VIRGINIA REGISTER OF REGULATIONS

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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.virgina.gov.

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

STATEMENT

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

CITATION TO THE *VIRGINIA REGISTER*

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

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

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PUBLICATION SCHEDULE AND DEADLINES

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

July 2023 through August 2024

Volume: Issue	Material Submitted By Noon*	Will Be Published On
39:25	July 12, 2023	July 31, 2023
39:26	July 26, 2023	August 14, 2023
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	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
40:12	January 10, 2024	January 29, 2024
40:13	January 24, 2024	February 12, 2024
40:14	February 7, 2024	February 26, 2024
40:15	February 21, 2024	March 11, 2024
40:16	March 6, 2024	March 25, 2024
40:17	March 20, 2024	April 8, 2024
40:18	April 3, 2024	April 22, 2024
40:19	April 17, 2024	May 6, 2024
40:20	May 1, 2024	May 20, 2024
40:21	May 15, 2024	June 3, 2024
40:22	May 29, 2024	June 17, 2024
40:23	June 12, 2024	July 1, 2024
40:24	June 26, 2024	July 15, 2024
40:25	July 10, 2024	July 29, 2024
40:26	July 24, 2024	August 12, 2024

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BRANCH PILOTS

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: **18VAC45-11, Public Participation Guidelines;** and **18VAC45-20, Board for Branch Pilots Regulations**. 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 July 17, 2023, and ends August 7, 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: Kathleen R. Nosbisch, Executive Director, Board for Branch Pilots, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514.

CEMETERY 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 regulations are undergoing a periodic review and a small business impact review: **18VAC47-11, Public Participation Guidelines;** and **18VAC47-20, Cemetery Board Rules and Regulations**. 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 July 17, 2023, and ends August 7, 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: Stephen Kirschner, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552.

BOARD FOR CONTRACTORS

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: **18VAC50-11, Public Participation Guidelines; 18VAC50-22, Board for Contractors Regulations;** and **18VAC50-30, Individual License and Certification Regulations**. 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 July 17, 2023, and ends August 7, 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: Marjorie King, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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: **18VAC120-30, Regulations Governing Polygraph Examiners**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether 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 July 17, 2023, and ends August 7, 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: Marjorie King, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services conducted a periodic review and a small business impact review of **22VAC40-73, Standards for Licensed Assisted Living Facilities**.

The notice of intended regulatory action to amend 22VAC40-73, which is published in this issue of the Virginia Register, serves as the report of findings.

Contact Information: Sharon Lindsay, Associate Director, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 972-0676, FAX (804) 726-7132.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

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: **22VAC45-12, Public Participation Guidelines; 22VAC45-30, Regulations Governing the Sale and Distribution of Goods and Articles Made by Blind Persons; 22VAC45-40, Rules and Regulations Governing Vending Facilities in Public Buildings; 22VAC45-51, Regulations Governing Provision of Services in Vocational Rehabilitation; 22VAC45-70, Regulations Governing the Provision of Rehabilitation Teaching and Independent Living Services; 22VAC45-100, Regulations Governing DeafBlind Services;** and **22VAC45-110, Regulations Governing Low Vision**. 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 July 17, 2023, and ends August 7, 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: Susan K. Davis, Senior Policy Analyst, Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3184.

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 **23VAC10-210, Retail Sales and Use Tax**.

The fast-track rulemaking action to amend 23VAC10-210, which is published in this issue of the Virginia Register, serves as the report of findings.

Contact Information: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299, FAX (804) 371-2355.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider amending **22VAC40-73, Standards for Licensed Assisted Living Facilities**. The regulation provides criteria for the public and the Virginia Department of Social Services to evaluate the care, general supervision, and oversight of adults in licensed assisted living facilities (ALFs) and includes rules for current practices in ALFs that ensure the well-being of aged, infirm, or disabled adult residents. The purpose of the proposed action is to simplify and clarify language, improve definitions, and make technical edits for ease of understanding and any other changes deemed necessary after public comment. In addition, the agency will review the chapter to identify any discretionary requirements that should be repealed or streamlined.

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

Statutory Authority: §§ 63.2-217, 63.2-1732, 63.2-1802, 63.2-1805, and 63.2-1808 of the Code of Virginia.

Public Comment Deadline: August 16, 2023.

Agency Contact: Sharon Lindsay, Associate Director, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 972-0676, FAX (804) 726-7132, or email sharon.lindsay@dss.virginia.gov.

VA.R. Doc. No. R23-7608; Filed June 15, 2023, 8:39 a.m.

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Final Regulation

REGISTRAR'S NOTICE: The State Board of Elections is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 8 of the Code of Virginia, which exempts agency action relating to the conduct of elections or eligibility to vote.

Titles of Regulations: **1VAC20-45. Absent Military and Overseas Voters (amending 1VAC20-45-40).**

1VAC20-70. Absentee Voting (amending 1VAC20-70-20; repealing 1VAC20-70-80).

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: July 3, 2023.

Agency Contact: Franchelle Tyson, Administrative Program Specialist, Department of Elections, 1100 Bank Street, 1st Floor, Richmond, VA 23219, telephone (804) 864-8919, or email franchelle.tyson@elections.virginia.gov.

Summary:

Chapter 785 of the 2023 Acts of Assembly removes the witness signature requirement for absentee ballots and applications, removes the witness signature requirement for federal write-in absentee ballots and applications, and replaces the signature requirements with a requirement for the voter's year of birth and the last four digits of the voter's social security number or a unique identifier if the voter has never been issued a social security number. The amendments conform the regulations to Chapter 785.

1VAC20-45-40. Material omissions from Federal Write-In Absentee Ballots.

A. Pursuant to the requirements of §§ 24.2-467, 24.2-702.1, and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which the applicant offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applications requesting mailed ballots are subject to the mail absentee application deadline in §§ 24.2-459 and 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if on the declaration/affirmation any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;

2. The applicant ~~has omitted the signature of the witness, except during a declared state of emergency related to a communicable disease of public health threat pursuant to § 24.2-707 of the Code of Virginia~~ did not provide the applicant's birth year;

3. The applicant did not provide the last four digits of the applicant's social security number, or if the applicant's voter registration includes a statement of affirmation that the applicant has never been issued a social security number, the unique identifier assigned to the applicant in the voter registration system pursuant to § 24.2-404 A 1 of the Code of Virginia;

4. The applicant did not include the declaration/affirmation page; or

~~4.~~ 5. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine identity or eligibility including current military or overseas address.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;

2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

3. The applicant has omitted the street identifier, such as the term "road" or "street," when filling in the legal residence;

4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;

5. The applicant has omitted the zip code;

6. The applicant has omitted the date of the signature of the voter;

~~7. The applicant has omitted the address of the witness;~~

~~8. The applicant has omitted the date of signature of the witness;~~

~~9.~~ 7. The applicant did not seal the ballot within the security envelope so long as the outside envelope containing the ballot and the voter's declaration/affirmation page arrived sealed; or

~~10.~~ 8. The applicant has submitted a ballot containing offices or issues for which the applicant is not eligible.

1VAC20-70-20. Material omissions from absentee ballots.

A. Pursuant to the requirements of § 24.2-706 of the Code of Virginia, a timely received absentee ballot contained in an Envelope B shall not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any Envelope B containing such omissions shall be rendered invalid if any of the following exists:

1. Except as provided in subdivisions C 2 and C 3 of this section, the voter did not include ~~his~~ the voter's full first name;

2. The voter did not provide ~~his~~ the voter's last name;

3. The voter omitted ~~his~~ the voter's generational suffix when one or more individuals with the same name are registered at the same address, and it is impossible to determine the identity of the voter;

4. The voter did not provide ~~his~~ the voter's house number ~~and~~, street name, or ~~his~~ rural route address;

5. The voter did not provide either ~~his~~ the voter's city or zip code;

6. The voter did not sign Envelope B; ~~or~~

7. The ~~voter's witness did not sign Envelope B, except during a declared state of emergency related to a communicable disease of public health threat pursuant to § 24.2-707 of the Code of Virginia.~~ voter did not provide the voter's birth year; or

8. The voter did not provide the last four digits of the voter's social security number, or if the voter's registration includes a statement of affirmation that the voter has never been issued a social security number, the unique identifier assigned to the voter in the voter registration system pursuant to § 24.2-404 A 1 of the Code of Virginia.

C. The ballot shall not be rendered invalid if on the Envelope B:

1. The voter included ~~his~~ the voter's full name in an order other than "last, first, middle";

2. The voter used ~~his~~ the voter's first initial instead of ~~his~~ the voter's first full name, so long as the voter provided ~~his~~ the voter's full middle name;

3. The voter provided a derivative of ~~his~~ the voter's legal name as ~~his~~ the voter's first or middle name (e.g., "Bob" instead of "Robert");

4. If the voter provided ~~his~~ the voter's first name and last name, the voter did not provide a middle name or a middle initial;

5. The voter did not provide ~~his~~ the voter's residential street identifier (Street, Drive, etc.);

6. The voter did not provide a zip code, so long as the voter provided ~~his~~ the voter's city;

7. The voter did not provide ~~his~~ the voter's city, so long as the voter provided ~~his~~ the voter's zip code;

8. The voter omitted the date, or provided an incorrect or incomplete date on which ~~he~~ the voter signed Envelope B; ~~or~~

9. The ballot is imperfectly sealed within Envelope B, provided that the outer envelope with Envelope B and the ballot arrived sealed~~.~~; or

10. The ~~illegibility of a~~ voter's ~~or witness'~~ signature on an Envelope B ~~shall not be considered an omission or error~~ is illegible.

D. For the purposes of this regulation, "city" may include the voter's locality, town, or any acceptable mailing name for the five-digit zip code of the voter's residence.

E. Whether an error or omission on an Envelope B not specifically addressed by this regulation is material and shall render the absentee ballot invalid shall be determined by a majority of the officers of the election present.

F. If a ballot is received by the general registrar's office by noon on the third day after the election pursuant to § 24.2-709 of the Code of Virginia but the return envelope has a missing or illegible postmark, the General Registrar shall refer to the Intelligent Mail barcode on the return envelope to determine whether the ballot was mailed on or before the date of the relevant election.

1. If there is evidence from the Intelligent Mail barcode that the ballot was mailed after the close of polls for the relevant election, the ballot shall be rendered invalid.

2. If there is no evidence from the Intelligent Mail barcode that the ballot was mailed after the close of polls for the relevant election, but the return envelope has an illegible postmark, the General Registrar shall refer to the date on which the oath on Envelope B was signed to determine whether the ballot was cast on or before the date of the relevant election.

3. If there is no evidence from the Intelligent Mail barcode that the ballot was mailed after the close of polls for the relevant election and if the return envelope has a missing postmark, the ballot shall be rendered invalid.

1VAC20-70-80. ~~Absentee ballot witness signatures during qualifying state of emergency.~~ (Repealed.)

~~A. "Declared state of emergency related to a communicable disease of public health threat" or "state of emergency" means a state of emergency declared by the Governor of Virginia pursuant to the Governor's authority under Article V, Section 7 of the Constitution of Virginia in response to a communicable disease of public health threat, as defined in § 44-146.16 of the Code of Virginia.~~

~~B. If such a state of emergency is declared prior to the start of in-person absentee voting under § 24.2-701.1 of the Code of Virginia for an election and is ongoing at the beginning of the in-person absentee voting period, then a witness signature is not required on any absentee ballot otherwise validly submitted for that election. This rule applies to all absentee ballots submitted for that election, including any absentee ballot submitted after the state of emergency has ended.~~

~~C. If the Governor of Virginia declares such a state of emergency during the in-person absentee voting period preceding Election Day, no absentee ballot returned after such declaration of state of emergency requires a witness signature. This rule applies to any absentee ballots submitted after the state of emergency has ended.~~

VA.R. Doc. No. R23-7590; Filed June 22, 2023, 1:22 p.m.

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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 4VAC15-20-66, 4VAC15-20-130).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

Pursuant to Chapters 33 and 34 of the 2022 Acts of Assembly, one of the amendments removes the requirement for a permit to use a department-owned boat access site. Additional amendments update the version of the Federal Endangered and Threatened Species List incorporated by reference into the regulation and update the Virginia-specific list of endangered and threatened species by removing the sickle darter and Atlantic pigtoe mussel, which are now included on the federal list.

4VAC15-20-66. Admittance, parking, or other use fee at certain department-owned and department-managed facilities.

A. Pursuant to the authority of the board under subdivision 14 of § 29.1-103 ~~(14)~~ of the Code of Virginia and in accordance with § 29.1-113 of the Code of Virginia, a daily fee of $3.00 or an annual fee equal to the price of an annual basic state resident fishing or hunting license is established for admittance, parking, or other use at department-owned or department-managed lands~~, boat launch sites,~~ and public fishing lakes. Such fee shall not apply to (i) any person holding a valid hunting, trapping, or fishing license~~,~~ or a current certificate of boat registration issued by the department; (ii) persons 16 years of age or younger; or (iii) ~~any person who is a passenger in but not the owner or operator of a paddlecraft or registered vessel~~ the use of department-owned boat ramps.

B. Any person violating this section may be assessed a civil penalty of $50 in lieu of any criminal penalty.

C. The director may waive fees for any person, group, or organization whenever such action is deemed to be in the department's interest. Any or all facilities may be closed by the director without notice due to an emergency or natural disaster. Full refunds or credits may be issued whenever the closure prevents any use of the facility during the term of the permit. Partial refunds of fees may be made in the interest of providing better customer service.

D. The director may allow deviations from established fees in the form of discounts or special promotions for the purpose of stimulating visitation and use of departmental facilities.

4VAC15-20-130. Endangered and threatened species; adoption of federal list; additional species enumerated.

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§ 1531-1543), as amended as of ~~April 30, 2021~~ December 28, 2022, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to subdivision 12 of § 29.1-103 of the Code of Virginia, the director of the department is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

B. In addition to the provisions of subsection A of this section, the following species are declared endangered or threatened in this Commonwealth~~,~~ and are afforded the protection provided

by Article 6 (§ 29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:	
Endangered:	
Dace, Clinch	Chrosomus sp. cf. saylori
Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon
Threatened:	
Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorobranchium
~~Darter, sickle~~	~~Percina willliamsi~~
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus
2. Amphibians:	
Endangered:	
Salamander, eastern tiger	Ambystoma tigrinum
Threatened:	
Salamander, Mabee's	Ambystoma mabeei
3. Reptiles:	
Endangered:	
Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	Crotalus horridus
Turtle, bog	Glyptemys muhlenbergii
Turtle, eastern chicken	Deirochelys reticularia
Threatened:	
Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Glyptemys insculpta
4. Birds:	
Endangered:	
Plover, Wilson's	Charadrius wilsonia
Rail, black	Laterallus jamaicensis
Woodpecker, red-cockaded	Dryobates borealis
Wren, Bewick's	Thryomanes bewickii
Threatened:	
Falcon, peregrine	Falco peregrinus
Shrike, loggerhead	Lanius ludovicianus
Sparrow, Bachman's	Aimophila aestivalis
Sparrow, Henslow's	Ammodramus henslowii
Tern, gull-billed	Sterna nilotica
5. Mammals:	
Endangered:	
Bat, Rafinesque's eastern big-eared	Corynorhinus rafinesquii macrotis

Bat, little brown	Myotis lucifugus
Bat, tri-colored	Perimyotis subflavus
Hare, snowshoe	Lepus americanus
Shrew, American water	Sorex palustris
Vole, rock	Microtus chrotorrhinus
6. Mollusks:	
Endangered:	
Coil, rubble	Helicodiscus lirellus
Coil, shaggy	Helicodiscus diadema
Deertoe	Truncilla truncata
Elephantear	Elliptio crassidens
Elimia, spider	Elimia arachnoidea
Floater, brook	Alasmidonta varicosa
Ghostsnail, thankless	Holsingeria unthanksensis
Heelsplitter, Tennessee	Lasmigona holstonia
Lilliput, purple	Toxolasma lividus
Mussel, slippershell	Alasmidonta viridis
Pigtoe, Ohio	Pleurobema cordatum
Pigtoe, pyramid	Pleurobema rubrum
Springsnail, Appalachian	Fontigens bottimeri
Springsnail (no common name)	Fontigens morrisoni
Supercoil, spirit	Paravitrea hera
Threatened:	
Floater, green	Lasmigona subviridis
Papershell, fragile	Leptodea fragilis
~~Pigtoe, Atlantic~~	~~Fusconaiamasoni~~
Pimpleback	Quadrula pustulosa
Pistolgrip	Tritogonia verrucosa
Riversnail, spiny	Iofluvialis
Sandshell, black	Ligumia recta
Supercoil, brown	Paravitrea septadens
7. Arthropods:	
Threatened:	
Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife except as authorized by law.

D. The incidental take of certain species may occur in certain circumstances and with the implementation of certain conservation practices as described in this subsection:

Species	Location	Allowable Circumstances	Required Conservation Measures	Expected Incidental Take
Little brown bat	Statewide	Human health risk – need for removal of individual animals from human-habited structures.	Between May 15 and August 31, no exclusion of bats from maternity colonies, except for human health concerns.	Little to no direct lethal

Tri-colored bat			Department-permitted nuisance wildlife control operator with department-recognized certification in techniques associated with removal of bats. Use of exclusion devices that allow individual animals to escape. Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.	taking expected.
		Public safety or property damage risk – need for tree removal, application of prescribed fire, or other land management actions affecting known roosts; removal of animals from known roosts.	Hibernacula: no tree removal, use of prescribed fire, or other land management action within a 250-foot radius buffer area from December 1 through April 30. Between September 1 and November 30, increase the buffer to a 1/4-mile radius with the following conditions: for timber harvests greater than 20 acres, retain snags and wolf trees (if not presenting public safety or property risk) and small tree groups up to 15 trees of 3-inch diameter at breast height (dbh) or greater, one tree group per 20 acres. Otherwise, document the need (public safety, property damage risk) for tree removal during this period and verify that no known roost trees exist in the buffer area. Tree removal and prescribed fire are permitted outside of these dates. Known roost trees: no tree removal, use of prescribed fire, or other land management action within a 150-foot radius buffer area from June 1 through July 31, if possible. Otherwise, document public safety or property damage risk. Department-permitted nuisance wildlife control operator with department-recognized certification in techniques associated with removal of bats. Use of exclusion devices that allow individual animals to escape. Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.	Little to no direct lethal taking expected.

