serviceable condition. The following

maintenance and inspections are required for such extinguishers:

1. When **the** date on **the** inspection record tag on **the** extinguishers shows that six months have elapsed since last weight check ashore, then such extinguisher is no longer accepted as meeting required maintenance conditions until reweighed ashore and found to be in a serviceable condition and within required weight conditions.

2. If **the** weight of **the** container is one-fourth ounce less than that stamped on container, it shall be serviced.

3. If **the** outer seal or seals (which indicate tampering or use when broken) are not intact, **the** boarding officer or marine inspector will inspect such extinguisher to see that **the** frangible disc in neck of **the** container is intact; and if such disc is not intact, **the** container shall be serviced.

4. If there is evidence of damage, use, or leakage, such as dry chemical powder observed in **the** nozzle or elsewhere on **the** extinguisher, **the** container shall be replaced with a new one and **the** extinguisher properly serviced or **the** extinguisher replaced with another approved extinguisher.

H. **The** dry chemical, stored pressure, fire extinguishers without pressure gauges or indicating devices manufactured after January 1, 1965, shall not be carried on board motorboats or other vessels as required equipment.

4VAC15-430-180. Fixed fire extinguishing systems.

When a fixed fire extinguishing system is installed, it shall be of an approved carbon dioxide type, that is designed and installed in agreement with **the** applicable provisions required by **the** U.S. Coast Guard.

4VAC15-430-190. Fire extinguishing equipment required.

A. Motorboats.

1. All motorboats shall carry at least **the** minimum number of hand-portable fire extinguishers set forth in **the** following table, except that motorboats less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if **the** construction of such motorboats will not permit **the** entrapment of explosive or flammable gases or vapors.

| Length, feet | Minimum number of B-I 5-B hand-portable fire extinguishers required ¹ | |
|--------------|---|--|
| | No fixed fire extinguishing systems in machinery space | Fixed fire extinguishing system in machinery space |
| Under 16 | 1 | 0 |

| | | |
|--------------------|---|---|
| 16 to less than 26 | 1 | 0 |
| 26 to less than 40 | 2 | 1 |
| 40 to 65 | 3 | 2 |

¹One ~~B-I~~ 20-B hand-portable fire extinguisher may be substituted for two ~~B-I~~ 5-B hand-portable fire extinguishers.

2. Fire extinguishers are required if any one or more of **the** following conditions exist:

- Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
- Double bottoms not sealed to **the** hull or that are not completely filled with flotation material.
- Closed living spaces.
- Closed stowage compartments in which combustible or flammable materials are stowed.
- Permanently installed fuel tanks.

3. **The** following conditions do not, in themselves, require that fire extinguishers be carried:

- Bait wells.
- Glove compartments.
- Buoyant flotation material.
- Open slatted flooring.
- Ice chests.

B. ~~Motor vessels~~ Motorboats greater than 65 feet in length.

1. All ~~motor vessels~~ motorboats greater than 65 feet in length shall carry at least **the** minimum number of hand-portable fire extinguishers set forth in **the** following table below:

| Gross tonnage | | Minimum number of B-I 20-B hand-portable fire extinguishers |
|---------------|----------|--|
| Over | Not over | |
| | 50 | 2 |
| 50 | 100 | 2 |
| 100 | 500 | 3 |
| 500 | 1000 | 6 |
| 1000 | | 8 |

2. In addition to **the** hand-portable fire extinguishers required by subdivision 1 of this subsection, **the** following fire-extinguishing equipment shall be fitted in **the** machinery space:

- One Type ~~B-I~~ 20-B hand-portable fire extinguisher shall be carried for each 1,000 B.H.P. of **the** main engines

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or fraction thereof. However, not more than six such extinguishers need be carried.

b. On ~~motor vessels~~ motorboats of over 300 gross tons, either one ~~Type B-III~~ 160-B semiportable fire-extinguishing system shall be fitted, or alternatively, a fixed fire extinguishing system shall be fitted in ~~the~~ machinery space.

3. ~~The~~ frame or support of each ~~Type B-III~~ 160-B fire extinguisher required by subdivision 2 b of this subsection must be welded or otherwise permanently attached to a bulkhead or deck.

4. If an approved semiportable fire extinguisher has wheels and is not required by this section, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

C. Barges carrying passengers.

1. Every barge of 65 feet in length or less while carrying passengers when towed or pushed by a motorboat, ~~motor vessel, or steam vessel~~ shall be fitted with hand-portable fire extinguishers as required by ~~the~~ table in subsection B of this section, depending upon ~~the~~ length of ~~the~~ barge.

2. Every barge of over 65 feet in length while carrying passengers when towed or pushed by a motorboat, ~~motor vessel, or steam vessel~~ shall be fitted with hand-portable fire extinguishers as required by ~~the~~ table in subsection B of this section, depending upon ~~the~~ gross tonnage of ~~the~~ barge.

4VAC15-430-200. Fire extinguishing equipment on vessels contracted prior to November 19, 1952. Condition and number of fire extinguishers required for recreational vessels.

A. Condition and number of fire extinguishers required for recreational vessels built model year 2017 or earlier, between 1953 and 2017, and contracted prior to November 19, 1953.

1. Previously installed extinguishers with extinguishing capacities that are less than what is required in ~~the~~ tables contained in 4VAC15-430-190 need not be replaced but must be maintained in good condition.

2. All extinguishers installed after August 22, 2016, must meet ~~the~~ applicable requirements in 4VAC15-160 through 4VAC15-210.

B. Vessels contracted for prior to November 19, 1952, shall meet ~~the~~ applicable provisions of 4VAC15-430-160 through 4VAC15-430-190 insofar as ~~the~~ number and general type of equipment is concerned. Existing items of equipment and installations previously approved but not meeting ~~the~~ applicable requirements for type approval may be continued in service so long as they are in good condition. All new installations and replacements shall meet ~~the~~ requirements of 4VAC15-430-160 through 4VAC15-430-190.

VA.R. Doc. No. R22-7233; Filed November 30, 2022, 11:19 a.m.

Final Regulation

REGISTRAR'S NOTICE: ~~The~~ Board of Wildlife Resources is claiming an exemption from ~~the~~ Administrative Process Act pursuant to § 29.1-701 E of ~~the~~ Code of Virginia, which provides that ~~the~~ board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of ~~the~~ Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of ~~the~~ Code of Virginia.

Title of Regulation: **4VAC15-440. Watercraft: Commercial Vessel Safety Equipment Requirements (amending 4VAC15-440-20).**

Statutory Authority: §§ 29.1-701 and 29.1-735 of ~~the~~ Code of Virginia.

Effective Date: January 1, 2023.

Agency Contact: Jeff Trollinger, Natural Resource Manager II, Department of Wildlife Resources, 7870 Villa Park Drive, #400, Henrico, VA 23228, telephone (804) 367-1134, or email jeff.trollinger@dwr.virginia.gov.

Summary:

~~The~~ amendments (i) make kapok and fibrous glass life preservers that do not have plastic-covered pad inserts acceptable personal flotation devices and (ii) change ~~the~~ term "Type V" commercial hybrid personal flotation device to ~~the~~ U.S. Coast Guard's new term "performance level 150."

4VAC15-440-20. Lifesaving equipment required.

A. It shall be unlawful to operate a vessel to which this chapter applies unless it meets ~~the~~ requirements of this section.

B. Each vessel not carrying passengers for hire less than 40 feet in length must have at least one U.S. Coast Guard approved life preserver (Type I PFD), buoyant vest (Type II PFD), or marine buoyant device intended to be worn (Type III PFD), of a suitable size for each person on board. ~~Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by ~~the~~ U.S. Coast Guard are not acceptable as equipment required by this subsection.~~

C. Each vessel carrying passengers for hire and each vessel 40 feet in length or longer not carrying passengers for hire must have at least one approved (Type I PFD) life preserver of a suitable size for each person on board. ~~Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by ~~the~~ U.S. Coast Guard are not acceptable as equipment required by this subsection.~~

D. In addition to ~~the~~ equipment required by ~~subsections~~ subsection B or C of this section, each vessel 26 feet in length or longer must have at least one approved ring life buoy, constructed in accordance with requirements of ~~the~~ U.S. Coast Guard.

E. Each vessel not carrying passengers for hire may substitute an immersion suit for a life preserver, buoyant vest, or marine buoyant device required under subsection B or C of this

section. Each immersion suit carried in accordance with this subsection must be of a type approved by the U.S. Coast Guard.

F. On each vessel, regardless of length and regardless of whether carrying passengers for hire, an approved commercial hybrid PFD may be substituted for a life preserver, buoyant vest, or marine buoyant device required under subsection B or C of this section if it is:

1. Used in accordance with the conditions marked on the PFD and in the owner's manual;
2. Labeled for use on commercial vessels; and
3. In the case of a ~~Type V~~ performance level 150 commercial hybrid PFD, worn when the vessel is underway and the intended wearer is not within an enclosed space.

VA.R. Doc. No. R22-7234; Filed November 30, 2022, 11:20 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Final Regulation

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

Title of Regulation: 9VAC20-60. Virginia Hazardous Waste Management Regulations (amending 9VAC20-60-18).

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6921; 40 CFR Parts 260 through 272.

Effective Date: January 18, 2023.

Agency Contact: Lisa A. Ellis, Hazardous Waste Compliance Program Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 912-7366, FAX (804) 698-4178, or email lisa.ellis@deq.virginia.gov.

Summary:

The amendments (i) update the citation to Title 40 of the Code of Federal Regulations incorporated by reference in the regulation to that published July 1, 2022; (ii) include the provisions of the U.S. Environmental Protection Agency's (EPA's) Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations; and (ii) exclude EPA's Conforming Changes to Canada-Specific

Hazardous Waste Import-Export Recovery and Disposal Operation Codes, which will be adopted during the next regulatory update cycle.

9VAC20-60-18. Applicability of incorporated references based on the dates on which they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced and incorporated into this chapter, that regulation shall be as it exists and has been published in the July 1, 2024 2022, annual edition; however, the incorporation by reference of Title 40 of the Code of Federal Regulations shall not include the requirements of EPA's Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule (83 FR 24664, May 30, 2018) or Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations (84 FR 67202, December 9, 2019) Conforming Changes to Canada-specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes (86 FR 54381, October 1, 2021).

VA.R. Doc. No. R23-7215; Filed November 28, 2022, 8:50 a.m.

Final Regulation

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

Title of Regulation: 9VAC20-110. Regulations Governing the Transportation of Hazardous Materials (amending 9VAC20-110-110).

Statutory Authority: §§ 10.1-1450 and 44-146.30 of the Code of Virginia; 49 USC §§ 1809 through 1810; 49 CFR Parts 107, 170 through 180, 383, and 390 through 397.

Effective Date: January 18, 2023.

Agency Contact: William K. Norris, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 350-2743, FAX (804) 698-4178, or email william.norris@deq.virginia.gov.

Summary:

The amendment updates the federal regulations from Title 49 of the Code of Federal Regulations that are incorporated by reference into Virginia's Regulations Governing the Transportation of Hazardous Materials (9VAC20-110) to the latest version as published on October 1, 2022.

9VAC20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing

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the transportation of hazardous materials promulgated by the U.S. Secretary of Transportation with amendments promulgated as of October 1, 2019 2022, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Special Permits. 49 CFR Part 107, Subpart B.
2. Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers in 49 CFR Part 107, Subpart F.
3. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.
4. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
5. Specifications for Packagings in 49 CFR Part 178.
6. Specifications for Tank Cars in 49 CFR Part 179.
7. Continuing Qualification and Maintenance of Packagings in 49 CFR Part 180.
8. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

V.A.R. Doc. No. R23-7334; Filed November 28, 2022, 9:25 a.m.

STATE WATER CONTROL BOARD

Final Regulation

Title of Regulation: 9VAC25-260. Water Quality Standards (amending 9VAC25-260-50, 9VAC25-260-140, 9VAC25-260-185, 9VAC25-260-187, 9VAC25-260-310, 9VAC25-260-390, 9VAC25-260-400, 9VAC25-260-410, 9VAC25-260-420, 9VAC25-260-440, 9VAC25-260-470, 9VAC25-260-500).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

Effective Date: Effective upon the filing of notice of approval by the U.S. Environmental Protection Agency with the Registrar of Regulations.

Agency Contact: David Whitehurst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804)774-9180, FAX (804) 698-4178, or email david.whitehurst@deq.virginia.gov.

Summary:

The amendments update numerical and narrative criteria, use designations, and other policies based on current scientific information. The changes include: (i) adding freshwater aluminum criteria; (ii) adding a special standard, which is a benthic chlorophyll-a threshold, that would limit the quantity of the filamentous algae in certain sections of the Shenandoah River; and (iii) modifying trout waters designation and public water supply designation and adjusting temperature criteria for waters stocked with trout by the Virginia Department of Wildlife Resources in the winter.

Changes to the proposed regulation include (i) adding the freshwater aluminum criteria to specify that the criteria are expressed as the total recoverable form of the metal; (ii) clarifying language pertaining to nuisance filamentous algae to show that a determination of nuisance filamentous algae impeding the recreation use will be made when "exceedances of either" of the specified thresholds have occurred in more than one recreation season in three consecutive years; (iii) updating the agency name for the "Department of Wildlife Resources"; (iv) removing the CAS number 57749 for chlordane and the freshwater copper Biotic Ligand Model (BLM) and restoring existing regulatory language; and (v) restoring existing regulatory descriptions for tributaries to the Rappahannock River from Blandfield Point to the Route 1 Alternate Bridge.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

9VAC25-260-50. Numerical criteria for dissolved oxygen, pH, and maximum temperature***.

| CLASS | DESCRIPTION OF WATERS | DISSOLVED OXYGEN (mg/l)**** | | pH**** | Max. Temp. (°C) |
|-------|---|--------------------------------|------------|---------|--------------------|
| | | Min. | Daily Avg. | | |
| I | Open Ocean | 5.0 | -- | 6.0-9.0 | -- |
| II | Tidal Waters in the Chowan Basin and the Atlantic Ocean Basin | 4.0 | 5.0 | 6.0-9.0 | -- |
| II | Tidal Waters in the Chesapeake Bay and its tidal tributaries | see 9VAC25-260-185 | | 6.0-9.0 | |

| | | | | | |
|-----|--|-----|-----|----------|----|
| III | Nontidal Waters (Coastal and Piedmont Zones) | 4.0 | 5.0 | 6.0-9.0 | 32 |
| IV | Mountainous Zones Waters | 4.0 | 5.0 | 6.0-9.0 | 31 |
| V | Stockable Trout Waters | 5.0 | 6.0 | 6.0-9.0 | 21 |
| VI | Natural Trout Waters | 6.0 | 7.0 | 6.0-9.0 | 20 |
| VII | Swamp Waters | * | * | 3.7-8.0* | ** |

*This classification recognizes that the natural quality of these waters may fluctuate outside of the values for D.O. and pH set forth above as water quality criteria in Class I through VI waters. The natural quality of these waters is the water quality found or expected in the absence of human-induced pollution. Water quality standards will not be considered violated when conditions are determined by the board to be natural and not due to human-induced sources. The board may develop site specific criteria for Class VII waters that reflect the natural quality of the waterbody when the evidence is sufficient to demonstrate that the site specific criteria rather than narrative criterion will fully protect aquatic life uses. Virginia Pollutant Discharge Elimination System limitations in Class VII waters shall not cause significant changes to the naturally occurring dissolved oxygen and pH fluctuations in these waters.

**Maximum temperature will be the same as that for Classes I through VI waters as appropriate.

***The water quality criteria in this section do not apply below the lowest flow averaged (arithmetic mean) over a period of seven consecutive days that can be statistically expected to occur once every 10 climatic years (a climatic year begins April 1 and ends March 31). See 9VAC25-260-310 and 9VAC25-260-380 through 9VAC25-260-540 for site specific adjustments to these criteria.

****For a thermally stratified man-made lake or reservoir in Class III, IV, V, or VI waters that are listed in 9VAC25-260-187, these dissolved oxygen and pH criteria apply only to the epilimnion of the waterbody. When these waters are not stratified, the dissolved oxygen and pH criteria apply throughout the water column.

9VAC25-260-140. Criteria for surface water.

EDITOR'S NOTE: Subsections A, C, D, E, and F of 9VAC25-260-140 are not amended; therefore, that text is not set out.

B. The following table is a list of numerical water quality criteria for specific parameters.

| Table of Parameters ^{6, 7} | | | | | | |
|--|--------------------|----------------------|--------------------|----------------------|--|---|
| PARAMETER CAS Number | USE DESIGNATION | | | | | |
| | AQUATIC LIFE | | | | HUMAN HEALTH | |
| | FRESHWATER | | SALTWATER | | Public Water Supply ³ | All Other Surface Waters ⁴ |
| | Acute ¹ | Chronic ² | Acute ¹ | Chronic ² | | |
| Acenaphthene (µg/l) 83329 | | | | | 70 | 90 |
| Acrolein (µg/l) 107028 | 3.0 | 3.0 | | | 3 | 400 |
| Acrylonitrile (µg/l) 107131 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.61 | 70 |

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| | | | | | | |
|---|--|--|-----|----|---------------------------|---------------------------|
| <p>Aldrin (µg/l) 309002</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | 3.0 | | 1.3 | | 0.0000077 | 0.0000077 |
| <p><u>Aluminum (µg/l)</u> 7429905</p> <p><u>Acute and chronic freshwater aluminum criteria values for a site shall be calculated using the 2018 Aluminum Criteria Calculator (Aluminum Criteria Calculator V.2.0.xlsx), or a calculator in R or other software package using the same 1985 Guidelines calculation approach and underlying model equations as in the Aluminum Criteria Calculator V.2.0.xlsx, as defined in EPA's Final Aquatic Life Ambient Water Quality Criteria for Aluminum. (EPA-822-R-18-001, 2018) [Values displayed in the table are examples of criteria calculated by the model using the indicated input parameters for pH, hardness, and Dissolved Organic Carbon (DOC). Freshwater criteria expressed as total recoverable.]</u></p> | <p><u>1,300</u> <u>pH= 7.0</u> <u>Total</u> <u>hardness</u> <u>(CaCO3)</u> <u>= 25 mg/l</u> <u>DOC =</u> <u>5.0 mg/l</u></p> | <p><u>500</u> <u>pH= 7.0</u> <u>Total</u> <u>hardness</u> <u>(CaCO3) =</u> <u>25 mg/l</u> <u>DOC = 5.0</u> <u>mg/l</u></p> | | | | |
| <p>Ammonia (µg/l) 766 41 7 7664417</p> <p>Chronic criterion is a 30-day average concentration not to be exceeded more than once every three years on the average.(see 9VAC25-260-155)</p> | | | | | | |
| <p>Anthracene (µg/l) 120127</p> | | | | | 300 | 400 |
| <p>Antimony (µg/l) 7440360</p> | | | | | 5.6 <u>5.3</u> | 640 <u>580</u> |
| <p>Arsenic (µg/l)⁵ 7440382</p> | 340 | 150 | 69 | 36 | 10 | |
| <p>Bacteria (see 9VAC25-260-160 and 9VAC25-260-170)</p> | | | | | | |
| <p>Barium (µg/l) 7440393</p> | | | | | 2,000 | |
| <p>Benzene (µg/l) 71432</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵</p> | | | | | 5.8 | 160 |

| | | | | | | |
|--|--|--|--|--|-------------------|-----------------|
| Benzidine (µg/l) 92875 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.0014 | 0.11 |
| Benzo (a) anthracene (µg/l) 56553 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.012 | 0.013 |
| Benzo (b) fluoranthene (µg/l) 205992 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.012 | 0.013 |
| Benzo (k) fluoranthene (µg/l) 207089 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.12 | 0.13 |
| Benzo (a) pyrene (µg/l) 50328 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.0012 | 0.0013 |
| Bis(2-Chloroethyl Ether (µg/l) 111444 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ | | | | | 0.30 | 22 |
| Bis (chloromethyl) Ether 542881 Known or suspected carcinogen; human health criteria at risk level 10⁻⁵ | | | | | 0.0015 | 0.17 |
| Bis(2-Chloroisopropyl Ether (Bis (2-Chloro 1- methylethyl) Ether) 2,2'-Oxybis(1-Chloropropane) (µg/l) 108601 | | | | | 200 | 4,000 |
| Bis(2-Ethylhexyl Phthalate (µg/l) 117817 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . Synonym = Di-2- Ethylhexyl Phthalate. | | | | | 3.2 | 3.7 |
| Bromoform (µg/l) 75252 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 70 | 1,200 |
| Butyl benzyl phthalate (µg/l) 85687 | | | | | 1.0 | 1.0 |