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

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~~

Federal Endangered and Threatened Animal Species as of December 8, 2022

VA.R. Doc. No. R23-7525; Filed June 27, 2023, 9:45 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: **4VAC15-40. Game: In General (amending 4VAC15-40-195, 4VAC15-40-276, 4VAC15-40-285).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park

Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments (i) update trap visitation requirements to incorporate current remote camera monitoring technology; (ii) clarify and expand the parts of legally harvested turkeys that may be offered for sale; and (iii) clarify that feeding of deer is prohibited within incorporated cities and towns located within any county designated by the Department of Wildlife Resources to be within 25 miles of a confirmed detection of Chronic Wasting Disease.

4VAC15-40-195. Visiting traps, generally; visiting completely submerged, body-gripping traps; use of remote trap check systems.

A. Except as provided in subsections B and C of this section, it shall be unlawful to fail to visit all traps once each day and remove all animals caught.

B. Body-gripping traps that are completely submerged by water must be visited at least once every 72 hours.

C. Remote trap checking systems may be used in lieu of a physical trap visit when such systems (i) have a control unit or remote camera that reports trap status to a centralized application ~~database~~ at least once every 24 hours; (ii) ~~have notification alarms that report~~ provide notifications of trap closures or activity at the trap site and system health issues within one hour of detection via email ~~and~~ or text-based messaging systems; and (iii) have on-demand ~~control unit testing~~ capabilities for determining ~~trap status,~~ signal strength~~,~~ and battery condition via remote system check-in. If the control unit reports a trap closure or the camera sends a photo with an animal in a trap, the user is required to physically visit the trap within 24 hours of the time the trap was reported closed or the photo was received. If the control unit or camera fails to report its current status within a 24-hour check-in period or reports a system health issue, the user is required to physically check the trap within 24 hours of the last ~~time an open trap signal was received~~ communication with the device.

4VAC15-40-276. Sale of wild turkey and small game animals and parts.

It shall be lawful for any person to purchase or sell skins, pelts, skulls, bones, teeth, claws, feet, spurs, tails, hair, feathers, taxidermy mounts, and other nonmeat parts of legally taken and possessed rabbits, squirrels, bobwhite quail, ruffed grouse, ~~and~~ pheasants, and wild turkey.

4VAC15-40-285. Unauthorized feeding of cervids.

A. It shall be unlawful for any person to place or distribute food, salt, minerals, or similar substances to feed or attract cervids (i) at any time in the Counties (including the cities and towns within) of Buchanan, Dickenson, Wise, and in any county (including the cities and towns within) designated by the department within 25 miles of a confirmed detection of Chronic Wasting Disease; (ii) during any deer or elk season within any county, city, or town that allows deer or elk hunting; and (iii) from September 1 through the first Saturday in January, both dates inclusive, elsewhere in the Commonwealth.

B. Any food, salt, minerals, or similar substances placed or distributed to feed or attract cervids prior to September 1 must be completely removed by September 1, and any area where food, salt, minerals, or similar substances were placed or distributed to feed or attract cervids shall be considered to be baited for 10 days following the complete removal of the items listed in this subsection.

C. Upon written notification by department personnel, no person shall continue to place or distribute any food, salt, mineral, or similar substances for any purpose if the placement of these materials results in the attraction of or feeding of cervids. After such notification, such person shall be in violation of this section if the placing, distribution, or presence of such food, salt, minerals, or similar substances continues.

D. No part of this regulation shall be construed to restrict bona fide agronomic plantings (including wildlife food plots), bona fide distribution of food to livestock, or wildlife management activities conducted or authorized by the department.

VA.R. Doc. No. R23-7526; Filed June 27, 2023, 9:47 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.

Titles of Regulations: **4VAC15-40. Game: In General (adding 4VAC15-40-290; repealing 4VAC15-40-300).**

4VAC15-50. Game: Bear (repealing 4VAC15-50-81, 4VAC15-50-91).

4VAC15-70. Game: Bobcat (repealing 4VAC15-70-70).

4VAC15-90. Game: Deer (amending 4VAC15-90-500, 4VAC15-90-510; repealing 4VAC15-90-231, 4VAC15-90-241).

4VAC15-240. Game: Turkey (repealing 4VAC15-240-81, 4VAC15-240-91).

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments (i) combine reporting requirements for a successful bear, deer, elk, or turkey kill into a new, single regulatory section, 4VAC15-40-290; (ii) repeal the eight

sections that previously contained these requirements; (iii) establish the requirements for reporting the harvest of gray foxes and bobcat and include those requirements in 4VAC15-40-290; and (iv) update the harvest reporting for elk hunting inside and outside the Elk Management Zone to reference 4VAC15-40-290.

4VAC15-40-290. Validating tags and reporting bear, deer, elk, turkey, and bobcat.

A. If a hunter holds a license or permit to kill a bear, deer, elk, or turkey, the following apply:

1. The hunter killing a bear, deer, elk, or turkey shall, before removing the carcass from the place of kill, validate an appropriate tag on the hunter's special license for hunting bear, special license for hunting deer and turkey, special elk hunting license, bonus deer permit, or special permit by completely removing the designated notch area from the paper tag or by electronically notching a tag and reporting the bear, deer, elk, or turkey using the department's mobile harvest reporting application. Place of kill shall be defined as the location where the animal or bird is first reduced to possession. It shall be unlawful for any person to validate (i.e., notch) a paper tag prior to the killing of a bear, deer, elk, or turkey. A paper tag that is mistakenly validated (i.e., notched) prior to the killing of a bear, deer, elk, or turkey must be immediately voided by the licensee or permittee by writing in ink the word "VOID" on the line provided on the license or special permit tag. All electronically notched tags are permanent and cannot be voided.

2. Upon killing a bear, deer, elk, or turkey and validating (i.e., notching) a paper license tag, bonus deer permit, or special permit, as provided in subsection A of this section, the hunter shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's electronic harvest reporting system. At such time, the person making the report will be given a confirmation number. The successful hunter shall then immediately record the confirmation number in ink on the line provided on the paper tag that has been validated (i.e., notched) in the field.

3. After the harvest of a bear, deer, elk, or turkey is reported, no written documentation is required as long as the hunter who killed the animal or bird is in possession of the carcass. If the reported carcass is left unattended or transferred to the possession of another individual, written documentation that includes the successful hunter's full name, the date the animal or bird was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.

B. If a hunter is exempt from license requirements or holds a license authorization number as prescribed by § 29.1-301, 29.1-327, or 29.1-339 of the Code of Virginia and has killed a bear, deer, elk, or turkey, the hunter shall upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's electronic harvest reporting system. At such time, the person making the report will be given a confirmation number. The hunter shall immediately create written documentation, including the hunter's full name, the date the animal or bird was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.

C. Any hunter or trapper who kills a bobcat shall report the kill within 24 hours through the department's electronic harvest reporting system. At such time, the person reporting the kill will be furnished with a confirmation number. The hunter or trapper shall immediately record this confirmation number in a location where it can later be retrieved to prove compliance with the reporting requirements or to request a department seal. Any bobcat received by a taxidermist for mounting or tanning shall have written documentation securely attached to the carcass that includes the full name of the hunter or trapper, date of kill, and the harvest confirmation number.

D. Any hunter or trapper who kills a gray fox shall report the kill within 24 hours through the department's electronic harvest reporting system. At such time, the person reporting the kill will be furnished with a confirmation number. The hunter or trapper shall immediately record this confirmation number in a location where it can later be retrieved to prove compliance with the reporting requirements. Any gray fox received by a taxidermist for mounting or tanning shall have written documentation securely attached to the carcass that includes the full name of the hunter or trapper, date of kill, and the harvest confirmation number.

E. It shall be unlawful for any person to destroy the identity of the sex of any bear, deer, elk, or turkey killed until the harvest is reported as required by this section. Successful hunters may dismember the carcass to pack it out from the place of kill as long as they do not destroy the identity of the sex and all parts of the carcass are present when the animal or bird is reported.

F. Processed carcass parts of a bear, deer, elk, or turkey killed legally in Virginia may be transported. However, upon request of any authorized law-enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.

G. Upon killing a bear, deer, elk, or turkey within an area designated by the department for disease management and on days designated by the department, the hunter shall present the carcass at or submit carcass parts or samples as directed by the department to a location designated by the department for the purposes of disease surveillance or biological monitoring.

H. A premolar tooth must be removed by the hunter after reporting the harvest of a bear through the department's electronic harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, confirmation number, date of kill, and the sex of the harvested bear. This envelope with the premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.

I. Any bear, deer, elk, or turkey found in possession of any person that has not been reported as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.

J. It shall be unlawful to provide false statements or record false information when tagging or reporting the harvest of any wild animal or bird to the department, any agent of the department, or any taxidermist.

4VAC15-40-300. ~~Falsifying harvest information prohibited.~~ (Repealed.)

~~It shall be unlawful to provide false statements or record false information when tagging, checking, or reporting the harvest of any wild animal to the department, any agent of the department, or any taxidermist.~~

4VAC15-50-81. ~~Validating tags and reporting bear and tooth submission by licensee or permittee.~~ (Repealed.)

~~A. Any person killing a bear shall, before removing the carcass from the place of kill, validate an appropriate tag on their special license for hunting bear or special permit by completely removing the designated notch area from the tag or by electronically notching a tag and reporting the bear using the department's mobile harvest reporting application. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a bear tag from any special license for hunting bear or special permit prior to the killing of a bear. A bear tag that is mistakenly validated (notched) prior to the killing of a bear must be immediately voided by the licensee or permittee by writing, in ink, the word "VOID" on the line provided on the license tag. All electronically notched tags are permanent and cannot be voided.~~

~~B. Upon killing a bear and validating (notching) a license tag or special permit, as provided in subsection A of this section, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's automated harvest reporting system. At such time, the person reporting the carcass will be given a confirmation number from the automated reporting system. The successful hunter shall then immediately record the confirmation number, in ink, on the line provided on the tag that was validated (notched) in the field. If checked at an authorized bear check station, the black bear check card must be kept in possession with the carcass until the carcass is processed. After the kill is reported, no written documentation is required as long as the hunter who killed the animal is in possession of the carcass. If the reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a bear killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

~~C. A premolar tooth must be removed by the hunter immediately after reporting the kill through the department's automated harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, check confirmation number, date of kill, and the sex of the harvested bear. This envelope with premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.~~

~~D. It shall be unlawful for any person to destroy the identity of the sex of any bear killed unless and until the license tag or special permit is validated (notched) and reported as required by this section. Successful bear hunters are allowed to dismember the carcass to pack it out from the place of kill, after an appropriate license tag has been validated (notched) as required in subsection A of this section, as long as they do not destroy the identity of the sex, and all the parts of the carcass are present when the bear is reported through the automated harvest reporting system. Any bear found in the possession of any person without a validated (notched) license tag or documentation that the bear has been reported through the department's automated harvest reporting system as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

4VAC15-50-91. ~~Reporting bear and tooth submission by persons exempt from license requirements or holding a license authorization number.~~ (Repealed.)

~~A. Upon killing a bear, any person (i) exempt from license requirements as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339 of the Code of Virginia, (iii) holding a permanent~~

~~license issued pursuant to § 29.1-301 E of the Code of Virginia, or (iv) the holder of a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's automated harvest reporting system. At such time, the person reporting the carcass shall be given a confirmation number from the automated reporting system. After the kill is reported using the automated harvest reporting system, the successful hunter shall immediately create written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a black bear killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

~~B. A premolar tooth must be removed by the hunter immediately after reporting the kill through the department's automated harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, check confirmation number, date of kill, and the sex of the harvested bear. This envelope with premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.~~

~~C. It shall be unlawful for any person to destroy the identity of the sex of any bear killed until the bear is reported as required by this section. Successful bear hunters are allowed to dismember the carcass to pack it out from the place of kill as long as they do not destroy the identity of the sex and all the parts of the carcass are present when the bear is reported through the automated harvest reporting system. Any bear that has not been reported through the department's automated harvest reporting system as required by this section, found in the possession of any person exempt from the license requirements or holding a license authorization number shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

4VAC15-70-70. ~~Checking requirements.~~ (Repealed.)

~~Any hunter or trapper who kills a bobcat shall report the kill within 24 hours through the department's automated harvest reporting system. At such time, the person reporting the kill will be furnished with a confirmation number. The hunter or trapper shall immediately record this confirmation number in a location where it can later be retrieved to prove compliance with checking requirements or to request a department seal. Any bobcat received by a taxidermist for mounting or tanning shall have written documentation securely attached to the carcass that includes the full name of the hunter or trapper, date of kill, and the harvest confirmation number.~~

4VAC15-90-231. ~~Validating tags and reporting deer by licensee or permittee.~~ (Repealed.)

~~A. Any person killing a deer shall, before removing the carcass from the place of kill, validate an appropriate tag on his special license for hunting deer and turkey, bonus deer permit, or special permit by completely removing the designated notch area from the tag or by electronically notching a tag and reporting the deer using the department's mobile harvest reporting application. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a deer tag from any special license for hunting deer and turkey, bonus deer permit, or special permit prior to the killing of a deer. A deer tag that is mistakenly validated (notched) prior to the killing of a deer must be immediately voided by the licensee or permittee by writing in ink the word "VOID" on the line provided on the license tag. All electronically notched tags are permanent and cannot be voided.~~

~~B. Upon killing a deer and validating (notching) a license tag, bonus deer permit or special permit, as provided in subsection A of this section, the licensee or permittee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's automated harvest reporting system. At such time, the person reporting the carcass will be given a confirmation number. The successful hunter shall then immediately record the confirmation number in ink on the line provided on the tag that was validated (notched) in the field. I~~

~~C. After the kill is reported, no written documentation is required as long as the hunter who killed the animal is in possession of the carcass. If the reported carcass is left unattended or transferred to the possession of another individual, written documentation that includes the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.~~

~~D. It shall be unlawful for any person to destroy the identity of the sex of any deer killed unless and until the license tag, bonus deer permit, or special permit is validated (notched) and reported as required by this section. Successful deer hunters are allowed to dismember the carcass to pack it out from the place of kill, after an appropriate license tag has been validated (notched) as required in subsection A of this section, as long as~~

~~they do not destroy the identity of the sex and all the parts of the carcass are present when the deer is reported.~~

~~E. Processed carcass parts of a deer killed legally in Virginia may be transported. However, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

~~F. Any deer found in the possession of any person without a validated (notched) license tag or documentation that the deer has been reported as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

~~G. Upon killing a deer within an area designated by the department for deer disease management and on days designated by the department, the licensee or permittee shall present the carcass, or submit carcass parts or samples as directed by the department, to a location designated by the department for the purposes of disease surveillance or biological monitoring.~~

4VAC15-90-241. ~~Reporting deer by persons exempt from license requirement or holding a license authorization number.~~ (Repealed.)

~~A. Upon killing a deer, any person (i) exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339 of the Code of Virginia, (iii) holding a permanent license issued pursuant to § 29.1-301 E of the Code of Virginia, or (iv) holding a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's automated harvest reporting system. At such time, the person reporting the carcass shall be given a confirmation number. The successful hunter shall immediately create written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.~~

~~B. It shall be unlawful for any person to destroy the identity (sex) of any deer killed until the deer is reported as required by this section. Successful deer hunters are allowed to dismember the carcass to pack it out from the place of kill as long as they do not destroy the identity of the sex and all the parts of the carcass are present when the deer is reported.~~

~~C. Processed carcass parts of a deer killed legally in Virginia may be transported; however, upon request of any authorized law-enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

~~D. Any deer that has not been reported as required by this section found in the possession of any person exempt from license requirements or holding a license authorization number shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

~~E. Upon killing a deer within an area designated by the department for deer disease management and on days designated by the department, the hunter shall present the carcass at or submit carcass parts or samples as directed by the department to a location designated by the department for the purposes of deer disease surveillance or biological monitoring.~~

4VAC15-90-500. Elk hunting outside the Elk Management Zone.

A. Open season. Except as otherwise provided by 4VAC15-90-510, it shall be lawful to hunt elk of either sex during (i) the general firearms deer seasons as prescribed by 4VAC15-90-10 and 4VAC15-90-23, (ii) the special archery seasons as prescribed by 4VAC15-90-70, and (iii) the special muzzleloading seasons as prescribed by 4VAC15-90-80 with bag limits as prescribed in 4VAC15-90-90.

B. Upon killing an elk. Any licensed or permitted hunter shall validate a tag on that hunter's special license for hunting deer and turkey or bonus deer permit and check the elk in accordance with ~~4VAC15-90-231~~ 4VAC15-40-290. Upon receiving a confirmation number, the hunter must call the department to schedule an inspection of the carcass and the site of kill for the collection of biological samples.

C. Checking elk by persons exempt from license requirements or holding a license authorization number. Upon killing an elk, any person (i) exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339 of the Code of Virginia, (iii) holding a permanent license issued pursuant to § 29.1-301 E of the Code of Virginia, or (iv) holding a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia shall check the elk in accordance with ~~4VAC15-90-241~~ 4VAC15-40-290. Upon receiving a confirmation number, the hunter must call the department to schedule an inspection of the carcass and the site of kill for the collection of biological samples.

4VAC15-90-510. Elk hunting within the Elk Management Zone.

A. It shall be lawful to hunt elk within the Elk Management Zone from the second Saturday in October through the following Friday, both dates inclusive.

B. The seasonal bag limit for elk shall be one per season as prescribed on the special elk hunting license. The department

shall determine the number and type of special elk hunting licenses distributed within a season and license year.

C. Except as provided in 4VAC15-90-540 or 4VAC15-90-550 individuals selected to purchase a special elk hunting license shall not be eligible to receive a subsequent special elk hunting license for a period of three years.

D. All licensed elk hunters and persons accompanying elk hunters are required to wear or display a blaze color as described in § 29.1-530.1 of the Code of Virginia.

E. Upon killing an elk, any licensed hunter shall validate the tag on the hunter's special elk hunting license and report the elk in accordance with procedures outlined in ~~4VAC15-90-231~~ 4VAC15-40-290. Upon receiving a confirmation number, the hunter must call the department to schedule an inspection of the carcass and the site of kill for the collection of biological samples.

4VAC15-240-81. ~~Validating tags and reporting turkey by licensee.~~ (Repealed.)

~~A. Any person killing a turkey shall, before removing the carcass from the place of kill, validate an appropriate tag on his special license for hunting deer and turkey by completely removing the designated notch area from the tag or by electronically notching a tag and reporting the turkey using the department's mobile harvest reporting application. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a turkey tag from any special license for hunting deer and turkey prior to the killing of a turkey. A turkey tag that is mistakenly validated (notched) prior to the killing of a turkey must be immediately voided by the licensee by writing, in ink, the word "VOID" on the line provided on the tag. All electronically notched tags are permanent and cannot be voided.~~

~~B. Upon killing a turkey and validating (notching) a license tag, as provided above, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, report the kill through the department's automated harvest reporting system. The person reporting the carcass will be given a confirmation number from the automated harvest reporting system. The successful hunter shall then immediately record the confirmation number, in ink, on the line provided on the license tag that was validated (notched) in the field. If reported using the automated harvest reporting system, no check card is required as long as the hunter who killed the turkey is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the turkey was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.~~

~~C. It shall be unlawful for any person to destroy the identity of the sex of any turkey killed unless and until the license tag is validated (notched) and reported by using the automated harvest reporting system as required by this section. Any turkey found in the possession of any person without a validated (notched) license tag or documentation that the turkey has been reported by using the automated harvest reporting system as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

4VAC15-240-91. ~~Reporting turkey by persons exempt from license requirement or holding a license authorization number.~~ (Repealed.)

~~A. Upon killing a turkey, any person exempt from the license requirement as described in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, or the holder of a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever comes first, and without unnecessary delay, report his kill through the department's automated harvest reporting system. The person reporting the carcass shall be given a confirmation number from the automated harvest reporting system. No check card is required as long as the hunter who killed the turkey is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the turkey was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.~~

~~B. It shall be unlawful for any person to destroy the identity of the sex of any turkey killed until the turkey is reported by using the automated harvest reporting system as required by this section. Any turkey that has not been reported by using the automated harvest reporting system as required by this section found in the possession of any person exempt from license requirements or holding a license authorization number shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

VA.R. Doc. No. R23-7528; Filed June 27, 2023, 9:46 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: **4VAC15-50. Game: Bear (amending 4VAC15-50-11).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments eliminate the early three-day general firearms season for bear in 26 northern and western counties where bear populations have declined and increase the general firearms season from three weeks to five weeks for 35 counties in southern and eastern Virginia where bear populations have been increasing.

4VAC15-50-11. Open season; generally.

A. It shall be lawful to hunt bears in the following localities, including the cities and towns therein, during the following seasons:

Location	Season
Accomack County	Closed
Albemarle County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Alleghany County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Amelia County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Amherst County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Appomattox County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Arlington County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Augusta County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Bath County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Bedford County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Bland County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Botetourt County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Brunswick County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Buchanan County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.

Buckingham County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Campbell County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Caroline County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Carroll County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Charles City County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Charlotte County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Chesapeake (City of)	October 1 through the first Saturday in January, both dates inclusive.
Chesterfield County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Clarke County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Craig County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Culpeper County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Cumberland County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Dickenson County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Dinwiddie County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Essex County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Fairfax County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Fauquier County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Floyd County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Fluvanna County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Franklin County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Frederick County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Giles County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Gloucester County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Goochland County	Fourth Monday in November through the first Saturday in January, both dates inclusive.

Grayson County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Greene County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Greensville County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Halifax County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Hanover County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Henrico County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Henry County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Highland County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Isle of Wight County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
James City County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
King and Queen County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
King George County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
King William County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Lancaster County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Lee County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Loudoun County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Louisa County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Lunenburg County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Madison County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Mathews County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Mecklenburg County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Middlesex County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Montgomery County (southeast of I-81)	Monday nearest December 2 through the first Saturday in January, both dates inclusive.

Montgomery County (northwest of I-81)	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Nelson County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
New Kent County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Northampton County	Closed
Northumberland County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Nottoway County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Orange County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Page County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Patrick County	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Pittsylvania County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Powhatan County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Prince Edward County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Prince George County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Prince William County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Pulaski County (southeast of I-81)	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Pulaski County (northwest of I-81)	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Rappahannock County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Richmond County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Roanoke County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Rockbridge County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Rockingham County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Russell County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.

Scott County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Shenandoah County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Smyth County (southeast of I-81)	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Smyth County (northwest of I-81)	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Southampton County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Spotsylvania County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Stafford County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Suffolk (City of)	October 1 through the first Saturday in January, both dates inclusive.
Surry County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Sussex County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Tazewell County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Virginia Beach (City of)	October 1 through the first Saturday in January, both dates inclusive.
Warren County	~~Monday following the last Saturday in September and for two days following; and the~~ The fourth Monday in November through the first Saturday in January, both dates inclusive.
Washington County (southeast of I-81)	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Washington County (northwest of I-81)	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Westmoreland County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.
Wise County	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
Wythe County (southeast of I-81)	Monday nearest December 2 through the first Saturday in January, both dates inclusive.
Wythe County (northwest of I-81)	Monday following the last Saturday in September and for two days following; and the fourth Monday in November through the first Saturday in January, both dates inclusive.
York County	Monday nearest December 2 ~~and for 19 days following~~ through the first Saturday in January, both dates inclusive.

B. Notwithstanding provisions of subsection A of this section, bears may be hunted from the first Saturday in October through the first Saturday in January, both dates inclusive, within the incorporated limits of any town or city that allows bear hunting.

VA.R. Doc. No. R23-7533; Filed June 27, 2023, 9:48 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: **4VAC15-90. Game: Deer (amending 4VAC15-90-10, 4VAC15-90-80, 4VAC15-90-89, 4VAC15-90-90, 4VAC15-90-91, 4VAC15-90-530, 4VAC15-90-540).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments (i) increase deer hunting opportunities, increase the number of days when antlerless deer can be harvested, or require hunters to harvest antlerless deer before harvesting multiple antlered deer in an effort to reduce deer population levels and address the spread of Chronic Wasting Disease in certain localities; (ii) expand Department of Wildlife Resources flexibility in timing the elk hunt lottery to capitalize on additional elk population data in determining the annual allocation of special elk hunting licenses for the Elk Management Zone; and (iii) award landowners who participate in the Elk Landowner License Program points that can be used to secure a special elk hunting license for their lands. A change to the proposed regulation closes the antlerless deer only and private land deer season in Bedford County on January 31.

4VAC15-90-10. Open season; generally.

A. It shall be lawful to hunt deer in the following localities, including the cities and towns therein, during the following seasons, all dates inclusive.

Locality	Season
Accomack County	Saturday prior to the third Monday in November through the first Saturday in January
Albemarle County	Saturday prior to the third Monday in November through the first Saturday in January
Alleghany County	Saturday prior to the third Monday in November and for 14 consecutive days following
Amelia County	Saturday prior to the third Monday in November through the first Saturday in January
Amherst County (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Amherst County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Amherst County (east of Business U.S. 29, as defined above)	Saturday prior to the third Monday in November through the first Saturday in January
Appomattox County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Augusta County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bath County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bedford County (except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following

Bedford County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Bedford County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through [~~the last Sunday in March~~ January 31]
Bland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Botetourt County	Saturday prior to the third Monday in November and for 14 consecutive days following
Brunswick County	Saturday prior to the third Monday in November through the first Saturday in January
Buchanan County	Saturday prior to the third Monday in November and for 14 consecutive days following
Buckingham County	Saturday prior to the third Monday in November through the first Saturday in January
Campbell County	Saturday prior to the third Monday in November through the first Saturday in January
Caroline County	Saturday prior to the third Monday in November through the first Saturday in January
Carroll County (private lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Carroll County (public lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Carroll County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Carroll County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Charles City County	Saturday prior to the third Monday in November through the first Saturday in January
Charlotte County	Saturday prior to the third Monday in November through the first Saturday in January
Chesapeake (City of)	October 1 through November 30
Chesterfield County	Saturday prior to the third Monday in November through the first Saturday in January
Clarke County	Saturday prior to the third Monday in November through the first Saturday in January
Clarke County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Craig County	Saturday prior to the third Monday in November and for 14 consecutive days following

Culpeper County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Culpeper County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
Culpeper County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Culpeper County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Cumberland County	Saturday prior to the third Monday in November through the first Saturday in January
Dickenson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Dinwiddie County	Saturday prior to the third Monday in November through the first Saturday in January
Essex County	Saturday prior to the third Monday in November through the first Saturday in January
Fairfax County	Saturday prior to the third Monday in November through the first Saturday in January
Fairfax County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Fauquier County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Fauquier County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
Fauquier County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Fauquier County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Floyd County	Saturday prior to the third Monday in November and for 28 consecutive days following
Floyd County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Floyd County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Fluvanna County	Saturday prior to the third Monday in November through the first Saturday in January

Franklin County	Saturday prior to the third Monday in November and for 28 consecutive days following
Frederick County (non-national forest lands)	Saturday prior to the third Monday in November through the first Saturday in January
Frederick County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Frederick County (non-national-forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Giles County	Saturday prior to the third Monday in November and for 14 consecutive days following
Gloucester County	Saturday prior to the third Monday in November through the first Saturday in January
Goochland County	Saturday prior to the third Monday in November through the first Saturday in January
Grayson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Greene County	Saturday prior to the third Monday in November through the first Saturday in January
Greensville County	Saturday prior to the third Monday in November through the first Saturday in January
Halifax County	Saturday prior to the third Monday in November through the first Saturday in January
Hanover County	Saturday prior to the third Monday in November through the first Saturday in January
Henrico County	Saturday prior to the third Monday in November through the first Saturday in January
Henry County	Saturday prior to the third Monday in November and for 28 consecutive days following
Highland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Isle of Wight County	Saturday prior to the third Monday in November through the first Saturday in January
James City County	Saturday prior to the third Monday in November through the first Saturday in January
King and Queen County	Saturday prior to the third Monday in November through the first Saturday in January
King George County	Saturday prior to the third Monday in November through the first Saturday in January
King William County	Saturday prior to the third Monday in November through the first Saturday in January
Lancaster County	Saturday prior to the third Monday in November through the first Saturday in January
Lee County	Saturday prior to the third Monday in November and for 14 consecutive days following
Loudoun County	Saturday prior to the third Monday in November through the first Saturday in January

Loudoun County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Louisa County	Saturday prior to the third Monday in November through the first Saturday in January
Lunenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Madison County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Mathews County	Saturday prior to the third Monday in November through the first Saturday in January
Mecklenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Middlesex County	Saturday prior to the third Monday in November through the first Saturday in January
Montgomery County (non-national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Montgomery County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Montgomery County (non-national forest lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Montgomery County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Nelson County (west of Route 151, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Nelson County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Nelson County (east of Route 151)	Saturday prior to the third Monday in November through the first Saturday in January
New Kent County	Saturday prior to the third Monday in November through the first Saturday in January
Northampton County	Saturday prior to the third Monday in November through the first Saturday in January
Northumberland County	Saturday prior to the third Monday in November through the first Saturday in January

Nottoway County	Saturday prior to the third Monday in November through the first Saturday in January
Orange County	Saturday prior to the third Monday in November through the first Saturday in January
Orange County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Orange County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Page County	Saturday prior to the third Monday in November and for 14 consecutive days following
Page County (non-national forest lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Page County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Patrick County	Saturday prior to the third Monday in November and for 28 consecutive days following
Pittsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
Powhatan County	Saturday prior to the third Monday in November through the first Saturday in January
Prince Edward County	Saturday prior to the third Monday in November through the first Saturday in January
Prince George County	Saturday prior to the third Monday in November through the first Saturday in January
Prince William County	Saturday prior to the third Monday in November through the first Saturday in January
Prince William County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Pulaski County (except on New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin and national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Pulaski County (New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin)	Saturday prior to the second Monday in November through the first Saturday in January
Pulaski County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Pulaski County (non-national forest lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March

~~Pulaski County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Rappahannock County	Saturday prior to the third Monday in November through the first Saturday in January
Rappahannock County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
~~Rappahannock County (disease focus zones defined by the department, antlerless deer only)~~	~~First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March~~
Richmond County	Saturday prior to the third Monday in November through the first Saturday in January
Roanoke County (private lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Roanoke County (public lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockbridge County	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockingham County	Saturday prior to the third Monday in November and for 14 consecutive days following
Russell County	Saturday prior to the third Monday in November and for 14 consecutive days following
Scott County	Saturday prior to the third Monday in November and for 14 consecutive days following
Shenandoah County	Saturday prior to the third Monday in November and for 14 consecutive days following
Shenandoah County (non-national forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Smyth County	Saturday prior to the third Monday in November and for 14 consecutive days following
Southampton County	Saturday prior to the third Monday in November through the first Saturday in January
Spotsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
Stafford County	Saturday prior to the third Monday in November through the first Saturday in January
Suffolk (City of) (east of Dismal Swamp Line)	October 1 through November 30
Suffolk (City of) (west of Dismal Swamp Line)	Saturday prior to the third Monday in November through the first Saturday in January
Surry County	Saturday prior to the third Monday in November through the first Saturday in January

Sussex County	Saturday prior to the third Monday in November through the first Saturday in January
Tazewell County	Saturday prior to the third Monday in November and for 14 consecutive days following
Virginia Beach (City of)	October 1 through November 30
Warren County	Saturday prior to the third Monday in November and for 14 consecutive days following
Warren (non-national forest lands antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Washington County	Saturday prior to the third Monday in November and for 14 consecutive days following
Westmoreland County	Saturday prior to the third Monday in November through the first Saturday in January
Wise County	Saturday prior to the third Monday in November and for 14 consecutive days following
Wythe County	Saturday prior to the third Monday in November and for 14 consecutive days following
York County	Saturday prior to the third Monday in November through the first Saturday in January
York County (private lands and antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March

B. Except as provided in subsection A of this section, ~~east of the Blue Ridge Mountains~~ deer may be hunted from the Saturday prior to the third Monday in November through the first Saturday in January, both dates inclusive, within the incorporated limits of any city or town that allows deer hunting.

C. ~~Except as provided in subsection A of this section, west of the Blue Ridge Mountains deer may be hunted from the Saturday prior to the third Monday in November and for 14 consecutive days following within the incorporated limits of any city or town that allows deer hunting~~ In addition to provisions of subsection A of this section, antlerless deer may be taken from the first Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March, both dates inclusive, within any disease focus zone designated by the department.

4VAC15-90-80. Muzzleloading gun hunting.

A. It shall be lawful to hunt deer during the early special muzzleloading season with muzzleloading guns from the Saturday prior to the first Monday in November through the Friday prior to the third Monday in November, both dates inclusive, in all cities, towns, and counties where deer hunting with a rifle or muzzleloading gun is permitted, except in the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

B. It shall be lawful to hunt deer during the late special muzzleloading season with muzzleloading guns starting 21 consecutive days immediately prior to and on the first Saturday in January:

1. In all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County);

2. East of the Blue Ridge Mountains in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick;

3. On national forest lands in Frederick County; and

4. In the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

C. Deer of either sex may be taken during the entire early special muzzleloading season east of the Blue Ridge Mountains unless otherwise noted in this subsection:

1. Deer of either sex may be taken on the second Saturday only of the early special muzzleloading season on state forest lands, state park lands (except Occoneechee State Park), department-owned lands (except on Merrimac Farm Wildlife Management Area), and Philpott Reservoir.

2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season on national forest lands in Amherst, Bedford, and Nelson Counties.

D. Deer of either sex may be taken on the second Saturday only during the early special muzzleloading season west of the Blue Ridge Mountains unless otherwise noted in this subsection.

1. Deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd Counties and on private lands in Augusta, Botetourt, Carroll, Frederick, Grayson, Montgomery, Page, Pulaski, Roanoke, Rockingham (east of Routes 613 and 731), Scott, Smyth, Shenandoah, Warren, and Wythe Counties.