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| | | | | | | |
|--|-----------------------------------|------------------------------------|----------------|--------------|---------|--------|
| <p>Cadmium (µg/l)⁵ 7440439</p> <p>Freshwater values are a function of total hardness as calcium carbonate (CaCO₃) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.</p> <p>Freshwater acute criterion (µg/l) WER $e^{(0.9789[\ln(\text{hardness})]-3.866)}$ (CF_a)</p> <p>Freshwater chronic criterion (µg/l) WER $e^{(0.7977[\ln(\text{hardness})]-3.909)}$ (CF_c)</p> <p>WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F</p> <p>e = natural antilogarithm</p> <p>ln = natural logarithm</p> <p>CF = conversion factor a (acute) or c (chronic)</p> <p>CF_a = 1.136672-[(ln hardness)(0.041838)]</p> <p>CF_c = 1.101672-[(ln hardness)(0.041838)]</p> | 1.8 CaCO ₃ = 100 | 0.72 CaCO ₃ = 100 | 33 X WER | 7.9 X WER | 5 | |
| <p>Carbon tetrachloride (µg/l) 56235</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | | | | | 4.0 | 50 |
| <p>Carbaryl (µg/l) 63252</p> | 2.1 | 2.1 | 1.6 | | | |
| <p>Chlordane (µg/l) [57749 12789036]</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | 2.4 | 0.0043 | 0.09 | 0.0040 | 0.0031 | 0.0032 |
| <p>Chloride (µg/l) 16887006</p> <p>Human health criterion to maintain acceptable taste and aesthetic quality and applies at the drinking water intake.</p> <p>Chloride criteria do not apply in Class II transition zones (see subsection C of this section).</p> | 860,000 | 230,000 | | | 250,000 | |
| <p>Chlorine, Total Residual (µg/l) 7782505</p> <p>In DGH <u>DWR</u> class i and ii trout waters (9VAC25-260-390 through 9VAC25-260-540) or waters with threatened or endangered species are subject to the halogen ban (9VAC25-260-110).</p> | 19 See 9VAC25- 260-110 | 11 See 9VAC25- 260-110 | | | | |

| | | | | | | |
|--|-------------------------------------|------------------------------------|-------|--------|-------------------|-------|
| Chlorine Produced Oxidant (µg/l) 7782505 | | | 13 | 7.5 | | |
| Chlorobenzene (µg/l) 108907 | | | | | 100 | 800 |
| Chlorodibromomethane (µg/l) 124481 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 8.0 | 210 |
| Chloroform (µg/l) 67663 | | | | | 60 | 2,000 |
| 2-Chloronaphthalene (µg/l) 91587 | | | | | 800 | 1,000 |
| 2-Chlorophenol (µg/l) 95578 | | | | | 30 | 800 |
| Chlorpyrifos (µg/l) 2921882 | 0.083 | 0.041 | 0.011 | 0.0056 | | |
| Chromium III (µg/l) ⁵ 16065831 Freshwater values are a function of total hardness as calcium carbonate CaCO ₃ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400. Freshwater acute criterion µg/l WER [e ^{0.8190[ln(hardness)]+3.7256}] (CF _a) Freshwater chronic criterion µg/l WER [e ^{0.8190[ln(hardness)]+0.6848}] (CF _c) WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140.F e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF _a = 0.316 CF _c = 0.860 | 570 (CaCO ₃ = 100) | 74 (CaCO ₃ = 100) | | | 100 (total Cr) | |
| Chromium VI (µg/l) ⁵ 18540299 | 16 | 11 | 1,100 | 50 | | |
| Chrysene (µg/l) 218019 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 1.2 | 1.3 |

Regulations

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|---|----------------------------------|-----------------------------------|-----------------|--------------|---------|---------|
| <p>Copper (µg/l)⁵ 7440508</p> <p>[Freshwater criteria for copper shall be calculated using the EPA 2007 Biotic Ligand Model (see 9VAC25-260-140 G) where the board has determined that a sufficient dataset of input parameters is available. Where the board has determined that a sufficient dataset is not available, freshwater criteria shall be calculated using the hardness-based equations in this table cell.]</p> <p>Freshwater values [derived using these equations] are a function of total hardness as calcium carbonate CaCO₃ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.</p> <p>Freshwater acute criterion (µg/l) WER [e^{0.9422[ln(hardness)]-1.700}] (CF_a)</p> <p>Freshwater chronic criterion (µg/l) WER [e^{0.8545[ln(hardness)]-1.702}] (CF_c)</p> <p>WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F. e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF_a = 0.960 CF_c = 0.960</p> <p>[Alternate copper criteria in freshwater: the freshwater criteria for copper can also be calculated using the EPA 2007 Biotic Ligand Model (See 9VAC25-260-140 G).]</p> <p>Acute saltwater criterion is a 24-hour average not to be exceeded more than once every three years on the average.</p> | 13 CaCO ₃ = 100 | 9.0 CaCO ₃ = 100 | 9.3 X WER | 6.0 X WER | 1,300 | |
| <p>Cyanide, Free (µg/l) 57125</p> | 22 | 5.2 | 1.0 | 1.0 | 4 | 400 |
| <p>DDD (µg/l) 72548</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | | | | | 0.0012 | 0.0012 |
| <p>DDE (µg/l) 72559</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | | | | | 0.00018 | 0.00018 |

| | | | | | | |
|--|------|--------|------|--------|---------|---------|
| DDT (µg/l) 50293 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . Total concentration of DDT and metabolites shall not exceed aquatic life criteria. | 1.1 | 0.0010 | 0.13 | 0.0010 | 0.00030 | 0.00030 |
| Demeton (µg/l) 8065483 | | 0.1 | | 0.1 | | |
| Diazinon (µg/l) 333415 | 0.17 | 0.17 | 0.82 | 0.82 | | |
| Dibenz (a, h) anthracene (µg/l) 53703 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.0012 | 0.0013 |
| 1,2-Dichlorobenzene (µg/l) 95501 | | | | | 1,000 | 3,000 |
| 1,3-Dichlorobenzene (µg/l) 541731 | | | | | 7 | 10 |
| 1,4 Dichlorobenzene (µg/l) 106467 | | | | | 300 | 900 |
| 3,3 Dichlorobenzidine (µg/l) 91941 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.49 | 1.5 |
| Dichlorobromomethane (µg/l) 75274 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 9.5 | 270 |
| 1,2 Dichloroethane (µg/l) 107062 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 99 | 6,500 |
| 1,1 Dichloroethylene (µg/l) 75354 | | | | | 300 | 20,000 |
| 1,2-trans-dichloroethylene (µg/l) 156605 | | | | | 100 | 4,000 |
| 2,4 Dichlorophenol (µg/l) 120832 | | | | | 10 | 60 |

Regulations

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|---|------|-------|------|--------|-------------------------------|-------------------------------|
| 2,4 Dichlorophenoxy acetic acid (Chlorophenoxy Herbicide) (2,4-D) (µg/l) 94757 | | | | | 1,300 | 12,000 |
| 1,2-Dichloropropane (µg/l) 78875 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 9.0 | 310 |
| 1,3-Dichloropropene (µg/l) 542756 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 2.7 | 120 |
| Dieldrin (µg/l) 60571 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | 0.24 | 0.056 | 0.71 | 0.0019 | 0.000012 | 0.000012 |
| Diethyl Phthalate (µg/l) 84662 | | | | | 600 | 600 |
| 2,4 Dimethylphenol (µg/l) 105679 | | | | | 100 | 3,000 |
| Dimethyl Phthalate (µg/l) 131113 | | | | | 2,000 | 2,000 |
| Di-n-Butyl Phthalate (µg/l) 84742 | | | | | 20 | 30 |
| 2,4 Dinitrophenol (µg/l) 51285 | | | | | 10 | 300 |
| Dinitrophenols (µg/l) 25550587 | | | | | 10 | 1,000 |
| 2-Methyl-4,6-Dinitrophenol (µg/l) 534521 | | | | | 2 | 30 |
| 2,4 Dinitrotoluene (µg/l) 121142 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.49 | 17 |
| Dioxin 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin (µg/l) 1746016 | | | | | 5.0 E-8 4.6 E-8 | 5.1 E-8 4.7 E-8 |
| 1,2-Diphenylhydrazine (µg/l) 122667 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.3 | 2.0 |

| | | | | | | |
|---|-------|--------|-------|--------|----------|----------|
| Dissolved Oxygen (µg/l) (See 9VAC25-260-50) | | | | | | |
| Alpha-Endosulfan (µg/l) 959988 Total concentration alpha and beta-endosulfan shall not exceed aquatic life criteria. | 0.22 | 0.056 | 0.034 | 0.0087 | 20 | 30 |
| Beta-Endosulfan (µg/l) 33213659 Total concentration alpha and beta-endosulfan shall not exceed aquatic life criteria. | 0.22 | 0.056 | 0.034 | 0.0087 | 20 | 40 |
| Endosulfan Sulfate (µg/l) 1031078 | | | | | 20 | 40 |
| Endrin (µg/l) 72208 | 0.086 | 0.036 | 0.037 | 0.0023 | 0.03 | 0.03 |
| Endrin Aldehyde (µg/l) 7421934 | | | | | 1 | 1 |
| Ethylbenzene (µg/l) 100414 | | | | | 68 | 130 |
| Fecal Coliform (see 9VAC25-260-160) | | | | | | |
| Fluoranthene (µg/l) 206440 | | | | | 20 | 20 |
| Fluorene (µg/l) 86737 | | | | | 50 | 70 |
| Foaming Agents (µg/l) Criterion measured as methylene blue active substances. Criterion to maintain acceptable taste, odor, or aesthetic quality of drinking water and applies at the drinking water intake. | | | | | 500 | |
| Guthion (µg/l) 86500 | | 0.01 | | 0.01 | | |
| Heptachlor (µg/l) 76448 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | 0.52 | 0.0038 | 0.053 | 0.0036 | 0.000059 | 0.000059 |

Regulations

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|--|------|--------|-------|--------|---------|---------|
| Heptachlor Epoxide (µg/l) 1024573 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | 0.52 | 0.0038 | 0.053 | 0.0036 | 0.00032 | 0.00032 |
| Hexachlorobenzene (µg/l) 118741 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.00079 | 0.00079 |
| Hexachlorobutadiene (µg/l) 87683 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.1 | 0.1 |
| Hexachlorocyclohexane Alpha-BHC (µg/l) 319846 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.0036 | 0.0039 |
| Hexachlorocyclohexane Beta-BHC (µg/l) 319857 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.080 | 0.14 |
| Hexachlorocyclohexane (µg/l) (Lindane) Gamma-BHC 58899 | 0.95 | | 0.16 | | 4.2 | 4.4 |
| Hexachlorocyclohexane (HCH)-Technical (µg/l) 608731 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.066 | 0.1 |
| Hexachlorocyclopentadiene (µg/l) 77474 | | | | | 4 | 4 |
| Hexachloroethane (µg/l) 67721 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 1 | 1 |
| Hydrogen sulfide (µg/l) 7783064 | | 2.0 | | 2.0 | | |
| Indeno (1,2,3,-cd) pyrene (µg/l) 193395 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.012 | 0.013 |

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|--|----------------------------------|----------------------------------|--------------|--------------|------|--------|
| Iron (µg/l) 7439896 Criterion to maintain acceptable taste, odor, or aesthetic quality of drinking water and applies at the drinking water intake. | | | | | 300 | |
| Isophorone (µg/l) 78591 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 340 | 18,000 |
| Kepone (µg/l) 143500 | | zero | | zero | | |
| Lead (µg/l) ⁵ 7439921 Freshwater values are a function of total hardness as calcium carbonate CaCO ₃ mg/l and the water effect ratio. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400. Freshwater acute criterion (µg/l) WER [e ^{1.273[ln(hardness)]-1.084}](CF _a) Freshwater chronic criterion (µg/l) WER [e ^{1.273[ln(hardness)]-3.259}](CF _c) WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF _a = 1.46203-[(ln hardness)(0.145712)] CF _c = 1.46203-[(ln hardness)(0.145712)] | 94 CaCO ₃ = 100 | 11 CaCO ₃ = 100 | 230 X WER | 8.8 X WER | 15 | |
| Malathion (µg/l) 121755 | | 0.1 | | 0.1 | | |
| Mercury (µg/l) 5 7439976 | 1.4 | 0.77 | 1.8 | 0.94 | | |
| Methyl Bromide (µg/l) 74839 | | | | | 100 | 10,000 |
| 3-Methyl-4-Chlorophenol 59507 | | | | | 500 | 2,000 |
| Methyl Mercury (Fish Tissue Criterion mg/kg) 8 22967926 | | | | | 0.30 | 0.30 |

Regulations

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|--|-----------------------------------|----------------------------------|-------------|--------------|------------------------------------|----------------------------------|
| Methylene Chloride (µg/l) 75092 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . Synonym = Dichloromethane | | | | | 20 | 1,000 |
| Methoxychlor (µg/l) 72435 | | 0.03 | | 0.03 | 0.02 | 0.02 |
| Mirex (µg/l) 2385855 | | zero | | zero | | |
| Nickel (µg/l) ⁵ 744002 7440020 Freshwater values are a function of total hardness as calcium carbonate CaCO ₃ mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400. Freshwater acute criterion (µg/l) WER [e ^{0.8460[ln(hardness)] + 1.312}] (CF _a) Freshwater chronic criterion (µg/l) WER [e ^{0.8460[ln(hardness)] - 0.8840}] (CF _c) WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF _a = 0.998 CF _c = 0.997 | 180 CaCO ₃ = 100 | 20 CaCO ₃ = 100 | 74 X WER | 8.2 X WER | 610 470 | 4,600 <u>1,500</u> |
| Nitrate as N (µg/l) 14797558 | | | | | 10,000 | |
| Nitrobenzene (µg/l) 98953 | | | | | 10 | 600 |
| N-Nitrosodimethylamine (µg/l) 62759 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.0069 <u>0.0065</u> | 30 27 |
| N-Nitrosodiphenylamine (µg/l) 86306 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 33 30 | 60 55 |

Regulations

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|--|-----------------|-----------------|-----|-------|--------------------------------------|--------------------------------------|
| N-Nitrosodi-n-propylamine (µg/l) 621647 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.050 <u>0.047</u> | 5.1 <u>4.6</u> |
| Nonylphenol (µg/l) 84852153 | 28 | 6.6 | 7.0 | 1.7 | | |
| Parathion (µg/l) 56382 | 0.065 | 0.013 | | | | |
| PCB Total (µg/l) 1336363 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | 0.014 | | 0.030 | 0.00064 <u>0.00058</u> | 0.00064 <u>0.00058</u> |
| Pentachlorobenzene (µg/l) 608935 | | | | | 0.1 | 0.1 |
| Pentachlorophenol (µg/l) 87865 Known or suspected carcinogen; human health criteria risk level at 10 ⁻⁵ . Freshwater acute criterion (µg/l) e ^{(1.005(pH)-4.869)} Freshwater chronic criterion (µg/l) e ^{(1.005(pH)-5.134)} | 8.7 pH = 7.0 | 6.7 pH = 7.0 | 13 | 7.9 | 0.3 | 0.4 |
| pH See 9VAC25-260-50 | | | | | | |
| Phenol (µg/l) 108952 | | | | | 4,000 | 300,000 |
| Phosphorus Elemental (µg/l) 7723140 | | | | 0.10 | | |
| Pyrene (µg/l) 129000 | | | | | 20 | 30 |
| Radionuclides | | | | | | |
| Gross Alpha Particle Activity (pCi/L) | | | | | 15 | |
| Beta Particle & Photon Activity (mrem/yr) (formerly man-made radionuclides) | | | | | 4 | |
| Combined Radium 226 and 228 (pCi/L) | | | | | 5 | |
| Uranium (µg/L) <u>7440611</u> | | | | | 30 | |

Regulations

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|--|------------------------------------|-----|--------------|-------------|-----------------------------|----------------------------------|
| <p>Selenium (µg/l)⁵ 7782492</p> <p>WER shall not be used for freshwater acute and chronic criteria. Freshwater criteria expressed as total recoverable.</p> | 20 | 5.0 | 290 X WER | 71 X WER | 170 <u>160</u> | 4,200 <u>3,800</u> |
| <p>Silver (µg/l)⁵ 7440224</p> <p>Freshwater values are a function of total hardness as calcium carbonate (CaCO₃) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400.</p> <p>Freshwater acute criterion (µg/l) WER $[e^{1.72[\ln(\text{hardness})]-6.52}]$ (CF_a)</p> <p>WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F</p> <p>e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF_a = 0.85</p> | 3.4; CaCO ₃ = 100 | | 1.9 X WER | | | |
| <p>Sulfate (µg/l)</p> <p>Criterion to maintain acceptable taste, odor, or aesthetic quality of drinking water and applies at the drinking water intake.</p> | | | | | 250,000 | |
| <p>Temperature</p> <p>See 9VAC25-260-50</p> | | | | | | |
| <p>1,2,4,5-Tetrachlorobenzene 95943</p> | | | | | 0.03 | 0.03 |
| <p>1,1,2,2-Tetrachloroethane (µg/l) 79345</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | | | | | 2.0 | 30 |
| <p>Tetrachloroethylene (µg/l) 127184</p> <p>Known or suspected carcinogen; human health criteria at risk level 10⁻⁵.</p> | | | | | 100 | 290 |
| <p>Thallium (µg/l) 7440280</p> | | | | | 0.24 <u>0.22</u> | 0.47 <u>0.43</u> |
| <p>Toluene (µg/l) 108883</p> | | | | | 57 | 520 |

| | | | | | | |
|---|------|--------|------|--------|---------|---------|
| Total Dissolved Solids (µg/l) Criterion to maintain acceptable taste, odor or aesthetic quality of drinking water and applies at the drinking water intake. | | | | | 500,000 | |
| Toxaphene (µg/l) 8001352 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | 0.73 | 0.0002 | 0.21 | 0.0002 | 0.0070 | 0.0071 |
| Tributyltin (µg/l) 60405 <u>E1790678</u> | 0.46 | 0.072 | 0.42 | 0.0074 | | |
| 1, 2, 4 Trichlorobenzene (µg/l) 120821 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.71 | 0.76 |
| 1,1,1-Trichloroethane 71556 | | | | | 10,000 | 200,000 |
| 1,1,2-Trichloroethane (µg/l) 79005 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 5.5 | 89 |
| Trichloroethylene (µg/l) 79016 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 6.0 | 70 |
| 2, 4, 5 –Trichlorophenol 95954 | | | | | 300 | 600 |
| 2, 4, 6-Trichlorophenol (µg/l) 88062 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 15 | 28 |
| 2-(2, 4, 5-Trichlorophenoxy) propionic acid (Silvex) (µg/l) 93721 | | | | | 100 | 400 |
| Vinyl Chloride (µg/l) 75014 Known or suspected carcinogen; human health criteria at risk level 10 ⁻⁵ . | | | | | 0.22 | 16 |

Regulations

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|---|-----------------------------------|--------------------------------|----------------|-------------|----------------------------------|------------------------------------|
| Zinc (µg/l) ⁵ 7440666 Freshwater values are a function of total hardness as calcium carbonate (CaCO ₃) mg/l and the WER. The minimum hardness allowed for use in the equation below shall be 25 and the maximum, hardness shall be 400 even when the actual ambient hardness is less than 25 or greater than 400. Freshwater acute criterion (µg/l) WER $[e^{(0.8473[\ln(\text{hardness})]+0.884)}](CF_a)$ Freshwater chronic criterion (µg/l) WER $[e^{(0.8473[\ln(\text{hardness})]+0.884)}](CF_c)$ WER = Water Effect Ratio = 1 unless determined otherwise under 9VAC25-260-140 F e = natural antilogarithm ln = natural logarithm CF = conversion factor a (acute) or c (chronic) CF _a = 0.978 CF _c = 0.986 | 120 CaCO ₃ = 100 | 120 CaCO ₃ = 100 | 90 X WER | 81 X WER | 7,400 <u>7,000</u> | 26,000 <u>23,000</u> |
|---|-----------------------------------|--------------------------------|----------------|-------------|----------------------------------|------------------------------------|

¹One hour average concentration not to be exceeded more than once every 3 years on the average, unless otherwise noted.

²Four-day average concentration not to be exceeded more than once every 3 years on the average, unless otherwise noted.

³Criteria have been calculated to protect human health from toxic effects through drinking water and fish consumption, unless otherwise noted and apply in segments designated as PWS in 9VAC25-260-390 through 9VAC25-260-540. Human health criteria are based on the assumption of average amount of exposure on a long-term basis.

⁴Criteria have been calculated to protect human health from toxic effects through fish consumption, unless otherwise noted and apply in all other surface waters not designated as PWS in 9VAC25-260-390 through 9VAC25-260-540. Human health criteria are based on the assumption of average amount of exposure on a long-term basis.

⁵Acute and chronic saltwater and freshwater aquatic life criteria apply to the biologically available form of the metal and apply as a function of the pollutant's water effect ratio (WER) as defined in 9VAC25-260-140 F (WER X criterion). Metals measured as dissolved shall be considered to be biologically available, or, because local receiving water characteristics may otherwise affect the biological availability of the metal, the biologically available equivalent measurement of the metal can be further defined by determining a water effect ratio (WER) and multiplying the numerical value shown in 9VAC25-260-140 B by the WER. Refer to 9VAC25-260-140 F. Values displayed above in the table are examples and correspond to a WER of 1.0. Metals criteria have been adjusted to convert the total recoverable fraction to dissolved fraction using a conversion factor. Criteria that change with hardness have the conversion factor listed in the table above.

⁶The flows listed below are default design flows for calculating steady state wasteload allocations unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of the water quality criteria.

| | |
|----------------------------|---------------|
| Aquatic Life: | |
| Acute criteria | 1Q10 |
| Chronic criteria | 7Q10 |
| Chronic criteria (ammonia) | 30Q10 |
| Human Health: | |
| Noncarcinogens | 30Q5 |
| Carcinogens | Harmonic mean |

The following are defined for this section:

"1Q10" means the lowest flow averaged over a period of 1 day which on a statistical basis can be expected to occur once every 10 climatic years.

"7Q10" means the lowest flow averaged over a period of 7 consecutive days that can be statistically expected to occur once every 10 climatic years.

"30Q5" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every 5 climatic years.

"30Q10" means the lowest flow averaged over a period of 30 consecutive days that can be statistically expected to occur once every 10 climatic years.

"Averaged" means an arithmetic mean.

"Climatic year" means a year beginning on April 1 and ending on March 31.

⁷The criteria listed in this table are two significant digits. For other criteria that are referenced to other sections of this regulation in this table, all numbers listed as criteria values are significant.

⁸The fish tissue criterion for methylmercury applies to a concentration of 0.30 mg/kg as wet weight in edible tissue for species of fish and shellfish resident in a waterbody that are commonly eaten in the area and have commercial, recreational, or subsistence value.

G. Biotic Ligand Model for copper. [On a case-by-case basis, ~~Where the board determines that a sufficient dataset of input parameters is available~~] EPA's 2007 copper criteria (EPA-822-F-07-001) biotic ligand model (BLM) for copper [may ~~shall~~] be used to determine [alternate ~~the applicable~~] copper criteria for freshwater sites. The BLM is a bioavailability model that uses receiving water characteristics to develop site-specific criteria. Site-specific data for 10 parameters are needed to use the BLM. These parameters are temperature, pH, dissolved organic carbon, calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity. [If sufficient data for these parameters are available, the BLM can be used to calculate alternate criteria values for the copper criteria. ~~The Where the board determines that a sufficient dataset of input parameters is available, the~~] BLM [would ~~shall~~] be used instead of the hardness-based criteria and takes the place of the hardness adjustment and the WER. A WER will not be applicable with the BLM.

9VAC25-260-185. Criteria to protect designated uses from the impacts of nutrients and suspended sediment in the Chesapeake Bay and its tidal tributaries.

EDITOR'S NOTE: Subsections A, C, and D of 9VAC25-260-185 are not amended; therefore, that text is not set out.

B. Submerged aquatic vegetation (SAV) and water clarity. Attainment of the shallow-water submerged aquatic vegetation designated use shall be determined using any one of the following criteria:

| Designated Use | Chesapeake Bay Program Segment | SAV Acres ¹ | Percent Light-Through-Water ² | Water Clarity Acres ¹ | Temporal Application |
|--|--------------------------------|------------------------|--|----------------------------------|-----------------------|
| Shallow water submerged aquatic vegetation use | CB5MH | 7,633 | 22% | 14,514 | April 1 - October 31 |
| | CB6PH | 1,267 | 22% | 3,168 | March 1 - November 30 |
| | CB7PH | 15,107 | 22% | 34,085 | March 1 - November 30 |
| | CB8PH | 11 | 22% | 28 | March 1 - November 30 |
| | POTTF | 2,093 | 13% | 5,233 | April 1 - October 31 |
| | POTOH | 1,503 | 13% | 3,758 | April 1 - October 31 |
| | POTMH | 4,250 | 22% | 10,625 | April 1 - October 31 |
| | RPPTF | 66 | 13% | 165 | April 1 - October 31 |
| | RPPOH | 4 | 13% | 10 | April 1 - October 31 |

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| | RPPMH | 1700 <u>5,380</u> | 22% | 5000 <u>13,450</u> | April 1 - October 31 |
| | CRRMH | 768 | 22% | 1,920 | April 1 - October 31 |
| | PIAMH | 3,479 | 22% | 8,014 | April 1 - October 31 |
| | MPNTF | 85 | 13% | 213 | April 1 - October 31 |
| | MPNOH | - | - | - | - |
| | PMKTF | 187 | 13% | 468 | April 1 - October 31 |
| | PMKOH | - | - | - | - |
| | YRKMH | 239 | 22% | 598 | April 1 - October 31 |
| | YRKPH | 2,793 | 22% | 6,982 | March 1 - November 30 |
| | MOBPH | 15,901 | 22% | 33,990 | March 1 - November 30 |
| | JMSTF2 | 200 <u>266</u> | 13% | 500 <u>665</u> | April 1 - October 31 |
| | JMSTF1 | 1000 <u>1,333</u> | 13% | 2500 <u>3,332</u> | April 1 - October 31 |
| | APPTF | 379 | 13% | 948 | April 1 - October 31 |
| | JMSOH | 15 | 13% | 38 | April 1 - October 31 |
| | CHKOH | 535 | 13% | 1,338 | April 1 - October 31 |
| | JMSMH | 200 <u>531</u> | 22% | 500 <u>1,328</u> | April 1 - October 31 |
| | JMSPH | 300 <u>604</u> | 22% | 750 <u>1,510</u> | March 1 - November 30 |
| | WBEMH | - | - | - | - |
| | SBEMH | - | - | - | - |
| | EBEMH | - | - | - | - |
| | ELIPH | - | - | - | - |
| | LYNPH | 107 | 22% | 268 | March 1 - November 30 |
| | POCOH | - | - | - | - |
| | POCMH | 4,066 | 22% | 9,368 | April 1 - October 31 |
| | TANMH | 13,579 | 22% | 22,064 | April 1 - October 31 |

¹The assessment period for SAV and water clarity acres shall be the single best year in the most recent three consecutive years. When three consecutive years of data are not available, a minimum of three years within the data assessment window shall be used.

²Percent light-through-water = $100e^{(-K_d Z)}$ where K_d is water column light attenuation coefficient and can be measured directly or converted from a measured secchi depth where $K_d = 1.45/\text{secchi depth}$. Z = depth at location of measurement of K_d .

9VAC25-260-187. Criteria for man-made lakes and reservoirs to protect aquatic life and recreational designated uses from the impacts of nutrients.

EDITOR'S NOTE: Subsections A, C, and D of 9VAC25-260-187 are not amended; therefore, that text is not set out.

B. Whether or not algicide treatments are used, the chlorophyll a criteria apply to all waters on the list. The total phosphorus criteria apply only if a specific man-made lake or reservoir received algicide treatment during the monitoring and assessment period of April 1 through October 31.

The 90th percentile of the chlorophyll a data collected at one meter or less within the lacustrine portion of the man-made lake or reservoir between April 1 and October 31 shall not exceed the chlorophyll a criterion for that waterbody in each of the two

most recent monitoring years that chlorophyll a data are available. For a waterbody that received algicide treatment, the median of the total phosphorus data collected at one meter or less within the lacustrine portion of the man-made lake or reservoir between April 1 and October 31 shall not exceed the total phosphorus criterion in each of the two most recent monitoring years that total phosphorus data are available.

Monitoring data used for assessment shall be from sampling location(s) locations within the lacustrine portion where observations are evenly distributed over the seven months from April 1 through October 31 and are in locations that are representative, either individually or collectively, of the condition of the man-made lake or reservoir.

| Man-made Lake or Reservoir Name | Location | Chlorophyll a (µg/L) | Total Phosphorus (µg/L) |
|---|-----------------------|-------------------------|----------------------------|
| Abel Lake | Stafford County | 35 | 40 |
| Airfield Pond | Sussex County | 35 | 40 |
| Amelia Lake | Amelia County | 35 | 40 |
| Aquia Reservoir (Smith Lake) | Stafford County | 35 | 40 |
| Bark Camp Lake (Corder Bottom Lake, Lee/Scott/Wise Lake) | Scott County | 35 | 40 |
| Beaver Creek Reservoir | Albemarle County | 35 | 40 |
| Beaverdam Creek Reservoir (Beaverdam Reservoir) | Bedford County | 35 | 40 |
| Beaverdam Reservoir | Loudoun County | 35 | 40 |
| Bedford Reservoir (Stony Creek Reservoir) | Bedford County | 35 | 40 |
| Big Cherry Lake | Wise County | 35 | 40 |
| Breckenridge Reservoir | Prince William County | 35 | 40 |
| Briery Creek Lake | Prince Edward County | 35 | 40 |
| Brunswick Lake (County Pond) | Brunswick County | 35 | 40 |
| Burke Lake | Fairfax County | 60 | 40 |
| Carvin Cove Reservoir | Botetourt County | 35 | 40 |
| Cherrystone Reservoir | Pittsylvania County | 35 | 40 |
| Chickahominy Lake | Charles City County | 35 | 40 |
| Chris Green Lake | Albemarle County | 35 | 40 |
| Claytor Lake | Pulaski County | 25 | 20 |
| Clifton Forge Reservoir (Smith Creek Reservoir) | Alleghany County | 35 | 20 |
| Coles Run Reservoir | Augusta County | 10 | 10 |
| Curtis Lake | Stafford County | 60 | 40 |

Regulations

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| Diascund Creek Reservoir | New Kent County | 35 | 40 |
| Douthat Lake | Bath County | 25 | 20 |
| Elkhorn Lake | Augusta County | 10 | 10 |
| Emporia Lake (Meherrin Reservoir) | Greensville County | 35 | 40 |
| Fairystone Lake | Henry County | 35 | 40 |
| Falling Creek Reservoir | Chesterfield County | 35 | 40 |
| Fluvanna Ruritan Lake | Fluvanna County | 60 | 40 |
| Fort Pickett Reservoir | Nottoway/Brunswick County | 35 | 40 |
| Gatewood Reservoir | Pulaski County | 35 | 40 |
| Georges Creek Reservoir | Pittsylvania County | 35 | 40 |
| Goose Creek Reservoir | Loudoun County | 35 | 40 |
| Graham Creek Reservoir | Amherst County | 35 | 40 |
| Great Creek Reservoir | Lawrenceville | 35 | 40 |
| Harrison Lake | Charles City County | 35 | 40 |
| Harwood Mills Reservoir | York County | 60 | 40 |
| Hidden Valley Lake | Washington County | 35 | 40 |
| Hogan Lake | Pulaski County | 35 | 40 |
| Holiday Lake | Appomattox County | 35 | 40 |
| Hungry Mother Lake | Smyth County | 35 | 40 |
| Hunting Run Reservoir | Spotsylvania County | 35 | 40 |
| J. W. Flannagan Reservoir | Dickenson County | 25 | 20 |
| Kerr Reservoir, Virginia portion (Buggs Island Lake) | Halifax County | 25 | 30 |
| Keysville Reservoir | Charlotte County | 35 | 40 |
| Lake Albemarle | Albemarle County | 35 | 40 |
| Lake Anna | <u>Louisa County, Spotsylvania, Orange Counties</u> | 25 | 30 |
| Lake Arrowhead | Page County | 35 | 40 |
| Lake Burnt Mills | Isle of Wight County | 60 | 40 |
| Lake Chesdin | Chesterfield County | 35 | 40 |

| | | | |
|---|------------------------|-----------|-----------|
| Lake Cohoon | Suffolk City | 60 | 40 |
| Lake Conner | Halifax County | 35 | 40 |
| Lake Frederick | Frederick County | 35 | 40 |
| Lake Gaston, (Virginia portion) | Brunswick County | 25 | 30 |
| Lake Gordon | Mecklenburg County | 35 | 40 |
| Lake Keokee | Lee County | 35 | 40 |
| Lake Kilby | Suffolk City | 60 | 40 |
| Lake Lawson | Virginia Beach City | 60 | 40 |
| Lake Manassas | Prince William County | 35 | 40 |
| Lake Meade | Suffolk City | 60 | 40 |
| Lake Moomaw | Bath County | 10 | 10 |
| <u>Lake Mooney</u> | <u>Stafford County</u> | <u>25</u> | <u>40</u> |
| Lake Nelson | Nelson County | 60 | 40 |
| Lake Nottoway (Lee Lake, Nottoway Lake) | Nottoway County | 35 | 40 |
| Lake Orange | Orange County | 60 | 40 |
| Lake Pelham | Culpeper County | 35 | 40 |
| Lake Prince | Suffolk City | 60 | 40 |
| Lake Robertson | Rockbridge County | 35 | 40 |
| Lake Smith | Virginia Beach City | 60 | 40 |
| Lake Whitehurst | Norfolk City | 60 | 40 |
| Lake Wright | Norfolk City | 60 | 40 |
| Lakeview Reservoir | Chesterfield County | 35 | 40 |
| Laurel Bed Lake | Russell County | 35 | 40 |
| Lee Hall Reservoir (Newport News Reservoir) | Newport News City | 60 | 40 |
| Leesville Reservoir | Bedford County | 25 | 30 |
| Little Creek Reservoir | Virginia Beach City | 60 | 40 |
| Little Creek Reservoir | James City County | 25 | 30 |
| Little River Reservoir | Montgomery County | 35 | 40 |

Regulations

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| Lone Star Lake F (Crystal Lake) | Suffolk City | 60 | 40 |
| Lone Star Lake G (Crane Lake) | Suffolk City | 60 | 40 |
| Lone Star Lake I (Butler Lake) | Suffolk City | 60 | 40 |
| Lunga Reservoir | Prince William County | 35 | 40 |
| Lunenburg Beach Lake (Victoria Lake) | Town of Victoria | 35 | 40 |
| Martinsville Reservoir (Beaver Creek Reservoir) | Henry County | 35 | 40 |
| Mill Creek Reservoir | Amherst County | 35 | 40 |
| Modest Creek Reservoir | Town of Victoria | 35 | 40 |
| Motts Run Reservoir | Spotsylvania County | 25 | 30 |
| Mount Jackson Reservoir | Shenandoah County | 35 | 40 |
| Mountain Run Lake | Culpeper County | 35 | 40 |
| Ni Reservoir | Spotsylvania County | 35 | 40 |
| North Fork Pound Reservoir | Wise County | 35 | 40 |
| Northeast Creek Reservoir | Louisa County | 35 | 40 |
| Occoquan Reservoir | Fairfax County | 35 | 40 |
| Pedlar Lake | Amherst County | 25 | 20 |
| Philpott Reservoir | Henry County | 25 | 30 |
| Phelps Creek Reservoir (Brookneal Reservoir) | Campbell County | 35 | 40 |
| Powhatan Lakes (Upper and Lower) | Powhatan County | 35 | 40 |
| Ragged Mountain Reservoir | Albemarle County | 35 | 40 |
| Rivanna Reservoir (South Fork Rivanna Reservoir) | Albemarle County | 35 | 40 |
| Roaring Fork | Pittsylvania County | 35 | 40 |
| Rural Retreat Lake | Wythe County | 35 | 40 |
| Sandy River Reservoir | Prince Edward County | 35 | 40 |
| Shenandoah Lake | Rockingham County | 35 | 40 |
| Silver Lake | Rockingham County | 35 | 40 |
| Smith Mountain Lake | Bedford County | 25 | 30 |
| South Holston Reservoir | Washington County | 25 | 20 |

| | | | |
|-----------------------------|---------------------|----|----|
| Speights Run Lake | Suffolk City | 60 | 40 |
| Spring Hollow Reservoir | Roanoke County | 25 | 20 |
| Staunton Dam Lake | Augusta County | 35 | 40 |
| Stonehouse Creek Reservoir | Amherst County | 60 | 40 |
| Strasburg Reservoir | Shenandoah County | 35 | 40 |
| Stumpy Lake | Virginia Beach | 60 | 40 |
| Sugar Hollow Reservoir | Albemarle County | 25 | 20 |
| Swift Creek Lake | Chesterfield County | 35 | 40 |
| Swift Creek Reservoir | Chesterfield County | 35 | 40 |
| Switzer Lake | Rockingham County | 10 | 10 |
| Talbott Reservoir | Patrick County | 35 | 40 |
| Thrashers Creek Reservoir | Amherst County | 35 | 40 |
| Totier Creek Reservoir | Albemarle County | 35 | 40 |
| Townes Reservoir | Patrick County | 25 | 20 |
| Troublesome Creek Reservoir | Buckingham County | 35 | 40 |
| Waller Mill Reservoir | York County | 25 | 30 |
| Western Branch Reservoir | Suffolk City | 25 | 20 |
| Wise Reservoir | Wise County | 25 | 20 |

9VAC25-260-310. Special standards and requirements.

The special standards are shown in small letters to correspond to lettering in the basin tables. The special standards are as follows:

EDITOR'S NOTE: Subdivisions a through x of 9VAC25-260-310 are not amended; therefore, that text is not set out.

y. Tidal freshwater Potomac River and tidal tributaries that enter the tidal freshwater Potomac River from Cockpit Point (below Ocoquan Bay) to the fall line at Chain Bridge. During November 1 through February 14 of each year the 30-day average concentration of total ammonia nitrogen (in mg N/L) shall not exceed, more than once every three years on the average, the following chronic ammonia criterion:

$$\left(\frac{0.0577}{1 + 10^{7.688 - \text{pH}}} + \frac{2.487}{1 + 10^{\text{pH} - 7.688}} \right) \times 1.45(10^{9.028(25 - \text{MAX})})$$

MAX = temperature in °C or 7, whichever is greater.

The default design flow for calculating steady state wasteload allocations for this chronic ammonia criterion is the 30Q10, unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of this water quality criterion. Canceled.

EDITOR'S NOTE: Subdivisions z through hh of 9VAC25-260-310 are not amended; therefore, that text is not set out.

Regulations

ii. In the wadeable portions of the mainstem sections of the Shenandoah River, North Fork Shenandoah River, and South Fork Shenandoah River listed in the table in this subdivision, a determination of persistent nuisance filamentous algae impeding the recreation use should be made when exceedances of [either of] the specified benthic chlorophyll-a concentration thresholds occur in more than one recreation season (May 1 to October 31) in three years. "Wadeable" constitutes a stream that can be crossed and sampled safely during a given sampling event occurring within the recreation season.

| Segment | Two-Month Median (mg/m ²) | Seasonal Median (mg/m ²) |
|---|--|--|
| Shenandoah River from its confluence of <u>the</u> North Fork and South Fork Shenandoah Rivers downstream to <u>the</u> Virginia-West Virginia state line | 150 | 100 |
| North Fork Shenandoah River from its confluence with Fort Run downstream to its confluence with <u>the</u> South Fork Shenandoah River | 150 | 100 |
| South Fork Shenandoah River from its confluence with <u>the</u> North and South Rivers downstream to its confluence with <u>the</u> North Fork Shenandoah River | 150 | 100 |

9VAC25-260-390. Potomac River Basin (Potomac River Subbasin).

Potomac River Subbasin

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
|---|-------|-----------|--|
| <u>EDITOR'S NOTE:</u> Sections 1 through 5 and 7 through 12 of 9VAC25-260-390 are not amended; therefore, that text is not set out. | | | |
| 6 | II | b,y | Tidal portions of tributaries to <u>the</u> Potomac River from Shipping Point to Chain Bridge. |

9VAC25-260-400. Potomac River Basin (Shenandoah River Subbasin).