2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season in Buchanan~~,~~ County; on federal ~~and department-managed~~ lands in Dickenson~~, Lee, Russell, Tazewell, and Wise Counties and~~ County; on department-owned land in Russell County; on national forest lands in Alleghany, Bland, Craig, Frederick, Giles, Grayson, Lee, Montgomery, Page, Pulaski, Rockingham, Scott, Shenandoah, ~~and~~ Warren, and Wise Counties~~, and~~; on national forest and department-owned lands in Augusta, Bath, Botetourt, Carroll, Highland (except Highland Wildlife Management Area), Roanoke, Rockbridge, Smyth, Tazewell, Washington, and Wythe Counties ~~and~~; on Channels State Forest, Grayson Highlands State Park, Hungry Mother State Park~~,~~; and on private lands west of Routes 613 and 731 in Rockingham County.

E. Deer of either sex may be taken during the last six days of the late special muzzleloading season unless otherwise listed in this subsection:

1. Deer of either sex may be taken full season during the entire late special muzzleloading season in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands), Bedford (except on national forest lands), Floyd, Franklin, Henry, Nelson (west of Route 151, except on national forest lands), and Patrick and on private lands in Augusta, Botetourt, Carroll, Craig, Giles, Grayson, Montgomery, Page, Pulaski, Roanoke, Rockingham (east of Routes 613 and 731), Scott, Smyth, Shenandoah, Warren, and Wythe Counties.

2. Deer of either sex may be taken the last day only during the late special muzzleloading season in Alleghany, Bath, ~~Dickenson,~~ Highland, Lee, Russell, Tazewell, and Wise Counties ~~and~~; on national forest lands in Amherst, Bedford, Bland, Craig, Frederick, Giles, Grayson, Montgomery, Nelson, Page, Pulaski, Rockingham, Scott, Shenandoah, and Warren Counties~~, and~~; on national forest and department-owned lands in Augusta, Botetourt, Carroll, Roanoke, Rockbridge, Smyth, Washington, and Wythe Counties; and on private lands west of Routes 613 and 731 in Rockingham County, Channels State Forest, Grayson Highlands State Park, and Hungry Mother State Park.

3. Antlered bucks only—no either-sex deer hunting days during the late special muzzleloading season in Buchanan County.

F. Deer of either sex may be taken full season during the special muzzleloading seasons within the incorporated limits of any city or town in the Commonwealth that allows deer hunting except in the Cities of Chesapeake, Suffolk, and Virginia Beach.

G. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

H. Muzzleloading guns, for the purpose of this section, include:

1. Single shot muzzleloading rifles .40 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) where the projectile is loaded from the muzzle;

2. Muzzleloading shotguns (one or more barrels) not larger than 10 gauge where the projectiles are loaded from the muzzle;

3. Muzzleloading pistols (one or more barrels) .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per barrel where the propellant and projectile are loaded from the muzzle;

4. Muzzleloading revolvers .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per cylinder where the propellant and projectile are loaded from the forward end of the cylinder.

I. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

4VAC15-90-89. Earn a buck.

A. For the purposes of this section, the term "license year" means the period between July 1 and June 30 of the following year.

B. Within a license year and within in each individual county listed in this subsection, a hunter must have taken at least one antlerless deer on private lands in that county before taking a second antlered deer on private lands in that county. In those counties listed in this subsection east of the Blue Ridge Mountains, a hunter must have taken at least two antlerless deer on private lands in that county before taking a third antlered deer on private lands in that county.

The counties subject to the provisions of this subsection are Accomack, Albemarle, Amherst (west of Route 29), Augusta,

Bedford, Botetourt, Carroll, Clarke, Culpeper, Fauquier, Floyd, Franklin, Frederick, Grayson, Greene, Hanover, Henrico, James City, Madison, Montgomery, Orange, Page, Prince George, Pulaski, Rappahannock, Roanoke, Rockingham (east of Routes 613 and 731), Shenandoah, Stafford, Warren, ~~and~~ Wythe, and York.

~~C. Within a license year and within in each individual county listed in this subsection, a hunter must have taken at least two antlerless deer on private lands in that county before taking a second antlered deer on private lands in that county. A hunter also must have taken at least three antlerless deer on private lands in that county before taking a third antlered deer on private lands in that county.~~

~~The counties subject to the provisions of this subsection are James City and York.~~

~~D.~~ C. Within a license year and within each individual county listed in this subsection, a hunter must have taken at least ~~two~~ one antlerless deer in that county before taking a second antlered deer in that county. A hunter must also have taken at least ~~three~~ two antlerless deer in that county before taking a third antlered deer in that county.

The counties subject to the provisions of this subsection are Arlington, Fairfax, Loudoun, and Prince William (except on Department of Defense lands).

~~E.~~ D. Within a license year and within any city or town, except the cities of Chesapeake, Suffolk, and Virginia Beach, a hunter must have taken at least one antlerless deer in that city or town before taking a second antlered deer in that city or town. In those cities and towns east of the Blue Ridge Mountains, a hunter must have taken at least two antlerless deer in that city or town before taking a third antlered deer in that city or town.

~~F.~~ E. The Earn A Buck Program does not apply to the Cities of Chesapeake, Suffolk, and Virginia Beach.

4VAC15-90-90. Bag limit, bonus deer permits and special antlerless provision for youth hunters.

A. The bag limit for deer east of the Blue Ridge Mountains (except on national forest lands in Amherst, Bedford, and Nelson Counties) is two per day, six per license year, three of which must be antlerless unless otherwise noted in this subsection.

1. The daily bag limit for deer is unlimited in the Counties, including the cities and towns within, of Arlington, Fairfax, Loudoun, and Prince William and in all the cities and towns that allow deer hunting (except in the Cities of Chesapeake, Suffolk, and Virginia Beach).

2. Only one deer per day may be taken on national forest, department-owned, and department-managed lands.

3. Only one elk per day may be taken.

B. The bag limit for deer west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson Counties is two per day, five per license year, three of which must be antlerless unless otherwise noted in this subsection.

1. The daily bag limit for deer is unlimited in all the cities and towns that allow deer hunting.

2. Only one deer per day may be taken on national forest, department-owned, and department-managed lands.

3. If a deer hunter kills two antlered bucks in a license year in Alleghany, ~~Augusta,~~ Bath, Highland, or Rockbridge County, at least one of the antlered bucks must have at least four antler points, one inch or longer, on one side of the antlers. This subdivision shall not apply to any county designated by the department within 25 miles of a confirmed detection of Chronic Wasting Disease.

4. Only one elk per day may be taken.

C. Except as noted in subsection E of this section, antlerless deer may be taken only during designated either-sex deer hunting days during the special archery seasons, special muzzleloading seasons, and the general firearms season.

D. Bonus deer permits shall be valid on private land in counties and cities where deer hunting is permitted (except Buchanan, Dickenson, and Wise Counties) during the special archery seasons, special muzzleloading seasons, and the general firearms season. Bonus deer permits shall be valid on public lands, including state parks, state forests, national wildlife refuges, and military areas~~, etc.~~, as authorized by the managing agency. Unless otherwise posted or authorized in writing for wildlife management areas by the department, or for national forest lands by the U.S. Forest Service, the use of bonus permits is prohibited on department-owned and national forest lands. Bonus deer permits shall be valid for antlerless deer only. Deer taken on bonus permits shall count against the daily bag limit but are in addition to the seasonal bag limit.

E. Deer hunters 15 years of age and younger, including those exempt from purchasing a hunting license and holders of an apprentice hunting license, when in compliance with all applicable laws and license requirements, may take one antlerless deer per license year on days other than designated either-sex deer hunting days during the special muzzleloading seasons or the general firearms season in all counties.

4VAC15-90-91. General firearms season either-sex deer hunting days.

A. During the general firearms deer season, deer of either sex may be taken within:

Accomack County: full season.

Albemarle County: full season.

Alleghany County: the second Saturday and the last day.

-National forest lands: the last day.

Amelia County: the second and third Saturdays and the last 13 days.

-Amelia WMA: the second and third Saturdays and the last six days.

Amherst County (east of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River): the second and third Saturdays and the last 29 days.

Amherst County (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River): full season.

-National forest lands: the last day.

Appomattox County: the second and third Saturdays and the last six days.

-Appomattox-Buckingham State Forest: the second and third Saturdays.

-Featherfin WMA: the second and third Saturdays and the last 29 days.

Arlington County: full season.

Augusta County: full season.

-National forest and department-owned lands: the last day.

Bath County: the second Saturday and the last day.

-National forest and department-owned lands: the last day.

Bedford County: full season.

-National forest lands: the last day.

Bland County: the second Saturday and the last ~~day~~ two days.

-National forest lands: the second Saturday and the last ~~day~~ two days.

Botetourt County: full season.

-National forest and department-owned lands: the last day.

Brunswick County: the second and third Saturdays and the last six days.

Buchanan County: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Buckingham County: the second and third Saturdays and the last six days.

-Horsepen Lake WMA: the second and third Saturdays and the last six days.

-Appomattox-Buckingham State Forest: the second and third Saturdays.

-Featherfin WMA: the second and third Saturdays and the last 29 days.

Campbell County (east of Norfolk Southern Railroad): the second and third Saturdays and the last 29 days.

Campbell County (west of Norfolk Southern Railroad): full season.

Caroline County: the second and third Saturdays and the last six days.

-Mattaponi WMA: the second and third Saturdays and the last six days.

Carroll County: full season.

-National forest and department-owned lands: the second Saturday and the last day.

Charles City County: full season.

-Chickahominy WMA: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Charlotte County: the second and third Saturdays and the last six days.

Chesapeake (City of): ~~the second and third Saturdays and the last 13 days~~ full season.

-Cavalier WMA: the second and third Saturdays and the last 13 days.

Chesterfield County: ~~the second and third Saturdays and the last 13 days~~ full season.

Clarke County: full season.

Craig County: full season.

-National forest and department-owned lands: the second Saturday and the last ~~day~~ two days.

Culpeper County: full season.

-Chester F. Phelps WMA: the second Saturday.

Cumberland County: the second and third Saturdays and the last 13 days.

-Cumberland State Forest: the second and third Saturdays.

Dickenson County: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Dinwiddie County: the second and third Saturdays and the last six days.

Essex County: the second and third Saturdays and the last six days.

Fairfax County: full season.

Fauquier County: full season.

-G. Richard Thompson WMA: the second and third Saturdays and the last 13 days.

-Chester F. Phelps WMA: the second Saturday.

Floyd County: full season.

Fluvanna County: second and third Saturdays and the last 29 days.

-Hardware River WMA: the second and third Saturdays and the last 13 days.

Franklin County: full season.

-Philpott Reservoir: the second Saturday and the last six days.

-Turkeycock Mountain WMA: the second Saturday and the last six days.

Frederick County: full season.

-National forest lands: the last day.

Giles County: full season.

-National forest lands: the second Saturday and the last ~~day~~ two days.

Gloucester County: the second and third Saturdays and the last ~~six~~ 13 days.

Goochland County: full season.

Grayson County: full season.

-National forest lands and Grayson Highlands State Park: the last day.

Greene County: full season.

Greensville County: the second and third Saturdays and the last six days.

Halifax County: the second and third Saturdays and the last 13 days.

Hanover County: full season.

Henrico County: full season.

Henry County: the second and third Saturdays and the last 13 days.

-Fairystone Farms WMA, Fairystone State Park, and Philpott Reservoir: the second Saturday and the last six days.

-Turkeycock Mountain WMA: the second Saturday and the last six days.

Highland County: the second Saturday and the last day.

-National forest lands: the last day.

-Department-owned lands: the second Saturday and the last day.

Isle of Wight County: full season.

-Ragged Island WMA: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

James City County: full season.

King and Queen County: the second and third Saturdays and the last 13 days.

King George County: the second and third Saturdays and the last ~~13~~ 29 days.

King William County: the second and third Saturdays and the last 13 days.

Lancaster County: the second and third Saturdays and the last ~~13~~ 29 days.

Lee County: the second Saturday and the last two days.

-National forest lands: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Loudoun County: full season.

Louisa County: the second and third Saturdays and the last 29 days.

Lunenburg County: the second and third Saturdays and the last six days.

Madison County: full season.

-Rapidan WMA: the second and third Saturdays and the last 13 days.

Mathews County: the second and third Saturdays and the last six days.

Mecklenburg County: the second and third Saturdays and the last six days.

-Dick Cross WMA: the second and third Saturdays and the last six days.

Middlesex County: the second and third Saturdays and the last six days.

Montgomery County: full season.

-National forest lands: the second Saturday and the last day.

Nelson County (east of Route 151): the second and third Saturdays and the last 29 days.

-James River WMA and Tye River WMA: the second Saturday and the last six days.

Nelson County (west of Route 151): full season.

-National forest lands: the last day.

New Kent County: full season.

Northampton County: full season.

Northumberland County: the second and third Saturdays and the last ~~13~~ 29 days.

Nottoway County: the second and third Saturdays and the last ~~six~~ 13 days.

Orange County: full season.

Page County: full season.

-National forest lands: the last day.

Patrick County: the second and third Saturdays and the last 13 days.

-Fairystone Farms WMA, Fairystone State Park, and Philpott Reservoir: the second Saturday and the last six days.

Pittsylvania County (east of Norfolk Southern Railroad): the second and third Saturdays and the last 29 days.

-White Oak Mountain WMA: the second Saturday and the last three days.

Pittsylvania County (west of Norfolk Southern Railroad): full season.

Powhatan County: full season.

-Powhatan WMA: the second and third Saturdays and the last 13 days.

Prince Edward County: the second and third Saturdays and the last six days.

-Briery Creek WMA: the second and third Saturdays and the last six days.

-Featherfin WMA: the second and third Saturdays and the last 29 days.

-Prince Edward State Forest: the second and third Saturdays.

Prince George County: full season.

Prince William County: full season.

Pulaski County: full season.

-National forest lands: the second Saturday and the last day.

Rappahannock County: full season.

Richmond County: the second and third Saturdays and the last ~~13~~ 29 days.

Roanoke County: full season.

-National forest and department-owned lands: the last day.

Rockbridge County: the second Saturday and the last two days.

-National forest and department-owned lands: the last day.

Rockingham County: full season.

-National forest lands: the last day.

-Private lands west of Routes 613 and 731: the second Saturday and the last day.

Russell County: the second Saturday and the last two days.

-Department-owned lands and the Channels State Forest: the last day.

Scott County: the second Saturday and the last six days.

-National forest lands: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Shenandoah County: full season.

-National forest lands: the last day.

Smyth County: full season.

-National forest lands, department-owned lands, and Hungry Mother State Park: the last day.

Southampton County: full season.

Spotsylvania County: full season.

-Oakley Forest WMA: the second and third Saturdays and the last 13 days.

Stafford County: full season.

~~Suffolk (east of the Dismal Swamp Line): the second and third Saturdays and the last 13 days.~~

Suffolk ~~(west of the Dismal Swamp Line)~~: full season.

Surry County: full season.

-Carlisle and Stewart Tracts of the Hog Island WMA: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Sussex County: full season.

-Big Woods WMA ~~(including the Parkers Branch Tract),~~ Flippo-Gentry WMA, and Big Woods State Forest: ~~the second and third Saturdays and the last six days~~ full season.

Tazewell County: the second Saturday and the last two days.

-National forest and department-owned lands: the last day.

Virginia Beach (City of): ~~the second and third Saturdays and the last 13 days~~ full season.

Warren County: full season.

-National forest lands: the last day.

Washington County: the second Saturday and the last six days.

-National forest lands, department-owned lands, and the Channels State Forest: the last day.

Westmoreland County: the second and third Saturdays and the last ~~13~~ 29 days.

Wise County: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Wythe County: full season.

-National forest and department-owned lands: the second Saturday and the last ~~day~~ two days.

York County: full season.

B. Except as provided in the subsection A of this section, deer of either sex may be taken full season during the general firearms deer season within the incorporated limits of any city or town, state park, national wildlife refuge, or military installation that allows deer hunting or within any common interest community participating in the special urban archery season according to provisions of 4VAC15-90-70.

4VAC15-90-530. Special elk hunting license, random drawing license program.

A. The dates for the annual application period to enter the random drawing for a special elk hunting license shall be ~~February 1 to March 30, both dates inclusive, unless extended by the director~~ published by the department annually and shall be no less than 30 days in duration. Individuals selected for special elk hunting licenses via the random drawing ~~will~~ shall be notified ~~by May 30~~ no less than 60 days prior to the start of the elk hunt, and special elk hunting licenses must be purchased from the department within 30 days of notification.

B. To enter the random drawing for a special elk hunting license, applicants shall:

1. Complete the application for a special elk hunting license as provided by the department.

2. Pay a nonrefundable application fee.

3. Apply only once for each random drawing.

C. Nonresidents shall not comprise more than 10%, or one drawn applicant, whichever is greater, of all drawn applicants in any application pool for the random drawing license program.

D. Applicants who physically reside within the Elk Management Zone shall comprise no less than 10%, or a minimum of one, whichever is greater, of all drawn applicants in any application pool for the random drawing license program.

E. A special elk hunting license awarded through the Random Drawing License Program shall not be transferable.

F. An applicant drawn for a special elk hunting license may be rejected if it is determined that the applicant has been convicted of two or more wildlife violations within three years prior to the last date of the application period. In determining an applicant's eligibility, the director shall take into account the nature and severity of the violations.

G. The department will award unclaimed special elk hunting licenses to alternates who are drawn during the initial application and draw period in the order that the alternates are drawn.

4VAC15-90-540. Special elk hunting license, Landowner License Program.

A. Upon receipt of a valid Landowner License Program application from a landowner within the Elk Management Zone, the director or the director's designee shall verify the application materials and have sole discretion in enrolling the property in the Landowner License Program. ~~Applications must be received or postmarked by July 1 each year to be eligible for the Landowner License Program during that calendar year~~ The application deadline shall be published by the department annually no less than 30 days prior to the deadline.