Shenandoah River Subbasin

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
|------|-------|---------------------------|---|
| 1 | IV | pH-6.5-9.5, <u>ii</u> | Shenandoah River and its tributaries in Clarke County, Virginia, from <u>the</u> Virginia-West Virginia state line to Lockes Landing, unless otherwise designated in this chapter. |
| 1a | IV | PWS pH-6.5-9.5, <u>ii</u> | Shenandoah River and its tributaries from river mile 24.66 (latitude 39°16'19"; longitude 77°54'33") approximately 0.7 mile downstream of <u>the</u> confluence of <u>the</u> Shenandoah River and Dog Run to 5 miles above Berryville's raw water intake, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 1a |
| | vi | pH-6.5-9.5 | Chapel Run (Clarke County) from its confluence with <u>the</u> Shenandoah River 5.7 miles upstream. |
| | vi | pH-6.5-9.5 | Spout Run (Clarke County) from its confluence with <u>the</u> Shenandoah River (in <u>the</u> vicinity of <u>the</u> Ebenezer Church at Route 604) to its headwaters. |
| 1b | | | (Deleted) |
| 1c | IV | pH-6.5-9.5, <u>ii</u> | Shenandoah River and its tributaries from a point 5 miles above Berryville's raw water intake to <u>the</u> confluence of <u>the</u> North and South Forks of <u>the</u> Shenandoah River. |
| | VI | | Natural Trout Waters in Section 1c |
| | iii | pH-6.5-9.5 | Page Brook from its confluence with Spout Run, 1 mile upstream. |

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| | *** | pH-6.5-9.5 | Roseville Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries. |
| | iii | pH-6.5-9.5 | Spout Run (Clarke County) from its confluence with the Shenandoah River (in the vicinity of Calmes Neck at Routes 651 and 621), 3.9 miles upstream. |
| | *** | pH-6.5-9.5 | Westbrook Run (Clarke County) from its confluence with Spout Run upstream including all named and unnamed tributaries. |
| 1d | | | (Note: Moved to Section 2b). |
| 2 | IV | ESW-12, 14, 15, ii | South Fork Shenandoah River from its confluence with the North Fork Shenandoah River, upstream to a point 5 miles above the Town of Shenandoah's raw water intake and its tributaries to their headwaters in this section, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 2 |
| | vii | pH-6.5-9.5 | Bear Lithia Spring from its confluence with the South Fork Shenandoah River 0.8 miles upstream. |
| | vi | pH-6.5-9.5 | Flint Run from its confluence with the South Fork Shenandoah River 4 miles upstream. |
| | *** | pH-6.5-9.5 | Gooney Run from the mouth to its confluence with Broad Run above Browntown (in the vicinity of Route 632). |
| | *** | pH-6.5-9.5, hh | Hawksbill Creek from Route 675 in Luray to 1 mile above Route 631. |
| | VI | | Natural Trout Waters in Section 2 |
| | ii | pH-6.5-9.5 | Big Creek (Page County) from its confluence with the East Branch Naked Creek upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Big Ugly Run from its confluence with the South Branch Naked Creek upstream including all named and unnamed tributaries. |
| | ii | | Boone Run from 4.6 miles above its confluence with the South Fork Shenandoah River (in the vicinity of Route 637) upstream including all named and unnamed tributaries. |
| | iii | pH-6.5-9.5 | Browns Run from its confluence with Big Run upstream including all named and unnamed tributaries. |
| | ii | | Cub Run (Page County) from Pitt Spring Run upstream including all named and unnamed tributaries. |
| | *** | pH-6.5-9.5 | Cub Run from its mouth to Pitt Spring Run. |
| | i | pH-6.5-9.5 | East Branch Naked Creek from its confluence with Naked Creek at Route 759 upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Fultz Run from the Park boundary (river mile 1.8) upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Gooney Run (Warren County) from 6.6 miles above its confluence with the South Fork Shenandoah River 3.9 miles upstream. |
| | ii | pH-6.5-9.5 | Hawksbill Creek in the vicinity of Pine Grove at Route 624 (river mile 17.7) 1.5 miles upstream. |
| | ii | pH-6.5-9.5 | Jeremys Run from the Shenandoah National Park boundary upstream including all named and unnamed tributaries. |

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| | ii | pH-6.5-9.5 | Lands Run from its confluence with Gooney Run upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Little Creek (Page County) from its confluence with Big Creek upstream including all named and unnamed tributaries. |
| | i | pH-6.5-9.5 | Little Hawksbill Creek from Route 626 upstream including all named and unnamed tributaries. |
| | ii | | Morgan Run (Page County) from its confluence with Cub Run upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Overall Run from its confluence with the South Fork Shenandoah River 4.8 miles upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Pass Run (Page County) from its confluence with Hawksbill Creek upstream including all named and unnamed tributaries. |
| | ii | | Pitt Spring Run from its confluence with Cub Run upstream including all named and unnamed tributaries. |
| | ii | | Roaring Run from its confluence with Cub Run upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | South Branch Naked Creek from 1.7 miles above its confluence with Naked Creek (in the vicinity of Route 607) upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Stony Run (Page County) from 1.6 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | West Branch Naked Creek from 2.1 miles above its confluence with Naked Creek upstream including all named and unnamed tributaries. |
| 2a | IV | PWS, pH-6.5-9.5 | Happy Creek and Sloan Creek from Front Royal's raw water intake to its headwaters. |
| 2b | IV | PWS, <u>ii</u> | The South Fork Shenandoah River and its tributaries from the Town of Front Royal's raw water intake (at the State Route 619 bridge at Front Royal) to points 5 miles upstream. |
| 2c | | | (Deleted) |
| 2d | | | (Deleted) |
| | V | | Stockable Trout Waters in Section 2d |
| | VI | | Natural Trout Waters in Section 2d |
| 3 | IV | pH-6.5-9.5, ESW-12,16, <u>ii</u> | South Fork Shenandoah River from 5 miles above the Town of Shenandoah's raw water intake to its confluence with the North and South Rivers and its tributaries to their headwaters in this section, and the South River and its tributaries from its confluence with the South Fork Shenandoah River to their headwaters, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 3 |
| | vi | pH-6.5-9.5 | Hawksbill Creek (Rockingham County) from 0.8 mile above its confluence with the South Fork Shenandoah River 6.6 miles upstream. |
| | vi | pH-6.5-9.5 | Mills Creek (Augusta County) from 1.8 miles above its confluence with Back Creek 2 miles upstream. |
| | vi | pH-6.5-9.5 | North Fork Back Creek (Augusta County) from its confluence with Back Creek 2.6 miles upstream, unless otherwise designated in this chapter. |

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| | VI | | Natural Trout Waters in Section 3 |
| | i | pH-6.5-9.5 | Bearwallow Run from its confluence with Onemile Run upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Big Run (Rockingham County) from 3.3 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iii | pH-6.5-9.5 | Cold Spring Branch (Augusta County) from Sengers Mountain Lake (Rhema Lake) upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Cool Springs Hollow (Augusta County) from Route 612 upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Deep Run (Rockingham County) from 1.8 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | East Fork Back Creek from its confluence with the South Fork Back Creek upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Gap Run from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iii | | Inch Branch (Augusta County) from the dam upstream including all named and unnamed tributaries. |
| | ii | | Johns Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries. |
| | iv | | Jones Hollow (Augusta County) from 1.1 miles above its confluence with the South River upstream including all named and unnamed tributaries. |
| | ii | | Kennedy Creek from its confluence with the South River upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Lee Run from 0.6 mile above its confluence with Elk Run 3.3 miles upstream. |
| | iii | pH-6.5-9.5 | Loves Run (Augusta County) from 2.7 miles above its confluence with the South River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Lower Lewis Run (Rockingham County) from 1.7 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Madison Run (Rockingham County) from 2.9 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Meadow Run (Augusta County) from its confluence with the South River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | North Fork Back Creek (Augusta County) from river mile 2.6 (in the vicinity of its confluence with Williams Creek) upstream including all named and unnamed tributaries. |
| | i | pH-6.5-9.5 | Onemile Run (Rockingham County) from 1.5 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iv | | Orebank Creek from its confluence with Back Creek upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Paine Run (Augusta County) from 1.7 miles above its confluence with the South River upstream including all named and unnamed tributaries. |

Regulations

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| | ii | | Robinson Hollow (Augusta County) from the dam upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Rocky Mountain Run from its confluence with Big Run upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Sawmill Run from 2.5 miles above its confluence with the South River upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | South Fork Back Creek from its confluence with Back Creek at Route 814 (river mile 2.1) upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Stony Run (Augusta County) from 3.5 miles above its confluence with the South River upstream including all named and unnamed tributaries. |
| | iii | pH-6.5-9.5 | Stony Run (Rockingham County) from 4.1 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iii | | Toms Branch (Augusta County) from 1.1 miles above its confluence with Back Creek upstream including all named and unnamed tributaries. |
| | i | pH-6.5-9.5 | Twomile Run from 1.4 miles above its confluence with the South Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Upper Lewis Run from 0.5 mile above its confluence with Lower Lewis Run upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | West Swift Run (Rockingham County) from the Route 33 crossing upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Whiteoak Run from its confluence with Madison Run upstream including all named and unnamed tributaries. |
| 3a | IV | pH-6.5-9.5 | South River from the former location of the dam above Waynesboro (all waters of the impoundment). |
| 3b | IV | PWS | Coles Run and Mills Creek from South River Sanitary District's raw water intake to their headwaters. |
| | VI | PWS | Natural Trout Waters in Section 3b |
| | ii | | Coles Run (Augusta County) from 3.9 miles above its confluence with the South River Sanitary District's raw water intake (Coles Run Dam) upstream including all named and unnamed tributaries. |
| | ii | | Mills Creek (Augusta County) from the South River Sanitary District's raw water intake (river mile 3.8) upstream including all named and unnamed tributaries. |
| 3c | IV | PWS pH-6.5-9.5 | A tributary to Coles Run from Stuarts Draft raw water intake approximately 0.5 mile south of Stuarts Draft and just off Route 610, to its headwaters. |
| 3d | IV | PWS | South Fork Shenandoah River and its tributaries from the City of Harrisonburg water supply intake near the confluence of Big Run to points 5 miles upstream. |
| 4 | IV | pH-6.5-9.5 | Middle River and its tributaries from the confluence with the North River upstream to its headwaters, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 4 |
| | v | pH-6.5-9.5 | Barterbrook Branch from its confluence with Christians Creek 2.8 miles upstream. |

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| | *** | pH-6.5-9.5 | East Dry Branch from its confluence with the Buffalo Branch to its confluence with Mountain Run. |
| | vi | pH-6.5-9.5 | Folly Mills Creek from 2.4 miles above its confluence with Christians Creek (in the vicinity of Route 81) 4.5 miles upstream. |
| | VI | | Natural Trout Waters in Section 4 |
| | iv | | Buffalo Branch from Route 703 upstream including all named and unnamed tributaries. |
| | ii | | Cabin Mill Run (Augusta County) from the Camp Shenandoah Boy Scout Lake upstream including all named and unnamed tributaries. |
| | iv | | East Dry Branch (Augusta County) from the confluence of Mountain Run upstream including all named and unnamed tributaries. |
| | iv | | Jennings Branch (Augusta County) from the confluence of White Oak Draft upstream including all named and unnamed tributaries. |
| 4a | IV | PWS pH-6.5-9.5 | Middle River and its tributaries from Staunton's raw water intake at Gardner Spring to points 5 miles upstream. |
| 5 | IV | pH-6.5-9.5 | North River and its tributaries from its confluence with the South River upstream to its headwaters, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 5 |
| | v | pH-6.5-9.5 | Beaver Creek (Rockingham County) from its confluence with Briery Branch to the spring at a point 2.75 miles upstream. |
| | v | pH-6.5-9.5 | Naked Creek (Augusta County) from 3.7 miles above its confluence with the North River at Route 696, 2 miles upstream. |
| | VI | | Natural Trout Waters in Section 5 |
| | iv | | Big Run (Augusta County) from 0.9 mile above its confluence with Little River upstream including all named and unnamed tributaries. |
| | ii | | Black Run (Rockingham County) from its mouth upstream including all named and unnamed tributaries. |
| | iii | | Briery Branch (Rockingham County) from river mile 6.9 upstream including all named and unnamed tributaries. |
| | iv | | Gum Run from its mouth upstream including all named and unnamed tributaries. |
| | iii | | Hone Quarry Run from its confluence with Briery Branch upstream including all named and unnamed tributaries. |
| | iv | | Little River from its confluence with the North River at Route 718 upstream including all named and unnamed tributaries. |
| | iv | | Maple Spring Run from its mouth upstream including all named and unnamed tributaries. |
| | iv | | Mines Run from its confluence with Briery Branch upstream including all named and unnamed tributaries. |
| | iv | | Rocky Run (which is tributary to Briery Branch in Rockingham County) from its mouth upstream including all named and unnamed tributaries. |
| | iii | | Rocky Run (which is tributary to Dry River in Rockingham County) from its mouth upstream including all named and unnamed tributaries. |

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| | ii | | Union Springs Run from 3 miles above its confluence with Beaver Creek upstream including all named and unnamed tributaries. |
| | iv | | Wolf Run (Augusta County) from its confluence with Briery Branch upstream including all named and unnamed tributaries. |
| 5a | IV | PWS pH-6.5-9.5 | Silver Lake |
| 5b | IV | PWS pH-6.5-9.5 | North River and its tributaries from Harrisonburg's raw water intake at Bridgewater to points 5 miles above Bridgewater's raw water intake to include Dry River and Muddy Creek. |
| | V | PWS | Stockable Trout Waters in Section 5b |
| | v | pH-6.5-9.5 | Mossy Creek from its confluence with the North River 7.1 miles upstream. |
| | v | pH-6.5-9.5 | Spring Creek (Rockingham County) from its confluence with the North River 2 miles upstream. |
| 5c | IV | PWS | Dry River (Rockingham County) from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream, <u>including Skidmore Fork upstream to the headwaters of Switzer Lake</u> , unless otherwise designated in this chapter. |
| | V | PWS | Stockable Trout Waters in Section 5c |
| | viii | | Raccoon Run (Rockingham County) from its confluence with Dry River to its headwaters. |
| | VI | PWS | Natural Trout Waters in Section 5c |
| | iv | | Dry River (Rockingham County) from Harrisonburg's raw water intake (approximately 11.7 miles above its confluence with the North River) to a point 5 miles upstream. |
| | iv | | Dry Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries. |
| | iv | | Hopkins Hollow from its confluence with Peach Run upstream including all named and unnamed tributaries. |
| | iv | | Kephart Run from its confluence with Dry River upstream including all named and unnamed tributaries. |
| 5d | VI | | Dry River and its tributaries from 5 miles above Harrisonburg's raw water intake to its headwaters. |
| | <u>V</u> | | <u>Stockable Trout Waters in Section 5d.</u> |
| | <u>viii</u> | | <u>Switzer Lake from its dam upstream to the impoundment headwaters.</u> |
| | VI | | Natural Trout Waters in Section 5d |
| | iv | | Dry River (Rockingham County) from 5 miles above Harrisonburg's raw water intake upstream including all named and unnamed tributaries. |
| | ii | | Laurel Run (Rockingham County) from its confluence with Dry River upstream including all named and unnamed tributaries. |
| | ii | | Little Laurel Run from its confluence with Dry River upstream including all named and unnamed tributaries. |
| | ii | | Low Place Run from its confluence with Dry River upstream including all named and unnamed tributaries. |

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| | iv | | Miller Spring Run from its confluence with Dry River upstream including all named and unnamed tributaries. |
| | iii | | Sand Run from its confluence with Dry River upstream including all named and unnamed tributaries. |
| | iv | | Skidmore Fork from its confluence with Dry River upstream including all named and unnamed tributaries. <u>This does not include Switzer Lake, which is Class V Stockable Trout Waters.</u> |
| 5e | VI | PWS | North River and its tributaries from Staunton Dam to their headwaters <u>unless otherwise designated in this chapter.</u> |
| | <u>V</u> | | <u>Stockable Trout Waters in Section 5e</u> |
| | <u>iii</u> | <u>ee</u> | <u>Elkhorn Lake from the dam upstream to the impoundment headwaters.</u> |
| | VI | | Natural Trout Waters in Section 5e |
| | iv | | North River from the headwaters of Elkhorn Dam Lake upstream including all named and unnamed tributaries. |
| 6 | IV | pH-6.5-9.5, ii | North Fork Shenandoah River from its confluence with the Shenandoah River to its headwaters, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 6 |
| | vi | pH-6.5-9.5 | Bear Run from its confluence with Foltz Creek to its headwaters. |
| | vi | pH-6.5-9.5 | Bull Run (Shenandoah County) from its confluence with Foltz Creek to its headwaters. |
| | vi | pH-6.5-9.5 | Falls Run from its confluence with Stony Creek to its headwaters. |
| | vi | pH-6.5-9.5 | Foltz Creek from its confluence with Stony Creek to its headwaters. |
| | vi | pH-6.5-9.5 | Little Passage Creek from its confluence with Passage Creek to the Strasburg Reservoir Dam. |
| | *** | pH-6.5-9.5, hh | Mill Creek from Mount Jackson to Route 720 - 3.5 miles. |
| | vi | pH-6.5-9.5 | Mountain Run from its mouth at Passage Creek to its headwaters. |
| | *** | pH-6.5-9.5 | Passage Creek from the U.S. Forest Service line (in the vicinity of Blue Hole and Buzzard Rock) 4 miles upstream. |
| | vi | pH-6.5-9.5 | Passage Creek from 29.6 miles above its confluence with the North Fork Shenandoah River to its headwaters. |
| | vi | pH-6.5-9.5 | Peters Mill Run from the mouth to its headwaters. |
| | *** | pH-6.5-9.5 | Shoemaker River from 612 at Hebron Church to its junction with Route 817 at its confluence with Slate Lick Branch. |
| | v | pH-6.5-9.5 | Stony Creek from its confluence with the North Fork Shenandoah River to Route 682. |

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| | *** | pH-6.5-9.5 | Stony Creek from Route 682 above Edinburg upstream to Basye. |
| | VI | | Natural Trout Waters in Section 6 |
| | ii | pH-6.5-9.5 | Anderson Run (Shenandoah County) from 1.1 miles above its confluence with Stony Creek upstream including all named and unnamed tributaries. |
| | iv | | Beech Lick Run from its confluence with the German River upstream including all named and unnamed tributaries. |
| | iii | | Bible Run from its confluence with Little Dry River upstream including all named and unnamed tributaries. |
| | ii | | Camp Rader Run from its confluence with the German River upstream including all named and unnamed tributaries. |
| | iv | | Carr Run from its confluence with Little Dry River upstream including all named and unnamed tributaries. |
| | iv | | Clay Lick Hollow from its confluence with Carr Run upstream including all named and unnamed tributaries. |
| | iv | | Gate Run from its confluence with Little Dry River upstream including all named and unnamed tributaries. |
| | iv | | German River (Rockingham County) from its confluence with the North Fork Shenandoah River at Route 820 upstream including all named and unnamed tributaries. |
| | ii | | Laurel Run (Shenandoah County) from its confluence with Stony Creek upstream including all named and unnamed tributaries. |
| | ii | | Little Stony Creek from its confluence with Stony Creek upstream including all named and unnamed tributaries. |
| | iv | | Marshall Run (Rockingham County) from 1.2 miles above its confluence with the North Fork Shenandoah River upstream including all named and unnamed tributaries. |
| | iii | pH-6.5-9.5 | Mine Run (Shenandoah County) from its confluence with Passage Creek upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Poplar Run (Shenandoah County) from its confluence with Little Stony Creek upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Rattlesnake Run (Rockingham County) from its confluence with Spruce Run upstream including all named and unnamed tributaries. |
| | iv | | Root Run from its confluence with Marshall Run upstream including all named and unnamed tributaries. |
| | iv | | Seventy Buck Lick Run from its confluence with Carr Run upstream including all named and unnamed tributaries. |
| | iv | | Sirks Run (Spring Run) from 1.3 miles above its confluence with Crab Run upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Spruce Run (Rockingham County) from its confluence with Capon Run upstream including all named and unnamed tributaries. |
| | iv | pH-6.5-9.5 | Sumac Run from its confluence with the German River upstream including all named and unnamed tributaries. |

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| 6a | IV V | PWS pH-6.5-9.5 | Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters, unless otherwise designated in this chapter. |
| | V | PWS | Stockable Trout Waters in Section 6a |
| | vi | pH-6.5-9.5 | Little Passage Creek from the Strasburg Reservoir Dam upstream to its headwaters. |
| 6b | IV | PWS pH-6.5-9.5 | North Fork Shenandoah River and its tributaries from the Winchester raw water intake to points 5 miles upstream (to include Cedar Creek and its tributaries to their headwaters). |
| | V | PWS | Stockable Trout Waters in Section 6b |
| | *** | pH-6.5-9.5 | Cedar Creek (Shenandoah County) from Route 55 (river mile 23.56) to the U.S. Forest Service Boundary (river mile 32.0) - approximately 7 miles. |
| | v | PWS pH-6.5-9.5 | Meadow Brook (Frederick County) from its confluence with Cedar Creek 5 miles upstream. |
| | VI | PWS | Natural Trout Waters in Section 6b |
| | iii | pH-6.5-9.5 | Cedar Creek (Shenandoah County) from the U.S. Forest Service boundary (river mile 32.0) near Route 600 upstream including all named and unnamed tributaries. |
| | ii | pH-6.5-9.5 | Duck Run from its confluence with Cedar Creek upstream including all named and unnamed tributaries. |
| | | | Paddy Run (Frederick County) from the mouth upstream including all named and unnamed tributaries. |
| | *** | | Paddy Run (Frederick County) from its mouth (0.0) to river mile 1.8. |
| | vi** | | Paddy Run (Frederick County) from river mile 1.8 to river mile 8.1-6.3 miles. |
| | iii | pH-6.5-9.5 | Sulphur Springs Gap (Shenandoah County) from its confluence with Cedar Creek 1.9 miles upstream. |
| 6c | IV | PWS pH-6.5-9.5 | North Fork Shenandoah River and its tributaries from Strasburg's raw water intake to points 5 miles upstream. |
| 6d | IV | PWS pH-6.5-9.5 | North Fork Shenandoah River and its tributaries from Woodstock's raw water intake (approximately 0.25 mile upstream of State Route 609 bridge near Woodstock) to points 5 miles upstream. |
| 6e | IV | PWS pH-6.5-9.5 | Smith Creek and its tributaries from New Market's raw water intake to their headwaters. |
| | | | Natural Trout Waters in Section 6e |
| | iv | pH-6.5-9.5 | Mountain Run (Fridley Branch, Rockingham County) from Route 722 upstream including all named and unnamed tributaries. |
| 6f | IV | PWS pH-6.5-9.5 | North Fork Shenandoah River and its tributaries from the Food Processors Water Coop, Inc. dam at Timberville and the Town of Broadway's intakes on Linville Creek and the North Fork Shenandoah to points 5 miles upstream. |
| 6g | IV | | Shoemaker River and its tributaries from Slate Lick Run, and including Slate Lick Run, to its headwaters. |
| | V | | Stockable Trout Waters in Section 6g |
| | *** | | Slate Lick Run from its confluence with the Shoemaker River upstream to the 1500 foot elevation. |

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| | VI | | Natural Trout Waters in Section 6g |
| | iv | | Long Run (Rockingham County) from its confluence with the Shoemaker River upstream including all named and unnamed tributaries. |
| | iv | | Slate Lick Run from the 1500 foot elevation upstream including all named and unnamed tributaries. |
| 6h | IV | PWS pH-6.5-9.5 | Unnamed tributary of North Fork Shenandoah River (on the western slope of Short Mountain opposite Mt. Jackson) from the Town of Mt. Jackson's (inactive mid-1992) raw water intake (north and east dams) to its headwaters. |
| 6i | IV | PWS pH-6.5-9.5 | Little Sulfur Creek, Dan's Hollow and Horns Gully (tributaries of the North Fork Shenandoah River on the western slope of Short Mountain opposite Mt. Jackson) which served as a water supply for the Town of Edinburg until March 31, 1992, from the Edinburg intakes upstream to their headwaters. |

9VAC25-260-410. James River Basin (Lower).