B. A valid Landowner License Program application shall include:

1. Landowner's name, home address, telephone number, and address of the property to be enrolled in the program.

2. A recorded survey or other legal documentation certifying ~~that~~ the acreage and ownership of the property to be enrolled ~~is greater than or equal to 50 contiguous acres~~.

3. Original signature of the landowner.

4. Only a single application per license year, per landowner.

C. Landowners enrolled in the Landowner License Program maintain the right to limit access to certain areas of the property for safety or privacy reasons~~, provided a minimum of 50 acres are open to elk hunting~~. Areas of limited access must be outlined in the initial application. Enrollment in the Landowner License Program does not preclude or limit in any way the landowner from allowing other hunting or other hunters on the property.

D. The department shall determine and make available to the public a program guidance document outlining how landowners enrolled in the Landowner License Program shall accrue points toward a special elk hunting license, the number of points necessary to be awarded such license, a list of criteria by which applications and associated properties will be evaluated for enrollment in the program, and other program requirements. The program guidance document will be published annually no less than 30 days prior to ~~June 1~~ the application deadline.

E. Landowners who accrue the necessary number of points, as defined in the program guidance document, on an enrolled property may ~~request one either sex special elk hunting license from the department~~ enter a landowner lottery for a special elk hunting license. ~~A request for a special elk hunting license must be submitted prior to July 1 in the year the license is to be used.~~ Once ~~a request for~~ a special elk hunting license is ~~made, landowners lose~~ awarded through the lottery, the landowner loses all accrued points. There is no time limit over which a landowner is required to accrue license points. Landowners shall not combine points from separate enrolled properties.

F. Landowners enrolled in the Landowner License Program shall not subdivide contiguous properties under the same ownership into multiple, smaller parcels for the purposes of this program.

G. License points cannot be sold or traded. License points are nontransferable if the property changes ownership, except that if the property is inherited from parents, grandparents, or children, resident or nonresident, license points may be transferred. The department may request documentation to certify the relationship between seller and purchaser as well as a copy of bill of sale.

H. Landowners receiving a special elk hunting license shall comply with all of the requirements established in this section as well as 4VAC15-90-510, 4VAC15-90-520, and § 29.1-305.01 of the Code of Virginia. Landowners who fail to comply with this chapter may forfeit any accrued license points and may not be eligible to accrue new license points.

I. A special elk hunting license awarded to the landowner shall only be used on the property enrolled with the department in the Landowner License Program.

J. A landowner may transfer the special elk hunting license to any person eligible to hunt in Virginia. The special elk hunting license may not be sold. Transfer of the special elk hunting license must be reported to the department no less than one month prior to the opening day of the elk hunting season during the year in which the special elk hunting license is ~~requested~~ awarded. To report a transfer to the department, the landowner shall provide the department with the hunter's:

1. Name;

2. Department customer identification number;

3. Address; and

4. Telephone number.

K. A landowner shall not charge a fee for hunters to hunt elk on properties enrolled in the Landowner License Program except as described in the program guidance document.

L. A special elk hunting license transferee may be rejected if it is determined that the transferee has been convicted of two or more wildlife violations, within three years prior to the last date of the application period. In determining the transferee's eligibility, the director shall take into account the nature and severity of the violations.

VA.R. Doc. No. R23-7535; Filed June 27, 2023, 4:54 p.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: **4VAC15-110. Game: Fox (amending 4VAC15-110-20, 4VAC15-110-80; adding 4VAC15-110-25, 4VAC15-110-35).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments (i) separate the gray fox and red fox hunting seasons and reduce the gray fox hunting season; and (ii) establish a daily bag limit for gray foxes and require a gray fox be causing damage to property or pose a threat to human health or safety before a landowner may kill or have a gray fox on the landowner's property killed.

4VAC15-110-20. Hunting with firearms~~. Open~~; open season for red fox.

Except as otherwise provided ~~by local legislation and~~ with the specific exceptions provided ~~in the sections appearing~~ in this chapter, it shall be lawful to hunt red foxes with firearms from November 1 through the last day in February, both dates inclusive.

4VAC15-110-25. Hunting with firearms; open season for gray fox.

Except as otherwise provided with the specific exceptions provided in this chapter, it shall be lawful to hunt gray foxes with firearms from January 1 through the last day in February, both dates inclusive.

4VAC15-110-35. Bag limit.

The bag limit for hunting gray fox shall be one per hunting party, individual or organized, taken between noon of one day and noon the following day.

4VAC15-110-80. Killing by landowner.

A landowner may kill or have killed red foxes at any time on ~~his own~~ the landowner's land. Provided further that a landowner may kill or have killed gray foxes at any time on the landowner's land, but only when a gray fox is causing damage to crops or property or is posing a threat to human health or safety.

VA.R. Doc. No. R23-7531; Filed June 27, 2023, 9:49 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: **4VAC15-230. Game: Squirrel (amending 4VAC15-230-60).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendment adds Henry County to the list of counties where fox squirrels may be hunted.

4VAC15-230-60. Fox squirrel. Open season; first Saturday in September through January 31.

It shall be lawful to hunt fox squirrel from the first Saturday in September through January 31, both dates inclusive, in the ~~counties~~ Counties of Albemarle, Alleghany, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Carroll, Clarke, Craig, Culpeper, Dickenson, Fauquier, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Loudoun, Madison, Montgomery, Orange, Page, Patrick, Prince William, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Tazewell, Washington, Warren, Wise, and Wythe.

VA.R. Doc. No. R23-7522; Filed June 27, 2023, 9:49 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: **4VAC15-240. Game: Turkey (amending 4VAC15-240-31, 4VAC15-240-32, 4VAC15-240-40, 4VAC15-240-51).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments shift Charles City County from the four-week fall turkey season to the six-week fall turkey season as turkey populations in that county are able to support additional hunting.

4VAC15-240-31. Open season; certain counties and areas; four-week season.

It shall be lawful to hunt turkeys 14 days immediately before the Saturday prior to the first Monday in November, on Thanksgiving Day and the day before, and on the Monday closest to December 2 and for 12 days following in the Counties of Accomack, Amelia, ~~Charles City,~~ Dinwiddie, Gloucester, Greensville, Isle of Wight, James City, Mathews, Middlesex, New Kent, Northampton, Powhatan, Prince George, Southampton, Surry, Sussex, and York (except on Camp Peary) and the City of Suffolk.

4VAC15-240-32. Open season; certain counties and areas; six week season.

It shall be lawful to hunt turkeys 14 days immediately before the Saturday prior to the first Monday in November; on Thanksgiving Day and the day before; on the Monday nearest December 2 and for 12 days following, both dates inclusive; and on the second Saturday in January and for 14 days following in the Counties of Amherst, Appomattox, Brunswick, Buchanan, Buckingham, Campbell, Charles City, Charlotte, Chesterfield, Cumberland, Floyd, Fluvanna, Frederick, Goochland, Halifax, Hanover, Henrico, Henry, Louisa, Lunenburg, Mecklenburg, Nottoway, Orange, Patrick, Pittsylvania, Prince Edward, Shenandoah, Spotsylvania, Tazewell, and Warren.

4VAC15-240-40. Open season; spring season for bearded turkeys.

A. Except as otherwise provided in this section, it shall be lawful to hunt bearded turkeys from the second Saturday in April and for 35 days following, both dates inclusive, from 1/2 hour before sunrise to 12:00 noon prevailing time during the first 16 days and from 1/2 hour before sunrise to sunset during the last 20 days of the spring season.

B. Turkey hunters 15 years of age and younger and holders of an apprentice hunting license may hunt on the first Saturday in April and the following calendar day from 1/2 hour before sunrise to sunset, when in compliance with applicable license requirements and when accompanied and directly supervised by an adult who has a valid Virginia hunting license on his person or an adult who is exempt from purchasing a hunting license. Adult hunters accompanying youth hunters or apprentice license holders on these days may assist with calling but they shall not carry or discharge weapons. [Youth and apprentice turkey hunters are limited on this weekend to one turkey per hunter.]

C. Upon receipt of an application from an officer or other designated official representative of any nonprofit organization that has support for sportsmen with impaired mobility as one of its mission statements, the director may issue a permit to an officer or representative of the organization that allows sportsmen with impaired mobility to hunt bearded wild turkeys from 1/2 hour before sunrise to sunset from the 10th through 16th days of the spring season. Such authorization shall be valid only when hunting during an authorized event. All participants shall be in compliance with all requirements of law and regulation that apply during the spring season, and bearded turkeys killed during these events shall count toward daily and annual bag limits.

D. Bearded turkeys may be hunted by calling.

E. It shall be unlawful to use dogs or organized drives for the purpose of hunting.

F. It shall be unlawful to use or have in possession any shot larger than number 2 fine shot when hunting turkeys with a shotgun.

4VAC15-240-51. Youth and apprentice hunter fall turkey hunting weekend.

In counties, cities, and areas with a fall turkey season, hunters 15 years of age and younger and holders of an apprentice hunting license may hunt turkey on the second Saturday in October and the following calendar day when in compliance with applicable license requirements and when accompanied and directly supervised by an adult who has a valid Virginia hunting license on his person or is exempt from purchasing a hunting license. Adult hunters accompanying youth hunters or apprentice license holders on these days may assist with calling turkey but they shall not carry or discharge weapons. [Youth and apprentice turkey hunters are limited on this weekend to one turkey per hunter.]

VA.R. Doc. No. R23-7534; Filed June 27, 2023, 9:50 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: **4VAC15-260. Game: Waterfowl and Waterfowl Blinds (amending 4VAC15-260-60, 4VAC15-260-70, 4VAC15-260-75, 4VAC15-260-80, 4VAC15-260-120; adding 4VAC15-260-85, 4VAC15-260-86).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments (i) remove designation of a federal special sea duck season as a requirement for the designation of a special sea duck area; and (ii) designate and delineate a special sea duck area.

4VAC15-260-60. [Blinds adjacent to Chickahominy Wildlife Management Area ~~(Repealed)~~.

No license shall be issued for stationary waterfowl blinds on Morris Creek and the Chickahominy River in Charles City County adjacent to the Chickahominy Wildlife Management Area.]

4VAC15-260-70. [Blinds on Game Farm Marsh Wildlife Management Area ~~(Repealed)~~.

No stationary waterfowl blinds shall be licensed, and no stationary or floating blind license shall be required for hunting waterfowl on the Game Farm Marsh Wildlife Management Area, or in, or on, the public waters of the Chickahominy River, north of the New Kent-Charles City County line adjacent thereto; provided, however, that this section shall not abridge the privileges prescribed for landowners, and their lessees and permittees, in §§ 29.1-344 and 29.1-347 of the Code of Virginia.]

4VAC15-260-75. [Blinds adjacent to the Ware Creek Wildlife Management Area ~~(Repealed)~~.

Except for blinds built or maintained by the department, no stationary waterfowl blinds shall be licensed on the public waters of Philbates and Ware Creeks, or on the York River within 1000 yards of the Ware Creek Wildlife Management Area. Waterfowl hunting within 500 yards of the wildlife management area property will be permitted only at locations and during times designated by the department. However, this section shall not abridge the privileges prescribed for landowners and their lessees and permittees in §§ 29.1-344 and 29.1-347 of the Code of Virginia.]

4VAC15-260-80. [Blinds adjacent to Ragged Island Wildlife Management Area ~~(Repealed)~~.

No license shall be issued for stationary waterfowl blinds in the adjacent waters to mid-channel of Kings Creek and Ragged Island Creek or in the adjacent waters of the James River and Batten Bay within 1000 yards of the Ragged Island Wildlife Management Area in Isle of Wight County.]

[~~4VAC15-260-85. Non-riparian stationary blinds adjacent to certain department-owned properties.~~

~~A. Non-riparian stationary waterfowl blinds shall not be erected or licensed on the shores or in the public waters adjacent to any department wildlife management area or wildlife conservation site.~~

~~B. Subject to 4VAC15-40-100, 4VAC15-40-110, 4VAC15-40-130, 4VAC15-260-90, and 4VAC15-260-115, floating waterfowl blinds shall be permitted on the public waters adjacent to any department wildlife management area or wildlife conservation site. Additionally, as permitted in § 29.1-351 of the Code of Virginia, the distance restrictions for licenses for waterfowl blinds and for hunting waterfowl in §§ 29.1-340 through 29.1-351.1 of the Code of Virginia shall not apply to floating waterfowl blinds being used on the public waters adjacent to any department wildlife management area or wildlife conservation site.~~

~~C. For purposes of this chapter, "adjacent waters" means all water from mean low tide to 600 yards offshore.~~

~~D. Any person who holds a 2022-2023 non-riparian stationary waterfowl blind license in the areas specified in subsection A of this section is permitted to renew that person's license for each of that person's blinds for the 2023-2024 waterfowl hunting seasons. In any case, licenses for these blinds will expire no later than August 15, 2024. Per § 29.1-347 of the Code of Virginia, blind structures must be removed when the license expires or when the license holder no longer intends to use the blind, whichever occurs first.~~

~~E. This section shall not abridge the privileges prescribed for a landowner and a landowner's lessee and a permittee in §§ 29.1-344 and 29.1-347 of the Code of Virginia.~~

~~F. This chapter shall not apply to the blinds and public waters in the City of Virginia Beach.~~]

[~~4VAC15-260-86. Non-riparian stationary blinds adjacent to select national wildlife refuges.~~

~~A. Non-riparian stationary waterfowl blinds shall not be erected or licensed on the shores of or in the public waters adjacent to designated national wildlife refuges identified in this subsection:~~

~~1. James River National Wildlife Refuge;~~

~~2. Plum Tree Island National Wildlife Refuge;~~

~~3. Occoquan Bay National Wildlife Refuge; or~~

~~4. Featherstone National Wildlife Refuge.~~

~~B. Floating waterfowl blinds shall be permitted on the public waters adjacent to the specified refuges. Additionally, as permitted in § 29.1-351 of the Code of Virginia, the distance restrictions in licenses for waterfowl blinds and for hunting waterfowl in §§ 29.1-340 through 29.1-351.1 of the Code of Virginia shall not apply to floating waterfowl blinds being used on the public waters adjacent to the specific refuges.~~

~~C. For purposes of this chapter, "adjacent waters" means all water from mean low tide to 600 yards offshore.~~

~~D. Any person who holds a 2022-2023 non-riparian stationary waterfowl blind license in the areas specified in subsection A of this section is permitted to renew that person's license for each of that person's blinds for the 2023-2024 and 2024-2025 waterfowl hunting seasons. In any case, licenses for these blinds will expire no later than August 15, 2025. Per § 29.1-347 of the Code of Virginia, blind structures must be removed when the license expires or when the license holder no longer intends to use the blind, whichever occurs first.~~

~~E. This section shall not abridge the privileges prescribed for a landowner and a landowner's lessees and a permittee in §§ 29.1-344 and 29.1-347 of the Code of Virginia.~~]

4VAC15-260-120. Special sea duck ~~season~~ area.

~~Whenever federal migratory waterfowl regulations permit a special season for taking scoter, eider and long-tailed (formerly old-squaw) ducks within an area designated as a special sea duck hunting area under regulations adopted by the board, such~~ The special sea duck ~~hunting~~ area shall be designated and delineated as follows:

~~Those waters at a distance greater than 800 yards from any shore, island or emergent vegetation in the following area:~~ The ocean waters of Virginia, the tidal waters of Northampton and Accomack ~~counties~~ Counties up to the first highway bridge, and the Chesapeake Bay and each of its tributaries up to the first highway bridge. Back Bay and its tributaries are not included in the special sea duck hunting area.

VA.R. Doc. No. R23-7532; Filed June 27, 2023, 9:50 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 (amending 4VAC15-390-10, 4VAC15-390-85; repealing 4VAC15-390-11 through 4VAC15-390-70, 4VAC15-390-90 through 4VAC15-390-130).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments replace regulatory text containing requirements for safe and reasonable operation of vessels, including navigation of vessels in diverse situations such as approaching and overtaking other vessels and when an operator's vision is obscured, with a citation incorporating federal requirements for the same provisions at 33 CFR Parts 83, 84, and 86.

4VAC15-390-10. Applicability.

The following sections in this chapter apply to the operation of "vessels" as defined in § 29.1-700 of the Code of Virginia on all waters within the Commonwealth~~, both public and private~~. Vessels complying with the ~~international rules of navigation~~ Inland Navigation Rules, 33 CFR Parts 83, 84, and 86, as established by the U.S. Coast Guard are considered to be in compliance with the requirements of this chapter.

4VAC15-390-11. ~~Definitions.~~ (Repealed.)

~~For the purpose of this chapter, except where the context otherwise requires, the following words and terms mean:~~

~~"Inland waters" means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States on the United States side of the International Boundary.~~

~~"Left" means port, or the left side of the vessel when facing the bow (the forward part of the vessel) from within the vessel.~~

~~"Length" and "breadth" of a vessel mean her length overall and greatest breadth.~~

~~"Power driven vessel" means any vessel propelled by machinery.~~

~~"Restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.~~

~~"Right" means starboard, or the right side of the vessel when facing the bow (the forward part of the vessel) from within the vessel.~~

~~"Sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.~~

~~"Seaplane" includes any aircraft designed to maneuver on the water.~~

~~"Secretary" means the secretary of the department in which the U.S. Coast Guard is operating.~~

~~"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.~~

~~"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.~~

~~"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus that restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus that does not restrict maneuverability.~~

~~"Vessel not under command" means a vessel that through some exceptional circumstance is unable to maneuver as required and is therefore unable to keep out of the way of another vessel.~~

~~"Vessel restricted in its ability to maneuver" means a vessel that from the nature of its work is restricted in its ability to maneuver as required and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:~~

~~1. A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;~~

~~2. A vessel engaged in dredging, surveying, or underwater operations;~~

~~3. A vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;~~

~~4. A vessel engaged in the launching or recovery of aircraft;~~

~~5. A vessel engaged in mineclearance operations; and~~

~~6. A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.~~

~~"Vessels in sight of one another" shall be deemed so only when one can be observed visually from the other.~~

4VAC15-390-20. ~~Motorboats approaching head and head.~~ (Repealed.)

~~When motorboats are approaching each other head and head, that is, end on, or nearly so, it shall be the duty of each operator to maneuver to the right and pass on the left side of the other motorboat. This does not apply if the courses of such motorboats are so far on the right side of each other that they may pass right side to right side without risk of collision. When the operator of any motorboat is in any doubt as to whether a head on situation exists, the assumption shall be made that it does exist and the operator shall take all actions necessary to avoid a collision with the approaching motorboat.~~

4VAC15-390-30. ~~Motorboats crossing.~~ (Repealed.)

~~When two motorboats are crossing, so as to involve risk of collision, the operator of the motorboat which has the other on the right side shall keep out of the way of the other, and shall if the circumstances of the situation admit, avoid crossing ahead of the other vessel. When the operator of any motorboat is in any doubt as to whether a crossing situation exists, the assumption shall be made that it does exist and the operator shall act accordingly.~~

4VAC15-390-40. ~~Overtaking another vessel.~~ (Repealed.)

~~A. Duty to keep clear; overtaken vessel not to cross bow or crowd. Every vessel overtaking any other vessel shall keep out of the way of the overtaken vessel, and shall not attempt to pass the vessel ahead until they have reached a point at which it can be safely done. The overtaken vessel shall not attempt to cross the bow or crowd in upon the course of the overtaking vessel.~~

~~B. When vessel deemed to be an overtaking vessel. Every vessel coming up with another vessel from any direction abaft the beam of the other vessel shall be deemed to be an overtaking vessel, and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of this section or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear. When a vessel coming up with another~~

~~vessel is unable to determine with certainty whether she is forward or abaft the beam of the other vessel she shall, if in doubt, assume that she is an overtaking vessel and keep out of the way of the other vessel.~~

4VAC15-390-50. ~~Responsibility between vessels.~~ (Repealed.)

~~A. The operator of a motorboat underway shall keep his vessel out of the way of:~~

~~1. A vessel not under command;~~

~~2. A vessel restricted in its ability to maneuver;~~

~~3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability; and~~

~~4. A sailing vessel.~~

~~B. The operator of a sailing vessel underway shall keep his vessel out of the way of:~~

~~1. A vessel not under command;~~

~~2. A vessel restricted in its ability to maneuver; and~~

~~3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability.~~

~~C. The operator of a vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability when underway shall, so far as possible, keep his vessel out of the way of:~~

~~1. A vessel not under command; and~~

~~2. A vessel restricted in its ability to maneuver.~~

~~D. The pilot of a seaplane on the water shall, in general, keep his seaplane well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, he shall comply with the responsibility between vessels provisions above.~~

~~E. When two sailing vessels are approaching one another, so as to involve risk of collision, the operator of one of them shall keep out of the way of the other as follows:~~

~~1. When each has the wind on a different side, the vessel that has the wind on the left side shall keep out of the way of the other;~~

~~2. When both have the wind on the same side, the vessel that is to windward (upwind) shall keep out of the way of the vessel that is to leeward (downwind); and~~

~~3. If a vessel with the wind on the left side sees a vessel to windward (upwind) and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, it shall keep out of the way of the other.~~

~~For the purpose of this section, the windward (upwind) side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.~~

4VAC15-390-60. ~~Sailing vessels approaching one another.~~ (Repealed.)

~~When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:~~

~~1. When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other.~~

~~2. When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.~~

~~3. For the purpose of this section the windward side shall be deemed to be the side opposite that on which the mainsail is carried or, in the case of a square rigged vessel, the side opposite that on which the largest fore-and-aft sail is carried.~~

4VAC15-390-70. ~~Duty of vessel required to keep out of way; duty of other vessel.~~ (Repealed.)

~~A. The operator of every vessel shall at all times maintain a proper look out by sight and sound as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision. If there is any doubt, such risk shall be deemed to exist.~~

~~B. Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship. Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar. A succession of small alterations of course or speed should be avoided. If necessary to avoid collision or allow more time to assess the situation, the operator shall slacken speed or stop. The effectiveness of all actions taken to avoid a collision shall be carefully checked until the other vessel is finally past and clear.~~

~~C. The operator of a vessel that is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient room for the safe passage of the other vessel.~~

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, or public safety 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.

4VAC15-390-90. ~~Duty where operator's vision obscured.~~ (Repealed.)

~~A. Where an operator's vision is obscured by bridges or other obstructions ahead, or by sharp bends in a narrow waterway, or by fog or other weather conditions, the vessel shall be operated at reduced speed such that the vessel can be stopped, if necessary, within the distance the operator or a lookout is able to see ahead.~~

~~B. When the operator detects by radar alone the presence of another vessel, he shall determine if a close-quarters situation is developing or risk of collision exists. If so, he shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:~~

~~1. An alteration of course to the left for a vessel forward of the other vessel, other than for a vessel being overtaken; and~~

~~2. An alteration of course directly or nearly so toward the other vessel.~~

~~C. Except where it has been determined that a risk of collision does not exist, the operator of every vessel who hears apparently forward of his position the fog signal of another vessel, or who cannot avoid a close quarters situation with another vessel forward of its position, shall reduce his speed to the minimum at which the vessel can be kept on course. He shall if necessary stop and, in any event, navigate with extreme caution until danger of collision is over.~~

4VAC15-390-100. ~~Operation in narrow channel.~~ (Repealed.)

~~In narrow channels the operator of every vessel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the right side of such vessel. Notwithstanding the provisions of any other section of this chapter, the operator of a vessel under 65.6 feet in length underway, fishing or at anchor in narrow channels shall not interfere with the passage of large, deep draft vessels that can safely navigate only inside such channels.~~

4VAC15-390-110. ~~Departure from regulations to avoid immediate danger.~~ (Repealed.)

~~In obeying and construing this chapter due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from this chapter necessary in order to avoid immediate danger. When, from any cause, the vessel required to keep its course and speed finds itself so close that collision cannot be avoided by the action of the give-way vessel alone, the operator shall take such action as will best aid to avoid collision. This action does not relieve the give-way vessel of its obligation to keep out of the way. The "give-way" vessel is that vessel required to take early and substantial action to keep well away from other vessels by stopping, slowing or changing course.~~

4VAC15-390-120. ~~Regulations not to exonerate operator from neglect.~~ (Repealed.)

~~Nothing in this chapter shall exonerate the operator of any vessel from the consequences of any neglect to carry and display lights as required by law; or of any neglect to keep a proper lookout, or of neglect of any reasonable precaution which may be required by the ordinary practice of good seamanship or by the special circumstances of the case.~~

4VAC15-390-130. ~~Standard whistle and horn signals.~~ (Repealed.)

~~A. Whenever vessels are approaching in a meeting, crossing, or overtaking situation, and it appears desirable to the operator of one of the vessels to communicate his intentions to the operator of the other, the following standard whistle or horn signals will be used, and none other:~~

~~1. One short blast; meaning: "I am altering my course to the right"; except that in a crossing situation when this signal is initiated by the vessel to the right of the other it means, "I am holding my course and speed."~~

~~2. Two short blasts; meaning: "I am altering my course to the left."~~

~~3. Three short blasts; meaning: "I am stopping, or backing, by applying power astern."~~

~~4. Five or more short blasts in rapid succession; meaning: "DANGER"; or "I do not understand your intentions"; or "I do not concur in the maneuver indicated by your signal."~~

~~B. Whenever a motorboat less than 65.6 feet long receives one of the above signals from an approaching vessel, and if the operator understands the signal and concurs in the maneuver, he will answer with a similar signal. Whenever the intention of the approaching vessel is unclear, or if the proposed maneuver appears to involve risk of collision or other danger, the operator of the motorboat receiving the signal will answer with five or more short blasts in rapid succession, whereupon the operators of both vessels will slow, stop, or change course as necessary to avoid collision.~~

~~C. Signals in or near an area of restricted visibility or when the operator's vision is obscured by fog or other weather conditions shall be one prolonged blast of intervals of not more than two minutes for motorboats, and one prolonged plus two short blasts of intervals of not more than two minutes by sailboats under sail alone.~~

~~D. A vessel of 39.4 feet (12 meters) or more in length shall be provided with a whistle that meets U.S. Coast Guard requirements. A motorboat of less than 39.4 feet (12 meters) shall not be obligated to carry a whistle or bell as required above, but the operator shall have a whistle or other device intended to make audible signals capable of being heard 0.5 mile.~~

~~E. The operators of vessels not required to have sound-producing devices on board are not required to give or answer horn to whistle signals, but if they have sound producing devices on board and elect to give or answer signals, the standard signals prescribed above shall be used, and none other.~~

VA.R. Doc. No. R23-7537; Filed June 27, 2023, 9:51 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: **4VAC15-420. Watercraft: Navigation Lights and Shapes (amending 4VAC15-420-10; repealing 4VAC15-420-20 through 4VAC15-420-110).**

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

Effective Date: July 17, 2023.

Agency Contact: Cale Godfrey, Assistant Director, Wildlife Division, Department of Wildlife Resources, 7870 Villa Park Drive, Henrico, VA 23228, telephone (804) 308-4210, or email cale.godfrey@dwr.virginia.gov.

Summary:

The amendments replace regulatory text containing requirements for navigation lights for various vessels with a citation incorporating federal requirements for the same provisions at 33 CFR Parts 83, 84, and 86.

4VAC15-420-10. Application.

The navigation lights requirements in this chapter shall be complied with in all weather and from sunset to sunrise on the public waters of the Commonwealth. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this chapter or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed by this chapter shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary. The lights specified in this chapter shall comply with ~~U.S. Coast Guard specifications~~ the Navigation Rules found in 33 CFR Parts 83, 84, and 86 as established by the U.S. Coast Guard.

4VAC15-420-20. ~~Definitions.~~ (Repealed.)

~~For the purpose of this chapter, except where the context otherwise requires, the following words and terms mean:~~

~~"All round light" means a light showing an unbroken light over an arc of the horizon of 360°.~~

~~"Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.~~

~~"Inland waters" means the navigable waters of the Commonwealth shoreward of the navigational demarcation lines established by the U.S. Coast Guard dividing the high seas from harbors, rivers, and other inland waters of the United States.~~

~~"Length" and "breadth" of a vessel mean its length overall and greatest breadth.~~

~~"Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225° and so fixed as to show the light from right ahead to 22.5° abaft the beam on either side of the vessel, except that on a vessel of less than 39.4 feet (12 meters) in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.~~

~~"Power-driven vessel" means a motorboat or any vessel propelled by machinery.~~

~~"Restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.~~

~~"Sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.~~

~~"Seaplane" includes any aircraft designed to maneuver on the water.~~

~~"Secretary" means the secretary of the department in which the U. S. Coast Guard is operating.~~

~~"Sidelights" mean a green light on the starboard (right) side and a red light on the port (left) side, each showing an unbroken light over an arc of the horizon of 112.5° and so fixed as to show the light from right ahead to 22.5° abaft the beam on its respective side. On a vessel of less than 65.6 feet (20 meters) in length, the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.~~

~~"Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180° nor more than 225° and so fixed as to show the light from right ahead to~~

abeam and no more than 22.5° abaft the beam on either side of the vessel.

"Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135° and so fixed as to show the light 67.5° from right aft on each side of the vessel.

"Towing light" means a yellow light having the same characteristics as the "sternlight" defined above.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"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.

"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus that restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus that does not restrict maneuverability.

"Vessels in sight of one another" means one can be observed visually from the other.

"Vessel not under command" means a vessel that through some exceptional circumstance is unable to maneuver as required by these rules and is therefore unable to keep out of the way of another vessel.

"Vessel restricted in its ability to maneuver" means a vessel that from the nature of its work is restricted in its ability to maneuver as required in this chapter and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

1. A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline.

2. A vessel engaged in dredging, surveying, or underwater operations.

3. A vessel engaged in replenishment or transferring persons, provisions, or cargo while underway.

4. A vessel engaged in a towing operation such as severely restricts the towing vessel and its tow in their ability to deviate from their course.

4VAC15-420-30. ~~Visibility of lights.~~ (Repealed.)

The lights prescribed in this chapter shall have an intensity as specified by the U.S. Coast Guard, so as to be visible at the following minimum ranges:

1. In a vessel of 164 feet (50 meters) or more in length: a masthead light, 6 miles; a sidelight, 3 miles; a sternlight, 3 miles; a towing light, 3 miles; a white, red, green or yellow all round light, 3 miles; and a special flashing light, 2 miles.

2. In a vessel of 39.4 feet (12 meters) or more in length but less than 164 feet (50 meters) in length: a masthead light, 5 miles; except that where the length of the vessel is less than 65.6 feet (20 meters), 3 miles; a sidelight, 2 miles; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all round light, 2 miles; and a special flashing light, 2 miles.

3. In a vessel of less than 39.4 feet (12 meters) in length: a masthead light, 2 miles; a sidelight, 1 mile; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all round light, 2 miles; and a special flashing light, 2 miles.

4. In an inconspicuous, partly submerged vessel or object being towed: a white all round light, 3 miles.

4VAC15-420-40. ~~Power driven vessels underway.~~ (Repealed.)

A. A power driven vessel underway shall exhibit:

1. A masthead light forward;

2. A second masthead light abaft of and higher than the forward one; except that a vessel of less than 164 feet (50 meters) in length shall not be obliged to exhibit such light but may do so;

3. Sidelights; and

4. A sternlight.

B. An air cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in subsection A of this section, exhibit an all round flashing yellow light where it can best be seen.

C. A power driven vessel of less than 39.4 feet (12 meters) in length may, in lieu of the lights prescribed in subsection A of this section, exhibit an all round white light and sidelights.

4VAC15-420-50. ~~Towing and pushing.~~ (Repealed.)

A. A power driven vessel when towing astern shall exhibit:

1. Instead of the lights prescribed in 4VAC15-420-40 A 1 or 2, two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 656.2 feet (200 meters), three such lights in a vertical line;

2. Sidelights;

3. A sternlight;

4. A towing light in a vertical line above the sternlight; and

5. When the length of the tow exceeds 656.2 feet (200 meters), a diamond shape where it can best be seen.

B. When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit, they shall be regarded as a power driven vessel and exhibit the lights prescribed in 4VAC15-420-40.

C. A power-driven vessel when pushing ahead or towing alongside, except as required by subsections A and B of this section, shall exhibit:

1. Instead of the light prescribed in 4VAC15-420-40 A 1 or 2, two masthead lights in a vertical line;

2. Sidelights; and

3. Two towing lights in a vertical line.

D. A power-driven vessel to which subsection A or C of this section apply shall also comply with 4VAC15-420-40 A 1 and 2.

E. A vessel or object other than those referred to in subsection G of this section being towed shall exhibit:

1. Sidelights;

2. A sternlight; and

3. When the length of the tow exceeds 656.2 feet (200 meters), a diamond shape where it can best be seen.

F. Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in subdivision 3 of this subsection:

1. A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

2. A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

3. When vessels are towed alongside on both sides of the towing vessels, a sternlight shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

G. An inconspicuous, partly submerged vessel or object being towed shall exhibit:

1. If it is less than 82 feet (25 meters) in breadth, one all-round white light at or near each end;

2. If it is 82 feet (25 meters) or more in breadth, four all-round white lights to mark its length and breadth;

3. If it exceeds 328.1 feet (100 meters) in length, additional all-round white lights between the lights prescribed in subdivisions 1 and 2 of this subsection so that the distance between the lights shall not exceed 328.1 feet (100 meters), provided that any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

4. A diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

5. The towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

H. Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in subsection A or G of this section, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

I. Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by subsection A or C of this section, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. A searchlight may be used to illuminate the tow.

4VAC15-420-60. ~~Sailing vessels underway and vessels under oars.~~ (Repealed.)

A. A sailing vessel underway shall exhibit:

1. Sidelights; and

2. A sternlight.

B. In a sailing vessel of less than 65.6 feet (20 meters) in length, the lights prescribed in subsection A of this section may be combined in one lantern carried at or near the top of the mast where it can best be seen.

C. A sailing vessel underway may, in addition to the lights prescribed in subsection A of this section, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by subsection B of this section.

D. A sailing vessel of less than 23 feet (7 meters) in length shall, if practicable, exhibit the lights prescribed in subsection A or B of this section, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

E. A vessel under oars may exhibit the lights prescribed above for sailing vessels, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

F. A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 39.4 feet (12 meters) in length is not required to exhibit this shape, but may do so.

4VAC15-420-70. ~~Vessels fishing with apparatus that restricts maneuverability.~~ (Repealed.)

A. A vessel engaged in fishing with nets, trawls or other fishing apparatus that restricts maneuverability (as defined in 4VAC15-420-20), whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this section. A

vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

1. Two all round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;

2. A masthead light abaft of and higher than the all round green light; a vessel of less than 164 feet (50 meters) in length shall not be obliged to exhibit such a light but may do so; and

3. When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

B. A vessel engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability, other than trawling, shall exhibit:

1. Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;

2. When there is outlying gear extending more than 492.1 feet (150 meters) horizontally from the vessel, an all round white light or a cone apex upward in the direction of the gear; and

3. When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

C. Vessels engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability in close proximity to other vessels engaged in fishing may exhibit the additional signals established by the U.S. Coast Guard.