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
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| 1 | II | a,z, bb, ESW-11 | James River and its tidal tributaries from Old Point Comfort - Fort Wool to the end of tidal waters (fall line, Mayo's Bridge, 14th Street, Richmond), except prohibited or spoil areas, unless otherwise designated in this chapter. |
| 1a | III | | Free flowing or nontidal portions of streams in Section 1, unless otherwise designated in this chapter. |
| | VII | | Swamp waters in Section 1a |
| | | | Gunns Run and its tributaries from the head of tide at river mile 2.64 to its headwaters. |
| 1b | II | a,z | Eastern and Western Branches of the Elizabeth River and tidal portions of their tributaries from their confluence with the Elizabeth River to the end of tidal waters. |
| 1c | III | | Free flowing portions of the Eastern Branch of the Elizabeth River and its tributaries. Includes Salem Canal up to its intersection with Timberlake Road at N36°48'35.67"/W76°08'31.70". |
| 1d | II | a,z | Southern Branch of the Elizabeth River from its confluence with the Elizabeth River to the lock at Great Bridge. |
| 1e | III | | Free flowing portions of the Western Branch of the Elizabeth River and of the Southern Branch of the Elizabeth River from their confluence with the Elizabeth River to the lock at Great Bridge. |
| 1f | II | a | Nansemond River and its tributaries from its confluence with the James River to Suffolk (dam at Lake Meade), unless otherwise designated in this chapter. |
| 1g | III | | Shingle Creek from its confluence with the Nansemond River to its headwaters in the Dismal Swamp. (Deleted) |
| | VII | | Swamp waters in Section 1g 1f Shingle Creek and its tributaries from the head of tide (approximately 500 feet downstream of Route 13/337) to their headwaters. |
| 1h | III | PWS | Lake Prince, Lake Burnt Mills and Western Branch impoundments for Norfolk raw water supply and Lake Kilby - Cahoon Pond, Lake Meade and Lake Speight impoundments for Portsmouth raw water supply and including all tributaries to these impoundments. |

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| | VII | | Swamp waters in Section 1h |
| | | | Eley Swamp and its tributaries from Route 736 upstream to their headwaters. |
| 1i | III | | Free flowing portions of the Pagan River and its free flowing tributaries. |
| 1j | | | (Deleted) |
| 1k | III | PWS | Skiffes Creek Reservoir (Newport News water impoundment). |
| 1l | III | PWS | The Lone Star lakes and impoundments in the City of Suffolk, Chuckatuck Creek watershed which serve as a water source for the City of Suffolk. |
| 1m | III | PWS | The Lee Hall Reservoir system, near Skiffes Creek and the Warwick River, in the City of Newport News. |
| 1n | III | PWS | Chuckatuck Creek and its tributaries from Suffolk's raw water intake (at Godwin's Millpond) to a point 5 miles upstream. |
| 1o | II | PWS, bb | James River from City Point (Hopewell) to a point 5 miles upstream. |
| 1p | III | PWS | Free flowing tributaries to section 1o. |
| EDITOR'S NOTE: Sections 2, 3, and 4 of 9VAC25-260-410 are not amended; therefore, that text is not set out. | | | |

9VAC25-260-420. James River Basin (Middle).

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
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| EDITOR'S NOTE: Sections 6 through 10 of 9VAC25-260-420 are not amended; therefore, that text is not set out. | | | |
| 11 | III | ESW-7, 8, 22, 23, 24, 25, 26, 27 | James River and its tributaries from, but not including, the Rockfish River to Balcony Falls, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 11 |
| | vi | | Dancing Creek from the junction of Routes 610 and 641 to its headwaters. |
| | vi | | North Fork Buffalo River from its confluence with the Buffalo River 1.8 miles upstream. |
| | vi | | Pedlar River from the confluence of Enchanted Creek to Lynchburg's raw water intake. |
| | vi | | Terrapin Creek from its confluence with Otter Creek to its headwaters. |
| | *** | | Tye River from Tyro upstream to its confluence with the South and North Fork Tye Rivers. |
| | VI | | Natural Trout Waters in Section 11 |
| | ii | | Big Branch from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Bluff Creek from its confluence with Enchanted Creek upstream including all named and unnamed tributaries. |
| | ii | | Browns Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Campbell Creek (Nelson County) from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | ii | | Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries. |

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| | ii | | Coxs Creek from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | ii | | Crabtree Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Crawleys Creek from its confluence with the Piney River upstream including all named and unnamed tributaries. |
| | ii | | Cub Creek (Nelson County) from 1.4 miles above its confluence with the Tye River (in the vicinity of Route 699), upstream including all named and unnamed tributaries. |
| | ii | | Davis Mill Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Durham Run from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Elk Pond Branch from its confluence with the North Fork Piney River upstream including all named and unnamed tributaries. |
| | ii | | Enchanted Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Georges Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries. |
| | ii | | Greasy Spring Branch from its confluence with the South Fork Piney River upstream including all named and unnamed tributaries. |
| | ii | | Harpers Creek from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | ii | | King Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries. |
| | ii | | Lady Slipper Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Little Cove Creek from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries. |
| | iii | | Little Irish Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | Little Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries. |
| | i | | Louisa Spring Branch from its confluence with the North Fork Piney River 1.6 miles upstream. |
| | ii | | Maidenhead Branch from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Meadow Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Mill Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Mill Creek (Nelson County) from its confluence with the South Fork Tye River upstream including all named and unnamed tributaries. |

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| | ii | | Nicholson Run from its confluence with Lady Slipper Run upstream including all named and unnamed tributaries. |
| | ii | | North Fork Buffalo River from 1.8 miles above its confluence with the Buffalo River upstream including all named and unnamed tributaries. |
| | i | | North Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries. |
| | iii | | North Fork Thrashers Creek from its confluence with Thrashers Creek upstream including all named and unnamed tributaries. |
| | | | North Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | iii | | (North Fork Tye River from its confluence with the Tye River 1.6 miles upstream.) |
| | ii | | (North Fork Tye River from 1.6 miles above its confluence with the Tye River 8.3 miles upstream.) |
| | iii | | Pedlar River from 5 miles above Lynchburg's raw water intake upstream including all named and unnamed tributaries. |
| | ii | | Piney River from river mile 13.3 upstream including all named and unnamed tributaries. |
| | ii | | Pompey Creek from its confluence with the Little Piney River upstream including all named and unnamed tributaries. |
| | ii | | Reed Creek from the junction of Routes 764 and 638 upstream including all named and unnamed tributaries. |
| | ii | | Rocky Branch from its confluence with the North Fork Buffalo River upstream including all named and unnamed tributaries. |
| | ii | | Rocky Run (Nelson County) from 1.6 miles above its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | i | | Shoe Creek (Nelson County) from its confluence with Piney River upstream including all named and unnamed tributaries. |
| | iii | | Silver Creek from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | ii | | South Fork Piney River from its confluence with the Piney River upstream including all named and unnamed tributaries. |
| | ii | | South Fork Tye River from its confluence with the Tye River upstream including all named and unnamed tributaries. |
| | ii | | Statons Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | iii | | Wheeler's Run from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | ii | | White Rock Creek (Nelson County) from its confluence with the North Fork Tye River upstream including all named and unnamed tributaries. |
| | ii | | Wiggins Branch from its confluence with Statons Creek upstream including all named and unnamed tributaries. |
| 11a | III | PWS | Unnamed tributary to Williams Creek from Sweet Briar College's (inactive) raw water intake to its headwaters. |

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| 11b | III | PWS | Buffalo River and its tributaries from Amherst's raw water intake to points 5 miles upstream. |
| 11c | III | PWS | Black Creek and its tributaries from the Nelson County Service Authority intake (approximately 1000 1,000 feet downstream of the Route 56 bridge) upstream to their headwaters (including the reservoir). |
| 11d | III | | James River and its tributaries from a point 0.25 mile above the confluence of the Tye River to Six Mile Bridge. |
| 11e | III | | James River and its tributaries, excluding Blackwater Creek, from Six Mile Bridge to the Business Route 29 bridge 5th Street Bridge in Lynchburg. |
| 11f | | | (Deleted) |
| 11g | III | PWS | James River and its tributaries from the Business Route 29 bridge in Lynchburg to Reusens Dam to include the City of Lynchburg's alternate raw water intake at the Route 29 bridge and the Amherst County Service Authority's intake on Harris and Graham Creeks. |
| 11h | III | PWS | James River and its tributaries, excluding the Pedlar River, from Reusens Dam to Coleman Dam, including the Eagle Eyrie raw water intake on an unnamed tributary to Judith Creek 1.0 mile from the confluence with Judith Creek, to its headwaters, and also the City of Lynchburg's raw water intake on the James River at Abert. |
| 11i | III | PWS,ESW-5, 8, 2, 23 | Pedlar River and its tributaries from Lynchburg's raw water intake to points 5 miles upstream. |
| | V | | Stockable Trout Waters in Section 11i |
| | vi | | Pedlar River from Lynchburg's raw water intake to a point 5 miles upstream. |
| | VI | | Natural Trout Waters in Section 11i |
| | ii | | Brown Mountain Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| | iii | | Roberts Creek from its confluence with the Pedlar River upstream including all named and unnamed tributaries. |
| 11j | III | | James River and its tributaries from the Owens-Illinois raw water intake near Big Island to Balcony Falls. |
| | V | | Stockable Trout Waters in Section 11j |
| | vi | | Battery Creek from its confluence with the James River to its headwaters. |
| | vi | | Cashaw Creek from its confluence with the James River to its headwaters. |
| | vi | | Otter Creek from its confluence with the James River to a point 4.9 miles upstream. |
| | vi | | Rocky Row Run from its confluence with the James River to its headwaters. |
| | VI | | Natural Trout Waters in Section 11j |
| | iii | | Falling Rock Creek from its confluence with Peters Creek upstream including all named and unnamed tributaries. |
| | ii | | Hunting Creek from a point 3.7 miles from its confluence with the James River upstream including all named and unnamed tributaries. |
| | iii | | Otter Creek from 4.9 miles above its confluence with the James River upstream including all named and unnamed tributaries. |

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| | ii | | Peters Creek from a point 0.2 mile above its confluence with the James River upstream including all named and unnamed tributaries. |
| 11k | | | (Deleted) |

9VAC25-260-440. Rappahannock River Basin.

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
|------|-------|------------------|---|
| 1 | II | a | Rappahannock River and the tidal portions of its tributaries from Stingray and Windmill Points to Route 1 Alternate Bridge at Fredericksburg. |
| 1a | II | | Hoskins Creek from the confluence with the Rappahannock River to its tidal headwaters. |
| 2 | III | | Free flowing tributaries of the Rappahannock from Stingray and Windmill Points upstream to Blandfield Point, unless otherwise designated in this chapter. |
| | VII | | Swamp waters in Section 2 |
| | | | Cat Point Creek and its tributaries, from their headwaters to the head of tide at river mile 10.54. |
| | | | Hoskins Creek and its nontidal tributaries from the head of tidal waters to their headwaters. Mount Landing Creek and its tributaries from the end of tidal waters at river mile 4.4 to their headwaters. |
| | | | Piscataway Creek and its tributaries from the confluence of Sturgeon Swamp to their headwaters. |
| 3 | III | | The Rappahannock River from the Route 1 Alternate Bridge at Fredericksburg upstream to the low dam water intake at Waterloo (Fauquier County) its headwaters, unless otherwise designated in this chapter. |
| 3a | III | PWS | The Rappahannock River and its tributaries from Spotsylvania County's raw water intake near Golin Run to points 5 miles upstream of the Rocky Pen Run Reservoir (Lake Mooney) <u>pump and store intake</u> (excluding Motts Run and tributaries, which is in Section 4c). |
| 3b | III | PWS | The Rappahannock River and its tributaries from the low dam water intake at Waterloo (Fauquier County) to points 5 miles upstream. |
| 4 | III | ESW 17,18, 28 | Free flowing tributaries of the Rappahannock from [Blandfield Point the Route 1 Alternate Bridge at Fredericksburg] to its headwaters, unless otherwise designated in this chapter. |
| | VII | | Swamp waters in Section 4 Goldenvale Creek from the head of tidal waters near the confluence with the Rappahannock River to its headwaters. |
| | | | Occupacia Creek and its tributaries from the end of tidal waters at river mile 8.89 on Occupacia Creek to their headwaters. |
| | V | | Stockable Trout Waters in Section 4 |
| | *** | | Hughes River (Madison County) from Route 231 upstream to the upper crossing of Route 707 near the confluence of Rocky Run. |
| | *** | | Robinson River from Route 231 to river mile 26.7. |

Regulations

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| | *** | | Rose River from its confluence with the Robinson River 2.6 miles upstream. |
| | *** | | South River from 5 miles above its confluence with the Rapidan River 3.9 miles upstream. |
| | VI | | Natural Trout Waters in Section 4 |
| | ii | | Berry Hollow from its confluence with the Robinson River upstream including all named and unnamed tributaries. |
| | ii | | Bolton Branch from 1.7 miles above its confluence with Hittles Mill Stream upstream including all named and unnamed tributaries. |
| | ii | | Broad Hollow Run from its confluence with Hazel River upstream including all named and unnamed tributaries. |
| | i | | Brokenback Run from its confluence with the Hughes River upstream including all named and unnamed tributaries. |
| | i | | Bush Mountain Stream from its confluence with the Conway River upstream including all named and unnamed tributaries. |
| | i | | Cedar Run (Madison County) from 0.8 mile above its confluence with the Robinson River upstream including all named and unnamed tributaries. |
| | i | | Conway River (Greene County) from the Town of Fletcher upstream including all named and unnamed tributaries. |
| | ii | | Dark Hollow from its confluence with the Rose River upstream including all named and unnamed tributaries. |
| | i | | Devils Ditch from its confluence with the Conway River upstream including all named and unnamed tributaries. |
| | iii | | Entry Run from its confluence with the South River upstream including all named and unnamed tributaries. |
| | iii | | Garth Run from 1.9 miles above its confluence with the Rapidan River at the Route 665 crossing upstream including all named and unnamed tributaries. |
| | ii | | Hannah Run from its confluence with the Hughes River upstream including all named and unnamed tributaries. |
| | ii | | Hazel River (Rappahannock County) from the Route 707 bridge upstream including all named and unnamed tributaries. |
| | ii | | Hogcamp Branch from its confluence with the Rose River upstream including all named and unnamed tributaries. |
| | i | | Hughes River (Madison County) from the upper crossing of Route 707 near the confluence of Rocky Run upstream including all named and unnamed tributaries. |
| | iii | | Indian Run (Rappahannock County) from 3.4 miles above its confluence with the Hittles Mill Stream upstream including all named and unnamed tributaries. |
| | ii | | Jordan River (Rappahannock County) from 10.9 miles above its confluence with the Rappahannock River upstream including all named and unnamed tributaries. |

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| | iii | | Kinsey Run from its confluence with the Rapidan River upstream including all named and unnamed tributaries. |
| | ii | | Laurel Prong from its confluence with the Rapidan River upstream including all named and unnamed tributaries. |
| | ii | | Mill Prong from its confluence with the Rapidan River upstream including all named and unnamed tributaries. |
| | ii | | Negro Run (Madison County) from its confluence with the Robinson River upstream including all named and unnamed tributaries. |
| | ii | | North Fork Thornton River from 3.2 miles above its confluence with the Thornton River upstream including all named and unnamed tributaries. |
| | ii | | Piney River (Rappahannock County) from 0.8 mile above its confluence with the North Fork Thornton River upstream including all named and unnamed tributaries. |
| | ii | | Pocosin Hollow from its confluence with the Conway River upstream including all named and unnamed tributaries. |
| | ii | | Ragged Run from 0.6 mile above its confluence with Popham Run upstream including all named and unnamed tributaries. |
| | i | | Rapidan River from Graves Mill (Route 615) upstream including all named and unnamed tributaries. |
| | ii | | Robinson River (Madison County) from river mile 26.7 to river mile 29.7. |
| | i | | Robinson River (Madison County) from river mile 29.7 upstream including all named and unnamed tributaries. |
| | i | | Rose River from river mile 2.6 upstream including all named and unnamed tributaries. |
| | iv | | Rush River (Rappahannock County) from the confluence of Big Devil Stairs (approximate river mile 10.2) upstream including all named and unnamed tributaries. |
| | ii | | Sams Run from its confluence with the Hazel River upstream including all named and unnamed tributaries. |
| | ii | | South River from 8.9 miles above its confluence with the Rapidan River upstream including all named and unnamed tributaries. |
| | ii | | Sprucepine Branch from its confluence with Bearwallow Creek upstream including all named and unnamed tributaries. |
| | i | | Staunton River (Madison County) from its confluence with the Rapidan River upstream including all named and unnamed tributaries. |
| | ii | | Strother Run from its confluence with the Rose River upstream including all named and unnamed tributaries. |
| | iii | | Thornton River (Rappahannock County) from 25.7 miles above its confluence with the Hazel River upstream including all named and unnamed tributaries. |
| | ii | | Wilson Run from its confluence with the Staunton River upstream including all named and unnamed tributaries. |

Regulations

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| 4a | | | (Deleted) |
| 4b | III | PWS | The Rappahannock River and its tributaries, to include the VEPCO Canal, from Fredericksburg's (inactive May 2000) raw water intake to points 5 miles upstream. |
| 4c | III | PWS | Motts Run and its tributaries. |
| 4d | III | | Horsepen Run and its tributaries. |
| 4e | III | PWS | Hunting Run and its tributaries. |
| 4f | III | | Wilderness Run and its tributaries. |
| 4g | III | | Deep Run and its tributaries (Stafford and Fauquier Counties). |
| 4h | | | (Deleted) |
| 4i | III | PWS | Mountain Run and its tributaries from Culpeper's raw water intake to points 5 miles upstream. |
| 4j | III | PWS | White Oak Run and its tributaries from the Town of Madison's raw water intake to points 5 miles upstream. |
| 4k | III | PWS | Rapidan River and its tributaries from Orange's raw water intake near Poplar Run to points 5 miles upstream. |
| 4l | III | PWS | Rapidan River and its tributaries from the Rapidan Service Authority's raw water intake (just upstream of the Route 29 bridge) upstream to points 5 miles above the intake. |
| 4m | III | PWS | Rapidan River and its tributaries from the Wilderness Shores raw water intake (Orange County - Rapidan Service Authority) to points 5 miles upstream. |
| 4n | III | PWS | From the dam of the White Run pumped storage reservoir on an unnamed tributary to White Run upstream to its headwaters. |

9VAC25-260-470. Chowan and Dismal Swamp (Chowan River Subbasin).