D. A vessel when not engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability shall not exhibit the lights or shapes prescribed in this rule but only those prescribed for a vessel of its length.

4VAC15-420-80. ~~Vessels not under command or restricted in their ability to maneuver.~~ (Repealed.)

A. A vessel not under command shall exhibit:

1. Two all-round red lights in a vertical line where they can best be seen;

2. Two balls or similar shapes in a vertical line where they can best be seen; and

3. When making way through the water, sidelights and a sternlight in addition to the lights prescribed in this section.

B. A vessel restricted in its ability to maneuver shall exhibit:

1. Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

2. Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

3. When making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subdivision 1 of this subsection; and

4. When at anchor, in addition to the lights or shapes prescribed in subdivisions 1 and 2 of this subsection, the light, lights or shapes prescribed in 4VAC15-420-100.

C. A vessel engaged in a towing operation that severely restricts the towing vessel and its tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subdivisions B 1 and B 2 of this section, exhibit the lights or shape prescribed in 4VAC15-420-50.

D. A vessel engaged in dredging or underwater operations, when restricted in its ability to maneuver, shall exhibit the lights and shapes prescribed in subdivisions B 1, B 2, and B 3 of this section and shall in addition, when an obstruction exists, exhibit:

1. Two all round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

2. Two all round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

3. When at anchor, the lights or shape prescribed by this section, instead of the lights or shapes prescribed in 4VAC15-420-100 for anchored vessels.

E. Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in subsection D of this section, the following shall instead be exhibited:

1. Three all round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.

2. A rigid replica of the international code flag "A" not less than 3.3 feet (1 meter) in height. Measures shall be taken to ensure its all round visibility.

F. A vessel of less than 39.4 feet (12 meters) in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this section.

4VAC15-420-90. ~~Pilot vessels.~~ (Repealed.)

A. A vessel engaged on pilotage duty shall exhibit:

1. At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

2. When underway, in addition, sidelights and a sternlight; and

~~3. When at anchor, in addition to the lights prescribed in subdivision 1 of this subsection, the anchor light, lights, or shape prescribed in 4VAC15-420-100 for anchored vessels.~~

~~B. A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of its length.~~

4VAC15-420-100. ~~Anchored vessels and vessels aground.~~ (Repealed.)

~~A. A vessel at anchor shall exhibit where it can best be seen:~~

~~1. In the fore part, an all round white light or one ball; and~~

~~2. At or near the stern and at a lower level than the light prescribed in subdivision 1 of this subsection, an all round white light.~~

~~B. A vessel of less than 164 feet (50 meters) in length may exhibit an all round white light where it can best be seen instead of the lights prescribed in subsection A of this section.~~

~~C. A vessel at anchor may, and a vessel of 238.1 feet (100 meters) or more in length shall, also use the available working or equivalent lights to illuminate its decks.~~

~~D. A vessel aground shall exhibit the lights prescribed in subsection A or B of this section and in addition, if practicable, where they can best be seen:~~

~~1. Two all round red lights in a vertical line; and~~

~~2. Three balls in a vertical line.~~

~~E. A vessel of less than 23 feet (7 meters) in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in subsections A and B of this section.~~

~~F. A vessel of less than 39.4 feet (12 meters) in length when aground shall not be required to exhibit the lights or shapes prescribed in subdivisions D 1 and D 2 of this section.~~

~~G. A vessel of less than 65.6 feet (20 meters) in length, when at anchor in a special anchorage area designated by the secretary, shall not be required to exhibit the anchor lights and shapes required by this section.~~

4VAC15-420-110. ~~Seaplanes.~~ (Repealed.)

~~Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the rules of this part, it shall exhibit lights and shapes as closely similar in characteristics and position as is possible.~~

VA.R. Doc. No. R23-7538; Filed June 27, 2023, 9:52 a.m.

MARINE RESOURCES COMMISSION

Final Regulation

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

Title of Regulation: **4VAC20-252. Pertaining to the Taking of Striped Bass (amending 4VAC20-252-90, 4VAC20-252-100, 4VAC20-252-110).**

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

Effective Date: July 1, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments lower the maximum recreational size limit for striped bass for the Virginia Coastal season, Chesapeake Bay fall season, and the Potamac River tributaries summer/fall season to 31 inches.

Chapter 252

Pertaining to ~~the Taking of~~ Atlantic Striped Bass

4VAC20-252-90. Chesapeake Bay and its tributaries fall striped bass recreational fishery.

A. The open season for the Chesapeake Bay and its tributaries fall striped bass recreational fishery shall be October 4 through December 31, inclusive.

B. The minimum size limit shall be 20 inches total length.

C. The maximum size limit shall be ~~36~~ 31 inches total length.

D. The daily possession limit shall be one fish per person.

4VAC20-252-100. Potomac River tributaries summer/fall striped bass recreational fishery.

A. The open season for the Potomac River tributaries summer/fall striped bass recreational fishery shall correspond to the open summer/fall season as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

B. The minimum size limit shall be 20 inches total length.

C. From May 16 through June 15 the maximum size limit shall be 28 inches total length.

D. From June 16 through December 31 the maximum size limit shall be ~~36~~ 31 inches total length.

E. The daily possession limit shall be one fish per person.

4VAC20-252-110. Coastal area striped bass recreational fishery.

A. The open seasons for the coastal area striped bass recreational fishery shall be January 1 through March 31 and May 16 through December 31, inclusive.

B. The minimum size limit shall be 28 inches total length.

C. The maximum size limit shall be ~~36~~ 31 inches total length.

D. The daily possession limit shall be one fish per person.

VA.R. Doc. No. R23-7582; Filed June 28, 2023, 7:52 a.m.

Final Regulation

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

Title of Regulation: **4VAC20-270. Pertaining to Blue Crab Fishery (amending 4VAC20-270-40, 4VAC20-270-51).**

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

Effective Date: July 5, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments establish season opening and closing dates and bushel limits for the 2023-2024 commercial crab fisheries season.

4VAC20-270-40. Season limits.

A. In ~~2022~~ 2023, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through November 30. In ~~2023~~ 2024, the lawful season for the commercial harvest of crabs by hard crab pot shall be March 17 through November 30. For all other lawful commercial gear used to harvest crabs, as described in 4VAC20-1040, the lawful seasons for the harvest of crabs shall be April 15 through October 15.

B. It shall be unlawful for any person to harvest crabs or to possess crabs on board a vessel, except during the lawful season as described in subsection A of this section.

C. It shall be unlawful for any person knowingly to place, set, fish, or leave any hard crab pot in any tidal waters of Virginia from December 1, ~~2022~~ 2023, through March 16, ~~2023~~ 2024. It shall be unlawful for any person to knowingly place, set, fish, or leave any lawful commercial gear used to harvest crabs, except any hard crab pot or any gear as described in 4VAC20-460-25, in any tidal waters of Virginia from October 16, ~~2022~~ 2023, through April 14, ~~2023~~ 2024.

D. It shall be unlawful for any person knowingly to place, set, fish, or leave any fish pot in any tidal waters from March 12 through March 16, except as provided in subdivisions 1 and 2 of this subsection.

1. It shall be lawful for any person to place, set, or fish any fish pot in those Virginia waters located upriver of the following boundary lines:

a. In the James River the boundary shall be a line connecting Hog Point and the downstream point at the mouth of College Creek.

b. In the York River the boundary lines shall be the Route 33 bridges at West Point.

c. In the Rappahannock River the boundary line shall be the Route 360 bridge at Tappahannock.

d. In the Potomac River the boundary line shall be the Route 301 bridge that extends from Newberg, Maryland to Dahlgren, Virginia.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500-50.

E. It shall be unlawful for any person to place, set, or fish any number of fish pots in excess of 10% of the amount allowed by the gear license limit, up to a maximum of 30 fish pots per vessel, when any person on that vessel has set any crab pots.

1. This subsection shall not apply to fish pots set in the areas described in subdivision D 1 of this section.

2. This subsection shall not apply to legally licensed eel pots as described in 4VAC20-500.

3. This subsection shall not apply to fish pots constructed of a mesh less than one-inch square or hexagonal mesh.

4VAC20-270-51. Daily commercial harvester, vessel, and harvest and possession limits.

A. Any barrel used by a harvester to contain or possess any amount of crabs will be equivalent in volume to no more than three bushels of crabs.

B. From July 5, ~~2022~~ 2023, through September 30, ~~2022~~ 2023, and May 16, ~~2023~~ 2024, through July 4, ~~2023~~ 2024, any commercial fisherman registration licensee legally licensed for any hard crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following hard crab pot license categories:

1. 10 bushels, or three barrels and one bushel, of crabs if licensed for up to 85 crab pots.

2. 14 bushels, or four barrels and two bushels, of crabs if licensed for up to 127 crab pots.

3. 18 bushels, or six barrels, of crabs if licensed for up to 170 crab pots.

4. 29 bushels, or nine barrels and two bushels, of crabs if licensed for up to 255 crab pots.

5. 47 bushels, or 15 barrels and two bushels, of crabs if licensed for up to 425 crab pots.

C. From October 1, ~~2022~~ 2023, through November 30, ~~2022~~ 2023, and March 17, ~~2023~~ 2024, through May 15, ~~2023~~ 2024, any commercial fisherman registration licensee legally licensed for any hard crab pot license, as described in 4VAC20-270-50 B, shall be limited to the following maximum daily harvest and possession limits for any of the following crab pot license categories:

1. Eight bushels, or two barrels and two bushels, of crabs if licensed for up to 85 crab pots.

2. ~~10~~ 11 bushels, or three barrels and ~~one bushel~~ two bushels, of crabs if licensed for up to 127 crab pots.

3. ~~13~~ 14 bushels, or four barrels and ~~one bushel~~ two bushels, of crabs if licensed for up to 170 crab pots.

4. ~~21~~ 22 bushels, or seven barrels and one bushel, of crabs if licensed for up to 255 crab pots.

5. ~~27~~ 36 bushels, or ~~nine~~ 12 barrels, of crabs if licensed for up to 425 crab pots.

D. When a single harvester or multiple harvesters are on board any vessel, that vessel's daily harvest and possession limit shall be equal to only one daily harvest and possession limit, as described in subsections B and C of this section, and that daily limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

E. When transporting or selling one or more legal crab pot licensee's crab harvest in bushels or barrels, any agent shall possess either the crab pot license of that one or more crab pot licensees or a bill of lading indicating each crab pot licensee's name, address, commercial fisherman registration license number, date, and amount of bushels or barrels of crabs to be sold.

F. If any police officer finds crabs in excess of any lawful daily bushel, barrel, or vessel limit, as described in this section, that excess quantity of crabs shall be returned immediately to the water by the licensee ~~or licensees~~ who possess that excess over lawful daily harvest or possession limit. The refusal to return crabs, in excess of any lawful daily harvest or possession limit, to the water shall constitute a separate violation of this chapter.

G. When any person on board any boat or vessel possesses a crab pot license, it shall be unlawful for that person or any other person aboard that boat or vessel to possess a seafood buyers boat license and buy any crabs on any day.

VA.R. Doc. No. R23-7583; Filed June 28, 2023, 8:00 a.m.

Final Regulation

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

Title of Regulation: **4VAC20-1140. Prohibition of Crab Dredging in Virginia Waters (amending 4VAC20-1140-20).**

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

Effective Date: July 5, 2023.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments close the December 1, 2023, through March 31, 2024, winter commercial crab dredge fishing season.

4VAC20-1140-20. Crab dredging prohibited.

In accordance with the provisions of § 28.2-707 of the Code of Virginia, the crab dredging season of December 1, ~~2022~~ 2023, through March 31, ~~2023~~ 2024, is closed, and it shall be unlawful to use a dredge for catching crabs from the waters of the Commonwealth during that season.

VA.R. Doc. No. R23-7584; Filed June 28, 2023, 8:01 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

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

Title of Regulation: **12VAC5-481. Virginia Radiation Protection Regulations (amending 12VAC5-481-451, 12VAC5-481-1700, 12VAC5-481-1750, 12VAC5-481-1770, 12VAC5-481-1780, 12VAC5-481-2018, 12VAC5-481-2040, 12VAC5-481-3120, 12VAC5-481-3770).**

Statutory Authority: § 32.1-229 of the Code of Virginia.

Effective Date: August 16, 2023.

Agency Contact: Cameron Rose, Policy Analyst, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7090, FAX (804) 864-8155, or email cameron.rose@vdh.virginia.gov.

Background: The U.S. Nuclear Regulatory Commission (NRC) revised Title 10 of the Code of Federal Regulations (10 CFR) in 2020 and again in 2021. As an agreement state under the NRC, Virginia is required to maintain radioactive materials regulations that are compatible with 10 CFR. This action restores compatibility of the Virginia Radiological Protection Regulations (12VAC5-481).

Summary:

The amendments make small corrections, such as the street address of the NRC, the names of accreditation organizations, a radical in a large table, and replacing a written out term with the acronym for that term. More substantive changes include (i) adding text reading, "A licensee shall establish the authority, duties, and responsibilities of the RSO in writing"; (ii) adding a subsection reading "A licensee shall provide the RSO sufficient authority, organizational freedom, time, resources, and management prerogative to: 1. Identify radiation safety problems; 2. Initiate, recommend, or provide corrective actions; 3. Stop unsafe operations; and 4. Verify implementation of corrective actions"; and (iii) adding a requirement that a licensee shall retain a record of actions in accordance with 12VAC5-481-2070.

12VAC5-481-451. Physical protection of Category 1 and Category 2 quantities of radioactive material.

A. Any licensee who possesses or uses an aggregated quantity of Category 1 or Category 2 radioactive material equal to or in excess of those in subdivision 1 of this subsection shall establish a physical protection program that meets all requirements detailed in this section.

1. Radionuclides of concern.

Radionuclide	Category 1 (TBq)[1,2]	Category 1 (Ci)[1,2]	Category 2 (TBq)[1,2]	Category 2 (Ci)[1,2]
Am-241	60	1,620	0.6	16.2
Am-241/Be	60	1,620	0.6	16.2
Cf-252	20	540	0.2	5.4
Cm-244	50	1,350	0.5	13.5
Co-60	30	810	0.3	8.1
Cs-137	100	2,700	1	27
Gd-153	1,000	27,000	10	270
Ir-192	80	2,160	0.8	21.6
Pm-147	40,000	1,080,000	400	10,800
Pu-238	60	1,620	0.6	16.2
Pu-239/Be	60	1,620	0.6	16.2
Ra-226	40	1,080	0.4	10.8
Se-75	200	5,400	2	54
Sr-90 (Y-90)	1,000	27,000	10	270
Tm-170	20,000	540,000	200	5,400
Yb-169	300	8,100	3	81
Combinations of radioactive materials listed ~~above~~ in this table[3]			See footnote 4 ~~below~~	

[1]The aggregate activity of multiple, collocated sources of the same radionuclides should be included when the total activity equals or exceeds the Category 1 or Category 2 threshold.

[2]The primary values used for compliance are TBq. The curie (Ci) values are rounded to two significant figures for informational purposes only.

[3]Radioactive materials are to be considered aggregated or collocated if breaching a common physical barrier (e.g., a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

[4]If several radionuclides are aggregated, the sum of the ratios of the activity of each source, i of radionuclide, n, A (i,n), to the Category 1 or Category 2 threshold for radionuclide n, Q_n, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) / (quantities of concern for radionuclide A)] + [(aggregated source activity for radionuclide B) / (quantities of concern for radionuclide B)] + etc…. ≥ 1.

2. A licensee that possesses radioactive waste that contains Category 1 or Category 2 quantities of radioactive material is exempt from the requirements of this section.

3. A licensee that possesses radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this section. The licensee shall implement the following requirements to secure the radioactive waste:

a. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;

b. Use a locked door or gate with monitored alarm at the access control point;

c. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and

d. Immediately notify the local law-enforcement agency (LLEA) and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste.

B. Background investigations and access authorization program.

1. Personnel access authorization requirements for Category 1 or Category 2 quantities of radioactive material.

a. Each licensee that possesses an aggregated quantity of radioactive material that equals or exceeds the Category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements in this subsection. An applicant for a new license and each licensee that would become newly subject to the requirements in this subsection upon an amendment request of its license shall implement the requirements of this subsection, as appropriate, before taking possession of an aggregated quantity of radioactive material that equals or exceeds the Category 2 threshold. Any licensee that has not previously implemented the increased control requirements of this section shall implement the provisions of this subsection before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

b. The licensee's access authorization program shall ensure that the individuals specified in subdivision 1 c of this subsection are trustworthy and reliable.

c. Licensees shall subject the following individuals to an access authorization program:

(1) Any individual whose assigned duties require unescorted access to Category 1 or Category 2 quantities of radioactive material; and

(2) Reviewing officials.

d. Licensees shall approve for unescorted access to Category 1 or Category 2 quantities of radioactive material only those individuals whose assigned job duties require unescorted access to Category 1 or Category 2 quantities of radioactive material.

e. Licensees need not subject the categories of individuals listed in subdivision 5 a of this subsection to the investigation elements of the access authorization program.

2. Access authorization program requirements.

a. Granting unescorted access authorization.

(1) Licensees shall implement the requirements of this subsection for granting initial or reinstated unescorted access authorization.

(2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by subdivision C 2 c of this section before being allowed unescorted access to Category 1 or Category 2 quantities of radioactive material.

b. Reviewing officials.

(1) Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to Category 1 or Category 2 quantities of radioactive materials possessed by the licensee.