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
|---|-------|-----------|--|
| <u>EDITOR'S NOTE:</u> Sections 1, 3 and 4 of 9VAC25-260-470 are not amended; therefore, that text is not set out. | | | |
| 2 | VII | NEW-21 | Blackwater River from the end of tidal waters to its headwaters and its free flowing tributaries in Virginia, unless otherwise designated in this chapter. |
| 2a | VII | PWS | Blackwater River and its tributaries from Norfolk's auxiliary raw water intake near Burdette, Virginia, to points 5 miles above the raw water intake, to include Corrowaugh Swamp to a point 5 miles above the raw water intake. |
| 2b | III | | Nottoway River from the end of tidal waters to its headwaters and its free flowing tributaries in Virginia, unless otherwise designated in this chapter. |
| | VII | | Swamp waters in Section 2b |
| | | | Assamoosick Swamp and its tributaries from river mile 2.50 to its headwaters. |
| | | | Black Branch Swamp from its confluence with the Nottoway River to its headwaters. |
| | | | Butterwood Creek from river mile 4.65 (near Route 622) upstream to river mile 14.59 (near Route 643). |

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|----|-----|-----|---|
| | | | Cabin Point Swamp <u>and its tributaries</u> from its confluence with the Nottoway River to its headwaters. |
| | | | Cooks Branch from its confluence with Butterwood Creek to river mile 1.08 |
| | | | Gosee Swamp and its tributaries from its confluence with the Nottoway River to river mile 6.88. |
| | | | Gravelly Run and its tributaries from its confluence with Rowanty Creek to river mile 8.56. |
| | | | Harris Swamp and its tributaries from its confluence with the Nottoway River to river mile 8.72. |
| | | | Hatcher Run and its tributaries from its confluence with Rowanty Creek to river mile 19.27 excluding Picture Branch. |
| | | | Hunting Quarter Swamp and its tributaries from its confluence with the Nottoway River to its headwaters. |
| | | | Moores and Jones Holes Swamp and tributaries from their confluence with the Nottoway River to its headwaters. |
| | | | Nebletts Mill Run and its tributaries from its confluence with the Nottoway River to its headwaters. |
| | | | Raccoon Creek and its tributaries from its confluence with the Nottoway River to its headwaters. |
| | | | Rowanty Creek and its tributaries from its confluence with the Nottoway River to Gravelly Run. |
| | | | Southwest Swamp and its tributaries from its confluence with Stony Creek to river mile 8.55. |
| | | | Three Creek and its tributaries from its confluence with the Nottoway River upstream to its headwaters at Slagles Lake. |
| 2c | III | PWS | Nottoway River and its tributaries from Norfolk's auxiliary raw water intake near Courtland, Virginia, to points 5 miles upstream unless otherwise designated in this chapter. |
| | VII | | Swamp waters in Section 2c |
| | | | Assamoosick Swamp and its tributaries from its confluence with the Nottoway River to river mile 2.50. |
| 2d | | | (Deleted) |
| 2e | III | PWS | Nottoway River and its tributaries from the Georgia-Pacific and the Town of Jarratt's raw water intakes near Jarratt, Virginia, to points 5 miles above the intakes. |
| 2f | III | PWS | Nottoway River and its tributaries from the Town of Blackstone's raw water intake to points 5 miles upstream. |
| 2g | III | PWS | Lazaretto Creek and its tributaries from Crewe's raw water intake to points 5 miles upstream. |
| 2h | III | PWS | Modest Creek and its tributaries from Victoria's raw water intake to their headwaters. |
| 2i | III | PWS | Nottoway River and its tributaries from the Town of Victoria's raw water intake at the Falls (about 200 feet upstream from State Route 49) to points 5 miles upstream. |
| 2j | III | PWS | Big Hounds Creek from the Town of Victoria's auxiliary raw water intake (on Lunenburg Lake) to its headwaters. |

Regulations

9VAC25-260-500. Tennessee and Big Sandy River Basins (Clinch River Subbasin).

| SEC. | CLASS | SP. STDS. | SECTION DESCRIPTION |
|------|-------|-----------|---|
| 1 | IV | | Powell River and its tributaries from the Virginia-Tennessee state line to their headwaters; Indian Creek and Martin Creek in Virginia, unless otherwise designated in this chapter. |
| | V | | Stockable Trout Waters in Section 1 |
| | vi | | Batie Creek from its confluence with the Powell River 0.8 mile upstream. |
| | vi | | Dry Creek from its confluence with Hardy Creek to its headwaters. |
| | vi | | Hardy Creek and its tributaries to their headwaters. |
| | vi | | Lick Branch from its confluence with Indian Creek 1.4 miles upstream. |
| | vi | | Martin Creek (Lee County) from the Virginia-Tennessee state line to its headwaters. |
| | vii | | North Fork Powell River from the confluence of Straight Creek <u>upstream</u> to its headwaters the <u>Keokee Lake dam</u> . |
| | vi | | Poor Valley Branch from its confluence with Martin Creek 1.4 miles upstream. |
| | vi | | Sims Creek from its confluence with the Powell River 1.1 miles upstream to Sims Spring. |
| | vi | | Station Creek at the boundary of the Cumberland Gap National Historical Park (river mile 2.2) 2.6 miles upstream. |
| | vi | | Wallen Creek above its confluence with the Powell River (at Rasnic Hollow) to its headwaters. |
| | vi | | White Branch from its confluence with Poor Valley Branch 0.7 mile upstream (to the Falls at Falling Water Gap). |
| 1a | IV | PWS | Powell River and its tributaries from Pennington Gap's raw water intake to 5 miles upstream. |
| 1b | IV | PWS | Bens Branch from Appalachia's raw water intake to its headwaters. |
| 1c | IV | PWS | South Fork Powell River from Big Stone Gap's raw water intake to its headwaters. |
| 1d | IV | PWS | Benges Branch from Norton's raw water intake to its headwaters. |
| 1e | IV | PWS | Robinette Branch from Norton's raw water intake to its headwaters. |
| 1f | IV | PWS | Fleenortown Creek and its tributaries from the Winn #1 and Barker Springs intakes (which provide raw water to the Town of Jonesville WTP) to points 5 miles upstream. |

EDITOR'S NOTE: Section 2 of 9VAC25-260-500 is not amended; therefore, that text is not set out.

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-260)

Chesapeake Bay Program Analytical Segmentation Scheme - Revisions, Decisions and Rationales 1983-2003, EPA 903-R-04-008, CBP/TRS 268/04, October 2004, US EPA Region III Chesapeake Bay Office

Chesapeake Bay Program Analytical Segmentation Scheme - Revisions, Decisions and Rationales 1983-2003, EPA 903-R-05-004, CBP/TRS 278-06, 2005 Addendum, December 2005, US EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for **the** Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-03-002, April 2003 and 2004 Addendum, October 2004, US EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for **the** Chesapeake Bay and Its Tidal Tributaries, EPA 903-R-07-003, CBP/TRS 285/07 2007 Addendum, July 2007, US EPA Region III Chesapeake Bay Office

Technical Support Document for Identification of Chesapeake Bay Designated Uses and Attainability, EPA 903-R-03-004, October 2003 and 2004 Addendum, October 2004, US EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries - 2007 Chlorophyll Criteria Addendum, EPA 903-R-07-005, CBP/TRS 288/07, November 2007, U.S. EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries - 2008 Technical Support for Criteria Assessment Protocols Addendum, EPA 903-R-08-001, CBP/TRS 290-08, September 2008, U.S. EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries - 2010 Technical Support for Criteria Assessment Protocols Addendum, EPA 903-R-10-002, CBP/TRS 301-10, May 2010, U.S. EPA Region III Chesapeake Bay Office

Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and Its Tidal Tributaries - 2017 Technical Addendum, EPA 903-R-17-002, CBP/TRS 320-17, November 2017, U.S. EPA Region III Chesapeake Bay Office

Aquatic Life Ambient Freshwater Quality Criteria-Copper, EPA-822-R-07-001, U.S. EPA, Office of Water, February 2007 Revision

Final Aquatic Life Ambient Water Quality Criteria for Aluminum, EPA-822-R-18-001, U.S. EPA, Office of Water, December 2018

VA.R. Doc. No. R21-6555; Filed November 22, 2022, 12:57 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Title of Regulation: 12VAC5-90. Regulations for Disease Reporting and Control (amending 12VAC5-90-80, 12VAC5-90-90).

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Effective Date: January 18, 2023.

Agency Contact: Kristin Collins, Policy Analyst, Office of Epidemiology, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7298, or email kristin.collins@vdh.virginia.gov.

Summary:

The amendments add to the reporting requirements for physicians and directors of medical care facilities for COVID-19 to (i) require physicians and directors of medical care facilities to report suspected or confirmed COVID-19 cases and COVID-19 hospitalizations and intensive care unit admissions to the Virginia Department of Health (VDH) through participation in the Emergency Department Care Coordination Program; (ii) require all suspected or confirmed COVID-19 case report forms be submitted electronically to VDH; (iii) clarify that the category "laboratory directors" includes pharmacies that hold Clinical Laboratory Improvement Amendments Certificates of Waiver so that pharmacies testing for COVID-19 are required to report to VDH; (iv) require

laboratory directors report both positive and negative COVID-19 test results; (v) require patient telephone number and ethnicity be included in the list of fields that are reported by physicians, laboratory directors, and directors of medical care facilities; and (vi) add "coronavirus, severe" to the list of infectious diseases that shall be reported to persons practicing funeral services.

Changes to the proposed regulation separate COVID-19 from the category "coronavirus, severe" on the reportable disease list and remove the requirement for COVID-19 to be rapidly reportable;

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

12VAC5-90-80. Lists of diseases that shall be reported.

A. Reportable disease list. The board declares suspected or confirmed cases of the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12VAC5-90-90. Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis, unless otherwise specified in this section. Neonatal Abstinence Syndrome shall be reported as specified in subsection E of this section. [~~COVID-19~~ Coronavirus disease 2019] (SARS-CoV-2) shall be reported as specified in subsection I of the section.

Amebiasis (*Entamoeba histolytica*)

Regulations

*Anthrax (*Bacillus anthracis*)

Arboviral infections (e.g., CHIK, dengue, EEE, LAC, SLE, WNV, Zika)

Babesiosis (*Babesia* spp.)

*Botulism (*Clostridium botulinum*)

*Brucellosis (*Brucella* spp.)

Campylobacteriosis (*Campylobacter* spp.)

Candida auris, infection or colonization

Carbapenemase-producing organism, infection or colonization

Chancroid (*Haemophilus ducreyi*)

Chickenpox (Varicella virus)

Chlamydia trachomatis infection

*Cholera (*Vibrio cholerae* O1 or O139)

*Coronavirus infection, severe [(e.g., SARS-CoV, MERS-CoV)]

Coronavirus disease 2019 (COVID-19 or SARS-CoV-2)]

Cryptosporidiosis (*Cryptosporidium* spp.)

Cyclosporiasis (*Cyclospora* spp.)

*Diphtheria (*Corynebacterium diphtheriae*)

*Disease caused by an agent that may have been used as a weapon

Ehrlichiosis/Anaplasmosis (*Ehrlichia* spp., *Anaplasma phagocytophilum*)

Giardiasis (*Giardia* spp.)

Gonorrhea (*Neisseria gonorrhoeae*)

Granuloma inguinale (*Calymmatobacterium granulomatis*)

**Haemophilus influenzae* infection, invasive

Hantavirus pulmonary syndrome

Hemolytic uremic syndrome (HUS)

*Hepatitis A

Hepatitis B (acute and chronic)

Hepatitis C (acute and chronic)

Hepatitis, other acute viral

Human immunodeficiency virus (HIV) infection

Influenza, confirmed

*Influenza-associated deaths if younger than 18 years of age

Lead, blood levels

Legionellosis (*Legionella* spp.)

Leprosy (Hansen's disease) (*Mycobacterium leprae*)

Leptospirosis (*Leptospira interrogans*)

Listeriosis (*Listeria monocytogenes*)

Lyme disease (*Borrelia* spp.)

Lymphogranuloma venereum (*Chlamydia trachomatis*)

Malaria (*Plasmodium* spp.)

*Measles (Rubeola)

*Meningococcal disease (*Neisseria meningitidis*)

Mumps

Neonatal abstinence syndrome (NAS)

Ophthalmia neonatorum

*Outbreaks, all (including foodborne, health care-associated, occupational, toxic substance-related, waterborne, and any other outbreak)

*Pertussis (*Bordetella pertussis*)

*Plague (*Yersinia pestis*)

*Poliovirus infection, including poliomyelitis

*Psittacosis (*Chlamydophila psittaci*)

*Q fever (*Coxiella burnetii*)

*Rabies, human and animal

Rabies treatment, post-exposure

*Rubella, including congenital rubella syndrome

Salmonellosis (*Salmonella* spp.)

Shiga toxin-producing *Escherichia coli* infection

Shigellosis (*Shigella* spp.)

*Smallpox (*Variola* virus)

Spotted fever rickettsiosis (*Rickettsia* spp.)

Streptococcal disease, Group A, invasive or toxic shock

Streptococcus pneumoniae infection, invasive if younger than five years of age

Syphilis (*Treponema pallidum*) report *congenital, *primary, *secondary, and other

Tetanus (*Clostridium tetani*)

Toxic substance-related illness

Trichinosis (Trichinellosis) (*Trichinella spiralis*)

*Tuberculosis, active disease (*Mycobacterium tuberculosis* complex)

Tuberculosis infection

*Tularemia (*Francisella tularensis*)

*Typhoid/Paratyphoid infection (*Salmonella* Typhi, *Salmonella* Paratyphi)

*Unusual occurrence of disease of public health concern

*Vaccinia, disease or adverse event

Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection

*Vibriosis (*Vibrio* spp.)

*Viral hemorrhagic fever

*Yellow fever

Yersiniosis (*Yersinia* spp.)

B. Conditions reportable by directors of laboratories. Laboratories shall report all test results indicative of and specific for the diseases, infections, microorganisms, conditions, and toxic effects specified in this subsection for humans. Such tests include microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences. Additional condition-specific requirements are noted in this subsection and subsection D of this section. Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Amebiasis (*Entamoeba histolytica*)

*Anthrax (*Bacillus anthracis*)

Arboviral infection, for example, CHIK, dengue, EEE, LAC, SLE, WNV, or Zika

Babesiosis (*Babesia* spp.)

*Botulism (*Clostridium botulinum*)

*Brucellosis (*Brucella* spp.)

Campylobacteriosis (*Campylobacter* spp.)

Candida auris - Include available antimicrobial susceptibility findings in report.

Carbapenemase-producing organism - Include available antimicrobial susceptibility findings in report.

Chancroid (*Haemophilus ducreyi*)

Chickenpox (*Varicella* virus)

Chlamydia trachomatis infection

*Cholera (*Vibrio cholerae* O1 or O139)

*Coronavirus infection, severe (e.g., SARS-CoV, MERS-CoV)

[Coronavirus disease 2019 (COVID-19 or SARS-CoV-2)]

Cryptosporidiosis (*Cryptosporidium* spp.)

Cyclosporiasis (*Cyclospora* spp.)

*Diphtheria (*Corynebacterium diphtheriae*)

Ehrlichiosis/Anaplasmosis (*Ehrlichia* spp., *Anaplasma phagocytophilum*)

Giardiasis (*Giardia* spp.)

Gonorrhea (*Neisseria gonorrhoeae*) - Include available antimicrobial susceptibility findings in report.

*Haemophilus influenzae infection, invasive

Hantavirus pulmonary syndrome

*Hepatitis A

Hepatitis B (acute and chronic) - For All hepatitis B patients, also report available results of serum alanine aminotransferase (ALT) and all available results from the hepatitis panel.

Hepatitis C (acute and chronic) - For all patients with any positive HCV test, also report all results of HCV viral load tests, including undetectable viral loads and report available results of serum alanine aminotransferase (ALT) and all available results from the hepatitis panel.

Hepatitis, other acute viral - Any finding indicative of acute infection with hepatitis D, E, or other cause of viral hepatitis. For any reportable hepatitis finding, submit all available results from the hepatitis panel.

Human immunodeficiency virus (HIV) infection - For HIV-infected patients, report all results of CD4 and HIV viral load tests, including undetectable viral loads. For HIV-infected patients, report all HIV genetic nucleotide sequence data associated with HIV drug resistance tests by electronic submission. For children younger than three years of age, report all tests regardless of the test findings (e.g., negative or positive).

Influenza, confirmed - By culture, antigen detection by direct fluorescent antibody (DFA), or nucleic acid detection.

Lead, blood levels - All lead results from tests of venous or capillary blood performed by a laboratory certified by the Centers for Medicare and Medicaid Services in accordance with 42 USC § 263a, the Clinical Laboratory Improvement Amendment of 1988 (CLIA-certified).

Legionellosis (*Legionella* spp.)

Leptospirosis (*Leptospira interrogans*)

Regulations

Listeriosis (*Listeria monocytogenes*), invasive or if associated with miscarriage or stillbirth from placental or fetal tissue

Lyme disease (*Borrelia* spp.)

Malaria (*Plasmodium* spp.)

*Measles (Rubeola)

*Meningococcal disease (*Neisseria meningitidis*), invasive - Include identification of gram-negative diplococci.

Mumps

*Mycobacterial diseases - (See 12VAC5-90-225 B) Report any of **the** following:

1. Acid fast bacilli;
2. *M. tuberculosis* complex or any other mycobacteria;
3. Antimicrobial susceptibility results for *M. tuberculosis* complex.

*Pertussis (*Bordetella pertussis*)

*Plague (*Yersinia pestis*)

*Poliovirus infection

*Psittacosis (*Chlamydophila psittaci*)

*Q fever (*Coxiella burnetii*)

*Rabies, human and animal

*Rubella

Salmonellosis (*Salmonella* spp.)

Shiga toxin-producing *Escherichia coli* infection

Shigellosis (*Shigella* spp.)

*Smallpox (*Variola* virus)

Spotted fever rickettsiosis (*Rickettsia* spp.)

Streptococcal disease, Group A, invasive or toxic shock

Streptococcus pneumoniae infection, invasive if younger than five years of age

*Syphilis (*Treponema pallidum*)

Toxic substance-related illness - By blood or urine laboratory findings above **the** normal range, including heavy metals, pesticides, and industrial-type solvents and gases. When applicable and available, report speciation of metals when blood or urine levels are elevated in order to differentiate **the** chemical species (elemental, organic, or inorganic).

Trichinosis (*Trichinellosis*) (*Trichinella spiralis*)

Tuberculosis infection

*Tularemia (*Francisella tularensis*)

*Typhoid/Paratyphoid infection (*Salmonella* Typhi, *Salmonella* Paratyphi A, *Salmonella* Paratyphi B, *Salmonella* Paratyphi C)

*Vaccinia, disease or adverse event

Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection - Include available antimicrobial susceptibility findings in report.

*Vibriosis (*Vibrio* spp., *Photobacterium damsela*, *Grimontia hollisae*), other than toxigenic *Vibrio cholera* O1 or O139, which are reportable as cholera

*Viral hemorrhagic fever

*Yellow fever

Yersiniosis (*Yersinia* spp.)

C. Reportable diseases requiring rapid communication. Certain of **the** diseases in **the** list of reportable diseases because of their extremely contagious nature, potential for greater harm, or availability of a specific intervention that must be administered in a timely manner require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed in this subsection, shall be made immediately by **the** most rapid means available, preferably by telephone to **the** local health department. (These same diseases are also identified by an asterisk (*) in subsections A and B, where applicable, of this section.)

Anthrax (*Bacillus anthracis*)

Botulism (*Clostridium botulinum*)

Brucellosis (*Brucella* spp.)

Cholera (*Vibrio cholerae* O1 or O139)

Coronavirus infection, severe [(e.g., SARS-CoV, MERS-CoV)]

Diphtheria (*Corynebacterium diphtheriae*)

Disease caused by an agent that may have been used as a weapon

Haemophilus influenzae infection, invasive

Hepatitis A

Influenza-associated deaths if younger than 18 years of age

Influenza A, novel virus

Measles (Rubeola virus)

Meningococcal disease (*Neisseria meningitidis*)

Outbreaks, all

Pertussis (*Bordetella pertussis*)

Plague (*Yersinia pestis*)

Poliovirus infection, including poliomyelitis

Psittacosis (*Chlamydophila psittaci*)
 Q fever (*Coxiella burnetii*)
 Rabies, human and animal
 Rubella, including congenital rubella syndrome
 Smallpox (*Variola virus*)
 Syphilis, congenital, primary, and secondary (*Treponema pallidum*)
 Tuberculosis, active disease (*Mycobacterium tuberculosis* complex)
 Tularemia (*Francisella tularensis*)
 Typhoid/Paratyphoid infection (*Salmonella* Typhi, *Salmonella* Paratyphi (all types))
 Unusual occurrence of disease of public health concern
 Vaccinia, disease or adverse event
 Vibriosis (*Vibrio* spp., *Photobacterium damsela*, *Grimontia hollisae*), other than toxigenic *Vibrio cholerae* O1 or O139, which are reportable as cholera
 Viral hemorrhagic fever
 Yellow fever

D. Submission of initial isolate or other specimen for further public health testing. A laboratory identifying evidence of any of the conditions in this subsection shall notify the local health department of the positive culture or other positive test result within the timeframes specified in subsection B of this section and submit the initial isolate (preferred) or other initial specimen to the Division of Consolidated Laboratory Services or other public health laboratory where specified in this subsection within seven days of identification. All specimens must be identified with the patient and physician information required in 12VAC5-90-90 B.

Anthrax (*Bacillus anthracis*)
 Botulism (*Clostridium botulinum*)
 Brucellosis (*Brucella* sp.)
 Candida auris
 Candida haemulonii
 Carbapenem-resistant Enterobacteriaceae
 Carbapenem-resistant *Pseudomonas aeruginosa*
 Cholera (*Vibrio cholerae* O1 or O139)
 Coronavirus infection, severe (e.g., SARS-CoV, MERS-CoV)
 Diphtheria (*Corynebacterium diphtheriae*)
 Haemophilus influenzae infection, invasive

Influenza, unsubtypeable
 Listeriosis (*Listeria monocytogenes*)
 Meningococcal disease (*Neisseria meningitidis*)
 Plague (*Yersinia pestis*)
 Poliovirus infection
 Q fever (*Coxiella burnetii*)
 Salmonellosis (*Salmonella* spp.)
 Shiga toxin-producing *E. coli* infection (Laboratories that identify a Shiga toxin but do not perform simultaneous culture for Shiga toxin-producing *E. coli* should forward all positive stool specimens or positive enrichment broths to the Division of Consolidated Laboratory Services for confirmation and further characterization.)
 Shigellosis (*Shigella* spp.)
 Streptococcal disease, Group A, invasive
 Tuberculosis (A laboratory identifying *Mycobacterium tuberculosis* complex (see 12VAC5-90-225) shall submit a representative and viable sample of the initial culture to the Division of Consolidated Laboratory Services or other laboratory designated by the board to receive such specimen.)
 Tularemia (*Francisella tularensis*)
 Typhoid/Paratyphoid infection (*Salmonella* Typhi, *Salmonella* Paratyphi (all types))
 Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection
 Vibriosis (*Vibrio* spp., *Photobacterium damsela*, *Grimontia hollisae*)
 Yersiniosis (*Yersinia* spp.)
 Other diseases as may be requested by the health department.

E. Neonatal abstinence syndrome. Neonatal abstinence syndrome shall be reported by physicians and directors of medical care facilities when a newborn has been diagnosed with neonatal abstinence syndrome, a condition characterized by clinical signs of withdrawal from exposure to prescribed or illicit drugs. Reports shall be submitted within one month of diagnosis by entering the information into the Department of Health's online Confidential Morbidity Report portal (<http://www.vdh.virginia.gov/clinicians>).

F. Outbreaks. The occurrence of outbreaks or clusters of any illness that may represent a group expression of an illness that may be of public health concern shall be reported to the local health department immediately by the most rapid means available, preferably by telephone.

G. Toxic substance-related illnesses. All toxic substance-related illnesses, including pesticide and heavy metal

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poisoning or illness resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such illness is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such illness shall be made immediately by the most rapid means available, preferably by telephone.

H. Unusual occurrence of disease of public health concern. Unusual or emerging conditions of public health concern shall be reported to the local health department immediately by the most rapid means available, preferably by telephone. In addition, the commissioner or the commissioner's designee may establish surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

I. [COVID-19 Coronavirus disease 2019] (SARS-CoV-2). COVID-19 shall be reported by physicians and directors of medical care facilities when a person who is infected with or who is suspected of having COVID-19 is treated or examined, hospitalized, or admitted into the intensive care unit. Physicians and directors of medical care facilities shall report that person's name, telephone number, [email address,] address, age, date of birth, race, ethnicity, sex, and pregnancy status; name of disease diagnosed or suspected; the medical record number (if applicable); the date of onset of illness; available laboratory tests and results; and the name, address, and telephone number of the physician and medical facility where the examination was made. Case reports shall be submitted [immediately or] within [24 hours three days of the suspicion or confirmation of disease] by entering the information into the Department of Health online Confidential Morbidity Report portal at <http://www.vdh.virginia.gov/clinicians> or via electronic case reporting (<https://www.vdh.virginia.gov/meaningful-use/meaningful-use-submissions-of-electronic-case-reports/>).

[J.] Positive SARS-CoV-2 tests shall be reported by directors of laboratories, including other entities that hold Clinical Laboratory Improvement Amendments Certificates of Waiver. Each report shall give the source of the specimen and the laboratory method and result; the name, telephone number, email address, address, age, date of birth, race, ethnicity, sex, and pregnancy status (if known) of the person from whom the specimen was obtained; and the name, address, and telephone number of the physician at whose request and medical facility at which the examination was made. Reports shall be submitted [immediately or] within [24 hours three days of identification of evidence of disease]. Reports shall be made by entering

information into the department's available portal for laboratory reporting at <http://www.vdh.virginia.gov/clinicians> or via electronic laboratory reporting at <http://www.vdh.virginia.gov/meaningful-use/submissionofreportablelabresults>.

12VAC5-90-90. Those required to report.

A. Physicians. Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease or condition shall report that person's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease diagnosed or suspected; the date of onset of illness; available laboratory tests and results; and the name, address, and telephone number of the physician and medical facility where the examination was made, except that influenza should be reported by number of cases only (and type of influenza, if available). Reports are to be made to the local health department serving the jurisdiction where the physician practices. A physician may designate someone to report on his behalf, but the physician remains responsible for ensuring that the appropriate report is made. Any physician, designee, or organization making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

Such reports shall be made on a Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a CDC or VDH surveillance form that provides the same information and shall be made within three days of the suspicion or confirmation of disease except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid means available, preferably by telephone, to the local health department serving the jurisdiction in which the facility is located. Reporting may be done by means of secure electronic transmission upon agreement of the physician and the department.

Additional elements are required to be reported for individuals with confirmed or suspected active tuberculosis disease. Refer to Part X (12VAC5-90-225 et seq.) for details on these requirements.

B. Directors of laboratories. Laboratory directors shall report any laboratory examination of any clinical specimen, whether performed in-house or referred to an out-of-state laboratory, which yields evidence, by the laboratory [method(s) method] indicated or any other confirmatory test, of a disease listed in 12VAC5-90-80 B.

Each report shall give the source of the specimen and the laboratory method and result; the name, address, age, date of birth, race, sex, and pregnancy status for females (if known) of the person from whom the specimen was obtained; and the name, address, and telephone number of the physician at whose request and medical facility at which the examination was made. When the influenza virus is isolated, the type should be reported, if available. Reports shall be made within three days

of identification of evidence of disease, except that those identified in 12VAC5-90-80 C shall be reported immediately by **the** most rapid means available, preferably by telephone, to **the** local health department serving **the** jurisdiction in which **the** laboratory is located. Reports shall be made on Form Epi-1 or on **the** laboratory's own form if it includes **the** required information. Computer generated reports containing **the** required information may be submitted. Reporting may be done by means of secure electronic transmission upon agreement of **the** laboratory director and **the** department. Reports of HIV genetic nucleotide sequence data associated with HIV drug resistance tests must be submitted electronically. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of **the** Code of Virginia.

A laboratory identifying evidence of any of **the** following conditions shall notify **the** local health department of **the** positive culture or other positive test result within **the** timeframes specified in 12VAC5-90-80 and submit **the** initial isolate or other initial specimen to **the** Division of Consolidated Laboratory Services within seven days of identification. All specimens must be identified with **the** patient and physician information required in this subsection.

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

E. coli infection, Shiga toxin-producing. (Laboratories that use a Shiga toxin EIA methodology but do not perform simultaneous culture for Shiga toxin-producing E. coli should forward all positive stool specimens or positive enrichment broths to **the** Division of Consolidated Laboratory Services for confirmation and further characterization.)

Haemophilus influenzae infection, invasive

Influenza A, novel virus

Listeriosis

Meningococcal disease

Pertussis

Plague

Poliovirus infection

Q fever

Salmonellosis

Shigellosis

Streptococcal disease, Group A, invasive

Tuberculosis (A laboratory identifying Mycobacterium tuberculosis complex (see 12VAC5-90-225) shall submit a representative and viable sample of **the** initial culture to **the** Division of Consolidated Laboratory Services or other laboratory designated by **the** board to receive such specimen.)

Tularemia

Typhoid/Paratyphoid fever

Vancomycin-intermediate or vancomycin-resistant Staphylococcus aureus infection

Vibrio infection, including infections due to Photobacterium damsela and Grimontia hollisae

Yersiniosis

Other diseases as may be requested by **the** health department

When a clinical specimen yields evidence indicating **the** presence of a select agent or toxin as defined by federal regulations in 42 CFR Part 73, **the** person in charge of **the** laboratory shall contact **the** Division of Consolidated Laboratory Services and arrange to forward an isolate for confirmation. If a select agent or toxin has been confirmed in a clinical specimen, **the** laboratory director shall consult with Division of Consolidated Laboratory Services or CDC regarding isolate transport or destruction.

Laboratories operating within a medical care facility shall be considered to be in compliance with **the** requirement to notify **the** local health department when **the** director of that medical care facility assumes **the** reporting responsibility; however, laboratories are still required to submit isolates to **the** Division of Consolidated Laboratory Services or other designated laboratory as noted in this subsection.

C. Persons in charge of a medical care facility. Any person in charge of a medical care facility shall make a report to **the** local health department serving **the** jurisdiction where **the** facility is located of **the** occurrence in or admission to **the** facility of a patient with a reportable disease listed in 12VAC5-90-80 A unless he has evidence that **the** occurrence has been reported by a physician. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of **the** Code of Virginia. **The** requirement to report shall include all inpatient, outpatient, and emergency care departments within **the** medical care facility. Such report shall contain **the** patient's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease being reported; available laboratory tests and results; **the** date of admission; ~~hospital chart~~ medical record number; date expired (when applicable); and attending physician. Influenza should be reported by number of cases only (and type of influenza, if available). Reports shall be made within three days of **the** suspicion or confirmation of disease except that those identified in 12VAC5-90-80 C shall be reported immediately by **the** most rapid means available, preferably by telephone, to

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the local health department serving the jurisdiction in which the facility is located. Reports shall be made on Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a CDC or VDH surveillance form that provides the same information. Reporting may be done by means of secure electronic transmission upon agreement of the medical care facility and the department.

A person in charge of a medical care facility may assume the reporting responsibility on behalf of the director of the laboratory operating within the facility.

D. Persons in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp. Any person in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp as defined in § 35.1-1 of the Code of Virginia shall report immediately to the local health department the presence or suspected presence in his program, service, facility, school, child care center, or summer camp of persons who have common symptoms suggesting an outbreak situation. Such persons may report additional information, including identifying and contact information for individuals with communicable diseases of public health concern or individuals who are involved in outbreaks that occur in their facilities, as necessary to facilitate public health investigation and disease control. Any person so reporting shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

E. Local health directors. The local health director shall forward any report of a disease or report of evidence of a disease which has been made on a resident of his jurisdiction to the Office of Epidemiology within three days of receipt. This report shall be submitted immediately by the most rapid means available if the disease is one requiring rapid communication, as required in 12VAC5-90-80 C. All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology, by either a paper report or entry into a shared secure electronic disease surveillance system, within three days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individuals residing in the latter's jurisdiction or to the Office of Epidemiology on individuals residing outside Virginia. The Office of Epidemiology shall be responsible for notifying other state health departments of reported illnesses in their residents and for notifying CDC as necessary and appropriate.

F. Persons in charge of hospitals, nursing facilities or nursing homes, assisted living facilities, and correctional facilities. In accordance with § 32.1-37.1 of the Code of Virginia, any person in charge of a hospital, nursing facility or nursing home, assisted living facility, or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral

services or his agent if the dead person was known to have had, immediately prior to death, an infectious disease which may be transmitted through exposure to any bodily fluids. These include any of the following infectious diseases:

Coronavirus, severe [(e.g., SARS-CoV, MERS-CoV)]

Creutzfeldt-Jakob disease

Human immunodeficiency virus infection

Hepatitis B

Hepatitis C

Rabies

Smallpox

Syphilis, infectious

Tuberculosis, active disease

Vaccinia, disease or adverse event

Viral hemorrhagic fever

G. Employees, conditional employees, and persons in charge of food establishments. 12VAC5-421-80 of the Food Regulations requires a food employee or conditional employee to notify the person in charge of the food establishment when diagnosed with certain diseases that are transmissible through food and requires the person in charge of the food establishment to notify the regulatory authority. Refer to 12VAC5-421-80 for further guidance and clarification regarding these reporting requirements.

VA.R. Doc. No. R21-6359; Filed November 30, 2022, 8:00 a.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Final Regulation

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is claiming an exemption from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4 of the Code of Virginia.

Title of Regulation: 13VAC10-200. Rules and Regulations for the Allocation of Virginia Housing Opportunity Tax Credits (amending 13VAC10-200-30, 13VAC10-200-40).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: December 1, 2022.

Agency Contact: Fred W. Bryant, Chief Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5837, or email fred.bryant@vhda.com.

Summary:

The amendments (i) provide that housing opportunity tax credit (HOTC) awards made in calendar year 2021 are legacy awards and are unchanged by the proposed 2022 amendments; (ii) for calendar years 2022 through 2025, provide for a HOTC program of up to \$60 million per award year with a credit period of 10 years and specify how credits are allowed; (iii) allow the HOTC to be used in conjunction with both 9.0% and 4.0% federal low-income housing tax credits (LIHTC); (iv) permit an applicant having applied for 9.0% LIHTC, including applicants having been awarded 9.0% LIHTC, to amend its application from 9.0% LIHTC to 4.0% LIHTC in connection with an HOTC application and, in so doing, to increase or decrease its requested LIHTC amount; (v) permit Virginia Housing Development Authority (VHDA) to reallocate any HOTCs that are recaptured, disallowed, terminated, or canceled and returned; (vi) permit VHDA to carry forward not greater than 15% of the amount of HOTC available in a year to a subsequent year; (vii) add a potential prioritization for 4.0% LIHTC developments that have not yet placed in service having equity funding gaps to make such developments feasible; (viii) provide an initial priority of one-third of HOTC (\$20 million) for developments in areas with populations no greater than 35,000, with any remaining credits after such prioritization flowing statewide; and (ix) make other miscellaneous administrative clarification changes.

13VAC10-200-30. Availability and amount of HOTC.

A. Based upon the legislative intent of § 58.1-439.30 G of the Code of Virginia, notwithstanding any provisions of the enabling legislation inconsistent with § 58.1-439.30 G, the authority will award:

1. For calendar year 2021, up to \$15 million of HOTC each of the five calendar years beginning in calendar 2021 through calendar year 2025 for qualified projects. The credit period shall be one year. The aggregate HOTC program shall equal up to \$75 million. Any HOTC not used by taxpayer in a taxable year may be carried forward for the succeeding five years.

2. For calendar years 2022 through 2025, up to \$60 million of HOTC for qualified projects for each of the four calendar years beginning in calendar years 2022 through 2025. The credit period shall be 10 years. The credit shall be allowed ratably for each qualified project, with one-tenth of the credit amount allowed annually for 10 years over the credit period, except that there shall be a reduction in the tax credit allowable in the first year of the credit period due to the calculation in 26 USC § 42(f)(2), and any reduction by reason of 26 USC § 42(f)(2) in the credit allowable for the first taxable year of the credit period shall be allowable for the first taxable year following the credit period.

The aggregate HOTC program for calendar years 2021 through 2025 for qualified projects shall equal up to \$255 million. Any HOTC not used by taxpayer in a taxable year may be carried forward by a qualified taxpayer for the succeeding five years. If a HOTC has been awarded prior to January 1, 2026, such credit may continue to be claimed on a return for taxable years on and after January 1, 2026, but only pursuant to its applicable credit period.

B. To qualify for the HOTC, the applicant must have applied for federal 9% 9.0% LIHTC or federal 4.0% LIHTC, and have been (i) allocated LIHTC or (ii) allowed LIHTC (i.e., determined by the authority to be eligible for LIHTC but not allocated LIHTC). In the event of alternative clause (ii) of this subsection, the HOTC may be stand-alone (i.e., not allocated to the applicant in addition to LIHTC). An applicant having applied for 9.0% LIHTC (including applicants having been awarded 9.0% LIHTC) may elect to amend its application from 9.0% LIHTC to 4.0% LIHTC in connection with assignment of points and rankings for HOTC in accordance with 13VAC10-200-40. In so doing, the applicant may increase or decrease its requested federal credit amount.

C. While only LIHTC projects placed in service on or after January 1, 2021, may be eligible for HOTC, not every development receiving LIHTC and placing in service on or after January 1, 2021, will receive HOTC. Rankings and awards of HOTC to qualified projects shall be in accordance with 13VAC10-200-40.

D. The HOTC for each qualified project may be (i) up to the amount of the federal LIHTC allocated or allowed for the qualified project or (ii) a percentage of the federal LIHTC allocated or allowed for the qualified project as determined by the authority, based upon the availability of HOTC as compared to the federal LIHTC allocated or allowed for the qualified projects or such other factors the executive director deems appropriate for good cause to promote the goals and interests of the Commonwealth in the HOTC program.

E. The authority may pre-allocate future years' HOTC, but such credits cannot be claimed until the calendar year designated by the authority. Subject to the requirement that the total amount of tax credits authorized under this chapter shall not exceed \$15 million per for calendar year 2021, and \$60 million per year for calendar years 2022 through 2025, the authority may re-allocate, in the following calendar year, but no later than December 31, 2025, any HOTC that are recaptured, disallowed, terminated, or canceled and returned to the authority.

F. If the amount of HOTC authorized in a calendar year for qualified projects is less than the total amount of credits available for qualified projects, the balance of such credits, in an amount not greater than 15% of the amount of credits available (i) shall be allocated by the authority for any qualified project in the following calendar year, (ii) shall not be allocated

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at any time after such following calendar year, and (iii) shall be allocated no later than December 31, 2025.

13VAC10-200-40. Applications, ranking of applications and award of HOTC.

A. Application for a reservation of credits shall be commenced by filing with **the** authority an application, on such forms as **the** executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by **the** authority in order to comply with this chapter and to make **the** reservation and allocation of **the** credits in accordance with this chapter.

B. For purposes of subsection A of this section, **the** authority may utilize **the** application submitted for LIHTC, alone or with an HOTC addendum, or may require an entirely new HOTC application be submitted.

C. **The** executive director may:

1. Reject any application from consideration for a reservation or allocation of credits if in such application **the** applicant does not provide **the** proper documentation or information on **the** forms prescribed by **the** executive director.
2. Prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as deemed necessary or desirable to allow sufficient processing time for **the** Authority to make such reservations and allocations.
3. Divide **the** amount of credits into separate pools and each separate pool may be further divided into separate tiers. **The** division of such pools and tiers may be based upon one or more of **the** following factors:
 - a. Geographical areas of **the** state;
 - b. Types or characteristics of housing;
 - c. Construction;
 - d. Financing;
 - e. Owners;
 - f. Occupants;
 - g. Source of credits; or
 - h. Any other factors deemed appropriate by **the** executive director to best meet **the** housing needs of **the** Commonwealth.

D. **The** development for which an application is submitted may be, but shall not be required to be, financed by **the** authority. If any such development is to be financed by **the** authority, **the** application for such financing shall be submitted to and received by **the** authority in accordance with Rules and Regulations for Multi-Family Housing Developments (13VAC10-20).

E. **The** authority shall review each application, and, based on **the** application and other information available to **the** authority, shall assign points to each application as follows:

1. According to points assigned pursuant to 13VAC10-180, Rules and Regulations for Allocation of Low-Income Housing **Tax** Credits; or
2. Such other methodology for assigning points as determined by **the** executive director to promote **the** goals and interests of **the** Commonwealth in **the** HOTC program. Such methodology may include prioritizing one or more of **the** following:
 - a. Unfunded developments in **the** At-Large pools of **the** ~~9%~~ 9.0% LIHTC competition, in order to produce more LIHTC units in Virginia;
 - b. Unfunded developments in **the** Local Housing Authority pool of **the** ~~9%~~ 9.0% LIHTC competition or other developments that are a part of a local housing authority's public housing revitalization efforts;
 - c. ~~9%~~ 9.0% LIHTC and 4.0% LIHTC developments that have not yet placed in service having equity funding gaps, in order to make such developments feasible;
 - d. Developments that preserve existing affordable housing;
 - e. Developments with rents and income limits that are more deeply targeted than required by **the** LIHTC program;
 - f. Developments in high-opportunity areas; or
 - g. Developments providing enhanced tenant services, as defined by **the** Authority.

3. Of **the** \$60 million of HOTC authorized per calendar years 2022 through 2025, \$20 million of such credits shall be first allocated exclusively for qualified projects located in a locality with a population no greater than 35,000 as determined by **the** most recent United States census (priority developments). Such allocation of HOTC shall constitute **the** minimum amount of such **tax** credits to be allocated for priority developments. However, if **the** amount of such **tax** credits requested for priority developments is less than **the** total amount of such credits available for priority developments, **the** balance of such credits shall be allocated for any qualified project, regardless of location. In allocating or allowing such credits to priority developments, **the** authority shall give equal consideration to qualified 9.0% LIHTC and 4.0% LIHTC projects.

The executive director may exclude and disregard any application that **the** executive director determines is not submitted in good faith or would not be financially feasible.

F. Upon assignment of points to all of **the** applications, **the** executive director shall rank **the** applications based on **the** number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and, if

any, to the appropriate tier within such pool and shall be ranked within such pool or tier, if any. The amount of credits made available to each pool will be determined by the executive director. Those applications assigned more points shall be ranked higher than those applications assigned fewer points. Applications with the highest rankings shall receive allocations up to the allowable amount, determined by the executive director pursuant to 13VAC10-200-30, prior to any allocations to lower ranking applicants.

In the event of a tie in the number of points assigned to two or more projects, the executive director shall select one or more of such applications by lot for an award of credits.

G. Within a reasonable time after credits are reserved to any applicant applications, the executive director shall notify each applicant for such reservations of credits either:

1. Of the amount of credits reserved to such applicant's application by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein and by this chapter, or
2. That the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance with this chapter.

H. The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the binding commitment issued or to be issued to the applicant and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall notify the applicant of the board's determination.

I. The authority shall provide the Department of Taxation with copies of HOTC award letters and eligibility certificates, or summary reports of the HOTC award letters and eligibility certificates no less than annually.

J. In the event the Authority terminates an applicant's award of LIHTC pursuant to 13VAC10-180-60 or the applicant enters into a cancellation agreement with the Authority for such award, the award of HOTC shall also immediately terminate or be canceled, as applicable, and the Authority will notify the Department of Taxation accordingly.

VA.R. Doc. No. R23-7343; Filed November 29, 2022; 1:00 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF OPTOMETRY

Fast-Track Regulation

Title of Regulation: 18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-45).

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 18, 2023.

Effective Date: February 2, 2023.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4130, FAX (804) 527-4471, or email leslie.knachel@dhp.virginia.gov.

Basis: Regulations are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which provides the Board of Optometry the authority to promulgate regulations to administer the regulatory system.

Purpose: The purpose of the regulatory change is greater assurance that patients will be given their contact lens prescriptions by an optometrist after the fitting is complete. By requiring some acknowledgment of receipt in the patient record, the optometrist is more likely to provide the prescription, and patient health and safety is better protected by having a prescription that may be filled from a variety of sources.

Rationale for Using the Fast-Track Rulemaking Process: There was no mandate for this action, but the impetus was a recent amendment to the Federal Trade Commission (FTC) Contact Lens Rule. The board has determined that a state version of that rule could be adopted via fast-track rulemaking process because state regulations currently follow the federal rule, and this amendment will continue that consistency. Optometrists pay more attention to their state regulations, so compliance with this chapter will assist practitioners with compliance with FTC rules.

Substance: The board is amending 18VAC105-20-45 to require an optometrist to maintain some documentation that a patient has received a contact lens prescription at the end of the final fitting, as required by state and federal rule.

Issues: The primary advantage to the public is greater protection as a patient and a consumer. The optometrist is also better protected by being able to show that the prescription was provided if a question were to arise at a later time. There are no disadvantages for the public. There are no advantages or disadvantages to the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Regulations

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 (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented represents DPB's best estimate of these economic impacts.¹ Summary of the Proposed Amendments to Regulation. The Board of Optometry (Board) proposes to update the regulation to reflect changes made in 2020 to the Federal Trade Commission's (FTC) Contact Lens Rule. Optometrists prescribing contact lenses would be required to obtain a confirmation that patients received their prescription.

Background. The 2003 Fairness to Contact Lens Consumers Act established consumers' rights to shop around when buying contact lenses and prescribers' and sellers' duties to prevent anticompetitive behavior.² In 2004, the FTC issued the Contact Lens Rule to implement requirements for prescribers and sellers, specifically with regards to providing prescriptions to consumers and verifying prescriptions in a timely manner.³ In 2020, the FTC amended the Contact Lens Rule to add a requirement that prescribers obtain a confirmation from patients that the patient has received a copy of their prescription and retain the confirmation for three years.⁴ Accordingly, the Board proposes to add a sentence to 18VAC105-20-45 C 2 to state that "Patient confirmation of receipt of the prescription at the end of the contact lens fitting shall be maintained in the patient record." The regulation currently requires that all patient records be maintained for a period of six years; thus, the patient confirmation would also be retained for six years.

The FTC Rule provides greater detail as to how prescribers can obtain confirmation, either on paper or electronically. Specifically, prescribing providers may add language to an existing receipt for a contact lens fitting or to the prescription itself saying, "My eye care professional provided me with a copy of my contact lens prescription at the completion of my contact lens fitting." Patients may then sign under that text on the receipt or prescription, which would not require additional paperwork. If a digital copy of the prescription is provided to the patient, providers could retain evidence that the prescription was sent, received, or made accessible through an online patient portal. Rather than incorporating these details in the text of the regulation, the Board has indicated that they will issue guidance for optometrists that would contain this information.

Estimated Benefits and Costs. The proposed change is intended to enhance consumer freedom of choice among contact lens sellers. Although contact lens prescribers were already required to provide patients with a copy of their prescription, the additional requirement that prescribers obtain a confirmation would encourage compliance by prescribers and make it easier to verify compliance if the Board receives a complaint. The recordkeeping costs associated with this change are unlikely to be significant since the confirmation can be easily added to existing paperwork, such as the receipt for the contact lens fitting or to the prescription itself. Optometrists

that currently provide digital copies of prescriptions through an online patient portal or encrypted email would likely be in compliance with the new requirement without having to make additional changes.

Businesses and Other Entities Affected. The proposed amendments affect the 1,680 optometrists in the Commonwealth.⁵ No optometrists appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted, the proposed change would increase recordkeeping requirements but are unlikely to require additional paperwork or staff time. Thus, an adverse impact is not indicated.

Small Businesses⁷ Affected.⁸ The Department of Health Professions does not collect information regarding whether license holders run or are employed by a small business. However, the agency reports that the majority of licensed optometrists are likely to run small businesses. However, the proposed change would not create new costs for optometrists. Thus, an adverse economic impact⁹ is not indicated for small businesses.

Localities¹⁰ Affected.¹¹ The proposed amendment would not impact any local government or disproportionately affect the practice of optometry in any particular locality. Consequently, an adverse economic impact¹² is not indicated for localities.

Projected Impact on Employment. The proposed amendments would not affect employment by optometrist practices.

Effects on the Use and Value of Private Property. The proposed change would not create substantive new or ongoing costs. Consequently, the value of optometrist businesses would not be affected. The proposed amendments do not affect 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.

²See <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-chapter102&edition=prelim>.

³See <https://www.ftc.gov/tips-advice/business-center/guidance/contact-lens-rule-guide-prescribers-sellers>.

⁴See section 315.3 (c) in <https://www.ecfr.gov/current/title-16/chapter-1/subchapter-C/part-315>.

⁵Agency Background Document, page 5: https://townhall.virginia.gov/L/GetFile.cfm?File=29\5862\9454\AgencyState%20ment_DHP_9454_v1.pdf

⁶Pursuant 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.

⁷Pursuant 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."

⁸If 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.

⁹Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

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.

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

¹²Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

Agency's Response to Economic Impact Analysis: The Board of Optometry concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The amendment requires an optometrist to maintain some documentation that a patient has received the patient's contact lens prescription at the end of the final fitting, as required by state and federal rule.

18VAC105-20-45. Standards of practice.

A. An optometrist shall legibly document in a patient record the following:

1. During a routine or medical eye examination:
 - a. An adequate case history, including the patient's chief complaint;
 - b. The performance of appropriate testing;
 - c. The establishment of an assessment or diagnosis; and
 - d. A recommendation for an appropriate treatment or management plan, including any necessary follow-up.
2. During an initial contact lens examination:
 - a. The requirements of a routine or medical eye examination as prescribed in subdivision 1 of this subsection;

- b. Assessment of corneal curvature;
- c. Evaluation of contact lens fitting;
- d. Acuity through the lens; and
- e. Directions for the wear, care, and handling of lenses.

3. During a follow-up contact lens examination:

- a. Evaluation of contact lens fitting and anterior segment health;
- b. Acuity through the lens; and
- c. Such further instructions as necessary for the individual patient.

4. In addition, the record of any examination shall include the signature of the attending optometrist and, if indicated, refraction of the patient.

B. The following information shall appear on a prescription for ophthalmic goods:

1. The printed name of the prescribing optometrist;
2. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;
3. The name of the patient;
4. The signature of the optometrist;
5. The date of the examination;
6. If an expiration date is placed on a prescription for ophthalmic goods, the date shall not be less than one year unless the medical reason for a shorter expiration date is documented in the patient record; and
7. Any special instructions.

C. Contact lens.

1. Sufficient information for complete and accurate filling of an established contact lens prescription shall include (i) the power, (ii) the material or manufacturer or both, (iii) the base curve or appropriate designation, (iv) the diameter when appropriate, and (v) medically appropriate expiration date.

2. An optometrist shall provide a patient with a copy of the patient's contact lens prescription at the end of the contact lens fitting, even if the patient does not ask for it. An optometrist may first require all fees to be paid, but only if he the optometrist requires immediate payment from patients whose eye examinations reveal no need for corrective eye products. Patient confirmation of receipt of the prescription at the end of the contact lens fitting shall be maintained in the patient record.

3. An optometrist shall provide or verify the prescription to anyone who is designated to act on behalf of the patient, including contact lens sellers.

Regulations

4. An optometrist shall not require patients to buy contact lenses, pay additional fees, or sign a waiver or release in exchange for a copy of **the** contact lens prescription.

5. An optometrist shall not disclaim liability or responsibility for **the** accuracy of an eye examination.

D. Spectacle lens.

1. A licensed optometrist shall provide a written prescription for spectacle lenses immediately after **the** eye examination is completed. He may first require all fees to be paid, but only if he requires immediate payment from patients whose eye examinations reveal no need for corrective eye products.

2. An optometrist shall not require patients to buy ophthalmic goods, pay additional fees, or sign a waiver or release in exchange for a copy of **the** spectacle prescription.

3. An optometrist shall not disclaim liability or responsibility for **the** accuracy of an eye examination.

E. Practitioners shall maintain a patient record for a minimum of six years following **the** last patient encounter with **the** following exceptions:

1. Records that have previously been transferred to another practitioner or health care provider or provided to **the** patient or his personal representative; or

2. Records that are required by contractual obligation or federal law to be maintained for a longer period of time.

F. Practitioners shall post information or in some manner inform all patients concerning **the** time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality.

G. For **the** purpose of prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a licensee shall establish a bona fide provider-patient relationship in accordance with requirements of § 54.1-2400.01:2 of **the** Code of Virginia.

VA.R. Doc. No. R23-7005; Filed November 21, 2022, 12:49 p.m.

EXECUTIVE ORDER NUMBER 23 (2022)

Executive Review of COVID-19 Penalties

By virtue of **the** authority vested in me as Governor, I hereby issue this Executive Order to review **the** disciplinary actions taken against private individuals, businesses, and non-profits purportedly as a result of **the** public health emergency related to COVID-19.

Importance of Initiative

The Commonwealth of Virginia continues to recover from **the** effects of COVID-19. For too many individuals, businesses, and non-profits, this includes measures resulting from guidelines imposed during **the** public health emergency. Due to state action, businesses in Virginia were prohibited from allowing entry, service, or access to their premises, putting their existence at risk. Individuals were prohibited from working and carrying on important daily activities. Because of **the** sweeping impact of these measures, I am directing **the** Commonwealth to review **the** disciplinary actions taken against private individuals and businesses and take corrective action where appropriate.

Directive

All state agencies shall report to **the** Secretary of Finance no later than January 15, 2023, all fines, fees, interest imposed, and all other disciplinary actions imposed on all individuals, businesses, and non-profits, including any withdrawal, suspension, or cancellation of an individual's license and/or certification resulting from violations of COVID-19 practices, guidelines, rules, or operating procedures and any state contracts that were not granted as a result of noncompliance with COVID-19 guidelines.

The Secretary of Finance or his designee shall review all such disciplinary actions and make recommendations to **the** Governor on what if any corrective action can be taken under **the** law.

For purposes of this Directive, "state agency" should be construed broadly and includes:

- Secretariat Offices
- Executive Branch Agencies
- Institutions of Higher Education; and
- Authorities, Boards, and Commissions established within **the** Executive Branch by **the** Code of Virginia or designated under a Secretariat in **the** Code of Virginia

Effective Date of **the** Executive Order

This Executive Order shall be effective upon its signing and shall remain in force and effect unless amended or rescinded by further executive order or directive. Given under my hand and under **the** Seal of **the** Commonwealth of Virginia, this 6 day of December, 2022.

/s/ Glenn Youngkin, Governor

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, 900 East Main Street, Richmond, Virginia 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Adult Protective Services Division Manual.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [Overview of Companion and Residential Services.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

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

BOARD FOR CONTRACTORS

Title of Document: [Contractor License Specialty Requirement for Well Abandonments.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

Agency Contact: Marjorie King, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8500, or email contractor@dpor.virginia.gov.

BOARD OF NURSING

Title of Document: [Requests for Accommodations for Nurse, Nurse Aide, and Medication Aide Testing.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

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

STATE BOARD OF HEALTH

Title of Document: [ORH-740 - Office of Radiological Health Guidance on Quality Management Programs.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

Agency Contact: Cameron Rose, Policy Analyst, Office of Radiological Health, Virginia Department of Health, 109 Governor Street, Room 733, Richmond, VA 23219, telephone (804) 864-7090, or email cameron.rose@vdh.virginia.gov.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

Title of Document: [State Management Plan: Federal Transit Administration §§ 5310, 5311, and 5339 Grant Programs.](#)

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

Agency Contact: Andrew Wright, Director of Policy, Communications, and Legislative Affairs, Department of Rail and Public Transportation, 600 East Main Street, Suite 2102, Richmond, VA 23219, telephone (804) 241-0301, or email andrew.wright@drpt.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Title of Document: [Adoption Assistance Guidance Broadcast](#).

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

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 WATER CONTROL BOARD

Titles of Documents: [Stormwater Management and Erosion and Sediment Control Design Guide](#).

[Streamlined Plan Review for Construction Stormwater Plans and Erosion and Sediment Control Plans](#) submitted by a Licensed Design Professional and reviewed by a Dual Combined Administrator for Erosion and Sediment Control and Stormwater Management.

Public Comment Deadline: January 18, 2023.

Effective Date: January 19, 2023.

Agency Contact: Rebecca Rochet, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23219, telephone (804) 801-2950, or email swmguidance@deq.virginia.gov.

GENERAL NOTICES

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Proposed Variances to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing an opportunity for public comment on an application for proposed variances to the Human Rights Regulations submitted to the State Human Rights Committee (SHRC). The purpose of the regulation is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application references the specific part of the Human Rights Regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application also describes time limits and other conditions for duration and the circumstances that will end the applicability of the variance. After considering all available information, including comments, the SHRC intends to submit a written decision deferring, disapproving, modifying, or approving each variance application. All variances shall be approved for a specific time period. The decision and reasons for variance will be published in a later issue of the Virginia Register of Regulations.

Purpose of notice: The SHRC is seeking comment on the application for a proposed new variance to the Human Rights Regulations for Recovery Innovations, also known as "RI" or "DBA RI International."

Variance is requested to the following section:

12VAC35-115-110: Use of Seclusion, Restraint, and Time Out. Specifically, 12VAC35-115-110 C 3 states, "Only residential facilities for children that are licensed under the Regulations for Children's Residential Facilities (12VAC35-46) and inpatient hospitals may use seclusion and only in an emergency."

Explanation: The RI International Chantilly Crisis Center is the first Crisis Now Facility in Virginia. Access to a seclusion room is standard in the Crisis Now Facility model, as part of a continuum of enhanced treatment tools. RI International reports that access to a seclusion room is a mandatory safety measure that is required to operate as a Crisis Now Facility and

to be able to accept any individual who needs behavioral health crisis services regardless of an individual's level of agitation or clinical symptoms. RI International requests a variance to allow use of a seclusion room to provide a "dignified clinically appropriate alternative approach to crisis management without the stigma associated with inpatient admission or criminalization."

How to comment: The SHRC accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DBHDS, who will provide them to the SHRC, by the last day of the comment period. All information received is part of the public record.

To review a proposal: Variance applications and any supporting documentation may be obtained by contacting the DBHDS representative named in this notice.

Contact Information: Taneika Goldman, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, FAX (833) 734-1241, or email taneika.goldman@dbhds.virginia.gov.

BOARD FOR CONTRACTORS

Opportunity for Public Comment on Removal of Exam Fee Cap from Regulations

The Board for Contractors previously filed a Notice of Intended Regulatory Action for the Board for Contractors Regulations (18VAC50-22) and the Individual License and Certification Regulations (18VAC50-30). The intent of the two regulatory actions is to review the current fee cap for examinations.

The Board for Contractors requests specific comments regarding three examination fee cap options:

1. Leave the fee cap as it is currently.
2. Raise the fee cap.
3. Remove the fee cap from the regulations.

Summary: In the process of negotiating a contract with the board's exam vendor, the board determined the cap on exam fees was problematic when attempting to expand exam services to include multiple languages. The board currently adheres to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia), and the agency believes that amending the regulations to remove the cap and allow the contracts to be negotiated within the provisions of the act without the cap will allow for expanded services. These services include additional language services and remote proctoring. Other boards housed at the Department of

Professional and Occupations Regulation have amended their regulations to include this provision.

Purpose: This regulatory change will remove a price cap that has been in place since 1995. By removing the cap, the board is allowing the Virginia Public Procurement Act to function as designed, ensuring that all contract negotiations and implementations are done in accordance with the law.

The comment period being made available via this general notice begins December 19, 2022, and ends on January 18, 2023.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to the agency contact listed.

A public hearing will be held following the publication of the proposed stage of these regulatory actions.

Contact Information: Marjorie King, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, FAX (866) 430-1033, or email contractor@dpor.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for PineView of Virginia LLC

An enforcement action has been proposed for PineView of Virginia LLC for violations of State Water Control Law and regulations at PineView Grocery and Deli located in Rutherglen, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact listed or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from December 19, 2022, to January 18, 2023.

Contact Information: Holly Shupe, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virginia.gov.

FORENSIC SCIENCE BOARD

Additional Approved Field Tests for the Detection of Drugs

In accordance with 6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs, and under the authority of the Code of Virginia, the following field tests for detection of drugs have been added to the list of approved field tests:

MISTRAL SECURITY, INC.
7910 WOODMONT AVENUE
SUITE 820
BETHESDA, MD 20814

| <u>Drug or Drug Type:</u> | <u>Manufacturer's Field Test:</u> |
|---------------------------|-----------------------------------|
| Marijuana | 214 PDT CBD/THC |
| Industrial hemp | 214 PDT CBD/THC |
| Marijuana | 216 PDT DL/4AP |
| Industrial hemp | 216 PDT DL/4AP |
| Fentanyl | 220 PDT Fentanyl 2 |

These field tests are additions to the list of approved field tests previously published by the Department of Forensic Science in the General Notices of 32:13 V.A.R. 2057-2067 February 22, 2016.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or email amy.jenkins@dfs.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Mental Health Services Provider Manual Chapter II

The draft Mental Health Services Provider Manual Chapter II is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until December 29, 2022. Definitions specific to mental health services are being moved to Appendix A. Staff requirements and other provider requirements specific to mental health services are being moved to Chapter IV. Service specific provider information related to intensive in-home (IIH), therapeutic day treatment (TDT), psychosocial rehabilitation (PSR), and mental health skill-building services (MHSS) was deleted as this information will be contained in Appendix H. Service specific provider information related to mental health case management (MCHM) and treatment foster care case management (TFC-CM) was deleted as this information will be contained in Appendix I.

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.

Draft Mental Health Services Provider Manual Chapter IV

The draft Mental Health Services Provider Manual Chapter IV and Appendices A, H, and I are now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until December 22, 2022.

General Notices

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmass.virginia.gov.

RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

Draft Hospital Provider Manual Chapter II

The draft Hospital Provider Manual Chapter II is now available on the Department of Medical Assistance Services website at <https://www.dmass.virginia.gov/>.

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.

Draft Rehabilitation Services Provider Manual Chapter II

The draft Rehabilitation Services Provider Manual Chapter II is now available on the Department of Medical Assistance Services website at <https://www.dmass.virginia.gov/>.

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.

VIRGINIA CODE COMMISSION

Notice to State Agencies

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

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

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

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall.

ERRATA

VIRGINIA LOTTERY BOARD

Title of Regulation: **11VAC5-90. Casino Gaming.**

Publication: 38:13 VA.R. 1833-1977 February 14, 2022.

Correction to Final Regulation:

Page 1892, column 1, 11VAC5-90-110 DD 6, after "subsection" replace "DD" with "CC"

VA.R. Doc. No. R21-6662; Filed December 9, 2022, 11:04 a.m.

VIRGINIA EMPLOYMENT COMMISSION

Title of Regulation: **16VAC5-80. Adjudication.**

Publication: 39:8 VA.R. 1172-1181 December 5, 2022.

Correction to Fast-Track Regulation:

Page 1174, column 2, 16VAC5-80-10 catchline, underline "or decisions."

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