(2) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation a certification that the reviewing official is deemed trustworthy and reliable by the licensee. Provide oath or affirmation certifications to the agency via an appropriate means listed in 12VAC5-481-150. The fingerprints of the named reviewing official shall be taken by a law-enforcement agency, a federal or state agency that provides fingerprinting services to the public, or a commercial fingerprinting service authorized by a state to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with subdivision 3 c of this subsection.

(3) Reviewing officials shall be permitted to have unescorted access to Category 1 or Category 2 quantities of radioactive material.

(4) Reviewing officials cannot approve other individuals to act as reviewing officials.

(5) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(a) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(b) The individual is subject to a category listed in subdivision 5 a of this subsection.

c. Informed consent.

(1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity

to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals who meet the requirements of subdivision 3 b of this subsection. A signed consent shall be obtained prior to any reinvestigation.

(2) The subject individual may withdraw his consent at any time. Licensees shall inform the individual that:

(a) If an individual withdraws his consent, the licensee may not initiate elements of the background investigation that were not in progress at the time the individual withdrew his consent; and

(b) The withdrawal of consent for the background investigation is sufficient cause of denial or termination of unescorted access authorization.

d. Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this subsection is sufficient cause for denial or termination of unescorted access.

e. Determination basis.

(1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all the information collected to meet the requirements of this subsection.

(2) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all the information collected to meet the requirements of this subsection and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

(3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

(4) The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access information.

(5) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

f. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include the provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

g. Right to correct and complete information.

(1) Prior to any final adverse determination, licensees shall provide each individual subject to this subsection with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of one year from the date of the notification.

(2) If, after reviewing his criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law-enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 28 CFR 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division will make any change necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

h. Records.

(1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires

unescorted access to Category 1 or Category 2 quantities of radioactive material.

(2) The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

(3) The licensee shall retain the list of individuals approved for unescorted access authorization for three years after the list is superseded or replaced.

3. Background investigations.

a. Before allowing an individual unescorted access to Category 1 or Category 2 quantities of radioactive material or to the devices containing the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the seven years preceding the date of the background investigation or since the individual's 18th birthday, whichever is shorter. The background investigation shall include at a minimum:

(1) Fingerprinting and an FBI identification and criminal history records check in accordance with subdivision 4 of this subsection;

(2) Verification of true identity of the individual who is applying for unescorted access authorization. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document or maintain a photocopy of identifying documents on file in accordance with subdivision 6 of this subsection. Licensees shall certify in writing that the identification was properly reviewed and shall maintain the certification and all related documents for review upon inspection;

(3) Verification of employment history, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application;

(4) Verification that the individual participated in the education process during the claimed period;

(5) Completion of reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including ~~but not limited to,~~ the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this subsection shall be limited to whether the individual has been and continues to be trustworthy and reliable;

(6) To the extent possible, obtain independent information to corroborate the information provided by the individual (e.g., seek references not supplied by the individual); and

(7) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide the information or indicates an inability or unwillingness to provide information within a timeframe deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation and attempt to obtain the information from an alternate source.

b. Individuals who have been determined to be trustworthy and reliable for unescorted access to Category 1 or Category 2 quantities of radioactive material in accordance with fingerprint orders as effective on October 3, 2008, can continue to have unescorted access to Category 1 and Category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement of subdivision 3 c of this subsection.

c. Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to Category 1 or Category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with subdivision 4 of this subsection. The reinvestigations shall be completed within 10 years of the date on which these elements were last completed.

4. Requirements for criminal history records checks of individuals granted unescorted access to Category 1 or Category 2 quantities of radioactive material.

a. General performance objective and requirements.

(1) Except for those individuals listed in subdivision 5 a of this subsection and those individuals grandfathered under subdivision 3 b of this subsection, each licensee subject to the provisions of this section shall fingerprint each individual who is to be permitted unescorted access to Category 1 or Category 2 quantities of radioactive material. The licensee shall submit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to Category 1 or Category 2 quantities of radioactive materials for that individual.

(2) The licensee shall notify each affected individual that his fingerprints will be used to secure a review of his criminal history record and shall inform him of the

procedures for revising the record or adding explanations to the record.

(3) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to Category 1 or Category 2 quantities of radioactive material if:

(a) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his unescorted access authorization; and

(b) The previous access was terminated under favorable conditions.

(4) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to Category 1 or Category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee based upon a background investigation conducted under this subsection, regulations or Fingerprint Orders from another ~~Agreement~~ agreement state, or 10 CFR Part 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of subdivision 6 c of this subsection.

(5) Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to Category 1 or Category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

b. Prohibitions.

(1) Licensees may not base a final determination to deny an individual unescorted access authorization to Category 1 or Category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

(a) An arrest more than one year old for which there is no information of the disposition of the case; or

(b) An arrest that resulted in dismissal of the charge or an acquittal.

(2) Licensees may not use information received from a criminal history records check obtained under this subsection in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

c. Procedures for processing of fingerprint checks.

(1) For the purpose of complying with this subsection, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop ~~T-8B20~~ T-07D04M, Rockville, MD, 20852, one completed, legible standard fingerprint card (form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan, or, where practicable, other fingerprint record for each individual requiring unescorted access to Category 1 or Category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at https://www.nrc.gov/security/chp.html.

(2) Fees for processing of fingerprint cards are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to the "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by emailing crimhist.resource@nrc.gov.) Combined payment for multiple applications is acceptable. The NRC publishes the amount of the fingerprint check application fee on the NRC public website. To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at https://www.nrc.gov/security/chp.html and see the link for How do I determine how much to pay for the request?.

(3) The NRC will forward to the submitting licensee all data received from the FBI as a result of the licensee's application for a criminal history records check.

5. Relief.

a. Fingerprinting, identification and criminal history records checks, and other elements of the background investigation required by this subsection are not required for the following individuals prior to granting unescorted access to Category 1 or Category 2 quantities of radioactive material:

(1) An employee of the NRC or of the executive branch of the U.S. government who has undergone fingerprinting for a prior U.S. government criminal history records check;

(2) A member of Congress;

(3) An employee of a member of Congress or congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;

(4) The governor of a state or his designated state employee representative;

(5) Federal, state, or local law-enforcement personnel;

(6) State radiation control program directors and state homeland security advisors or their designated employee representatives;

(7) State radiation program employees conducting security inspections on behalf of the NRC under an agreement executed under § 274i of the Atomic Energy Act (42 USC § 2021i);

(8) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;

(9) Emergency response personnel who are responding to an emergency;

(10) Commercial vehicle drivers for road shipments of Category 1 and Category 2 quantities of radioactive material;

(11) Package handlers at transportation facilities such as freight terminals and railroad yards;

(12) Any individual who has an active federal security clearance and provides the appropriate documentation. Written confirmation from the agency or employer that granted the federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material; and

(13) Any individual employed by a service provider licensee for whom the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to Category 1 or Category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

b. Fingerprinting and identification and criminal history records checks required by this subsection are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last five years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check, and the individual provides the appropriate documentation. Written confirmation from the agency or employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material. These programs include~~, but are not limited to~~:

(1) National Agency Check;

(2) Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;

(3) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;

(4) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;

(5) Hazardous material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and

(6) Customs and Border Protection's Free and Secure Trade (FAST) Program.

6. Protection of information.

a. Each licensee that obtains background information on an individual under this subsection shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

b. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to Category 1 or Category 2 quantities of radioactive material. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

c. The personal information obtained on an individual from a background investigation may be provided to another licensee:

(1) Upon the individual's written request to the licensee holding the data to disseminate the information contained in that individual's file; and

(2) The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

d. The licensee shall make background investigation records obtained under this subsection available for examination by an authorized representative of the agency to determine compliance with the regulations and laws.

e. The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for three years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

7. Access authorization program review.

a. Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this subsection and that comprehensive actions are

taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. The review shall be performed at least annually.

b. The results of the reviews, along with all recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program; the cause of the conditions and, when appropriate, recommend corrective actions; and corrective actions taken. The licensee shall review the findings and take additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

c. Review records shall be maintained for three years.

C. Physical protection requirements during use.

1. Security program.

a. Each licensee that possesses an aggregated Category 1 or Category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this subsection. An applicant for a new license and each licensee that would become newly subject to the requirements of this subsection upon an amendment request for modification of its license shall implement the requirements of this subsection, as appropriate, before taking possession of an aggregated Category 1 or Category 2 quantity of radioactive material. Any licensee that has not previously implemented the requirements of this subsection shall provide written notification to the agency at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

b. Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to Category 1 or Category 2 quantities of radioactive material.

c. Each licensee's security program shall include the program features, as appropriate, described in subdivisions 2 through 8 of this subsection.

2. General security program requirements.

a. Security plan.

(1) Each licensee identified in subdivision 1 a of this subsection shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this subsection. The security plan shall, at a minimum, (i) describe the measures and strategies used to implement the requirements of this subsection and (ii) identify the security resources, equipment, and technology used to satisfy the requirements of this subsection.

(2) The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.

(3) A licensee shall revise its security plan as necessary to ensure the effective implementation of agency requirements. The licensee shall ensure that (i) the revision has been reviewed and approved by the individual with overall responsibility for the security program and (ii) the affected individuals are instructed on the revised plan before the changes are implemented.

(4) The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

b. Implementing procedures.

(1) The licensee shall develop and maintain written procedures that document how the requirements of this subsection and the security plan will be met.

(2) The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.

(3) The licensee shall retain a copy of the current procedure as a record for three years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for three years after the record is superseded.

c. Training.

(1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include at a minimum, instruction on:

(a) The licensee's security program and procedures to secure Category 1 or Category 2 quantities of radioactive material, and the purpose and function of the security measures employed;

(b) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of agency requirements;

(c) The responsibility of the licensee to report promptly to the local law-enforcement agency and the agency any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material; and

(d) The appropriate response to security alarms.

(2) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and

response to potential situations involving actual or attempted theft, diversion, or sabotage of Category 1 or Category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of Category 1 or Category 2 quantities of radioactive material.

(3) Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include (i) review of the training requirements of this subsection and changes made to the security program since the last training; (ii) reports on all relevant security issues, problems, and lessons learned; (iii) relevant results of agency inspections; and (iv) relevant results of the licensee's program review and testing and maintenance.

(4) The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

d. Protection of information.

(1) Licensees authorized to possess Category 1 or Category 2 quantities of radioactive material shall limit access to and prevent the unauthorized disclosure of their security plan, implementing procedures, and the list of individuals who have been approved for unescorted access.

(2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to and for proper handling and protection against unauthorized disclosure of the security plan, implementing procedures, and the list of individuals who have been approved for unescorted access.

(3) Before granting an individual access to the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access, licensees shall:

(a) Evaluate an individual's need to know the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access; and

(b) If the individual has not been authorized for unescorted access to Category 1 or Category 2 quantities of radioactive material, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in subdivisions B 3 a (2) through (7) of this section.

(4) Licensees need not subject any individual to background investigation elements for protection of information if that individual is included in the categories of individuals listed in subdivisions B 5 a (1) through (12) of this section or is a security service provider employee, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in subdivisions B 3 a (2) though (7) of this subsection, has been provided by the security service provider.

(5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access.

(6) Licensees shall maintain a list of persons currently approved for access to the security plan implementing procedures, or the list of individuals who have been approved for unescorted access. When a licensee determines that a person no longer needs access to the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days after the determination, and take prompt measures to ensure that the individual is unable to obtain the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access.

(7) When not in use, the licensee shall store its security plan, implementing procedures, and the list of individuals who have been approved for unescorted access in a manner to prevent unauthorized access. Information stored in nonremovable electronic form shall be password protected.

(8) The licensee shall retain as a record a copy of the information protection procedures and the list of individuals approved for access to the security plan, implementing procedures, or the list of individuals who have been approved for unescorted access for three years after the document has been superseded.

3. Local law-enforcement agency (LLEA) coordination.

a. A licensee subject to this subsection shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:

(1) A description of the facilities and the Category 1 and Category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this subsection; and

(2) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of material.

b. The licensee shall notify the agency within three business days if:

(1) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or

(2) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

c. The license shall document its efforts to coordinate with the LLEA. The documentation shall be kept for three years.

d. The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

4. Security zones.

a. Licensees shall ensure that all aggregated Category 1 or Category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary.

b. Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

c. Security zones shall, at a minimum, allow unescorted access only to approved individuals by:

(1) Isolation of Category 1 and Category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the Category 1 or Category 2 quantities of radioactive material within a security zone;

(2) Direct control of the security zone by approved individuals at all times; or

(3) A combination of continuous physical barriers and direct control.

d. For Category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

e. Individuals not approved for unescorted access to Category 1 or Category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

5. Monitoring, detection, and assessment.

a. Monitoring and detection.

(1) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

(2) Monitoring and detection shall be performed by:

(a) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility;

(b) Electronic devices for intrusion detection alarms that will alert nearby facility personnel;

(c) A monitored video surveillance system;

(d) Direct visual surveillance by approved individuals located within the security zone; or

(e) Direct visual surveillance by a licensee designed individual located outside the security zone.

(3) A licensee subject to this subsection shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:

(a) For Category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by electronic sensors linked to an alarm, continuous monitored video surveillance, or direct visual surveillance; and

(b) For Category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

b. Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

c. For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessments system, licensees shall:

(1) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

(2) Provide an alternate communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmissions systems may not be subject to the same failure modes as the primary systems.

d. Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or

actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

6. Maintenance and testing.

a. Each licensee subject to this subsection shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this subsection shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no frequency suggested by the manufacturer or the frequency specified is greater than three months, the testing shall be performed at least quarterly, not to exceed three months.

b. The licensee shall maintain records on the maintenance and testing activities for three years.

7. Requirements for mobile devices. Each licensee that possesses mobile devices containing Category 1 or Category 2 quantities of radioactive material shall:

a. Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

b. For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

8. Security program review.

a. Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this subsection and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. The review shall be conducted at least annually, not to exceed 12 months.

b. The results of the review, along with all recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition, corrective actions taken, and, when appropriate, recommend corrective actions. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

c. The licensee shall maintain the review documentation for three years.

9. Reporting of events.

a. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the agency by telephone at 804-864-8150 during normal business hours and 804-674-2400 after hours. In no case shall the notification to the agency be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

b. The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the agency by telephone 804-864-8150 during normal business hours and 804-674-2400 after hours.

c. The initial telephonic notification shall be followed within a period of 30 days by a written report submitted to the agency. The report shall include sufficient information for agency analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

D. Physical protection in transit.

1. Additional requirements for transfer of Category 1 and Category 2 quantities of radioactive material. A licensee transferring a Category 1 or Category 2 quantity of radioactive material to a licensee of the agency, the NRC, or another ~~Agreement~~ agreement state shall meet the license verification provisions listed in this subdivision instead of those listed in 12VAC5-481-570.

a. Any licensee transferring Category 1 quantities of radioactive material to a licensee of the agency, the NRC, or another ~~Agreement~~ agreement state, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license-issuing

authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

b. Any licensee transferring Category 2 quantities of radioactive material to a licensee of the agency, the NRC, or another ~~Agreement~~ agreement state, prior to conducting such transfer, shall verify with the NRC's license verification system or the license-issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license-issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

c. In an emergency where the licensee cannot reach the license-issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a Category 1 shipment, the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license-issuing authority by the end of the next business day.

d. The transferor shall keep a copy of the verification documentation as a record for three years.

2. Applicability of physical protection of Category 1 and Category 2 quantities of radioactive material during transit.

a. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in subdivisions 3 a, 3 e, 4, 5 a (1), 5 b (1), 5 c, 6 a, 6 c, 6 e, 6 g, and 6 h of this subsection.

b. For shipments of Category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in subdivisions 3 b through 3 e, 5 a (2), 5 a (3), 5 b (2), 5 c, 6 b, 6 d, 6 f, 6 g, and 6 h of this subsection.

c. The shipping licensee shall be responsible for meeting the requirements of this subsection unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this subsection.

3. Preplanning and coordination of shipment of Category 1 or Category 2 quantities of radioactive material.

a. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a Category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

(1) Preplan and coordinate shipment arrival and departure times with the receiving licensee;

(2) Preplan and coordinate shipment information with the governor or the governor's designee of any state through which the shipment will pass to discuss the state's intention to provide law-enforcement escorts and identify safe havens; and

(3) Document the preplanning and coordination activities.

b. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a Category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

c. Each licensee that receives a shipment of a Category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

d. Each licensee that transports or plans to transport a shipment of a Category 2 quantity of radioactive material and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to subdivision 3 b of this subsection, shall promptly notify the receiving licensee of the new no-later-than arrival time.

e. The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof as a record for three years.

4. As specified in subdivision 3 of this subsection, each licensee shall provide advance notification to the agency and the governor of a state, or the governor's designee, of the shipment of licensed material in a Category 1 quantity, through or across the boundary of the state, before the transport or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

a. Procedures for submitting advance notification:

(1) The notification shall be made to the agency and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governor's designees is available on the NRC website at https://scp.nrc.gov/special/designee.pdf. The notification to the agency shall be in accordance with 12VAC5-481-150.

(2) A notification delivered by mail shall be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(3) A notification delivered by any means other than mail shall reach the agency at least four days before the transport of the shipment commences and shall reach the

office of the governor or the governor's designee at least four days before transport of a shipment within or through the state.

b. Each advance notification of shipment of Category 1 quantities of radioactive material shall contain the following information, if available at the time of the notification:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the Category 1 radioactive material;

(2) The license numbers of the shipper and receiver;

(3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(4) The point of origin of the shipment and the estimated time and date that shipment will commence;

(5) The estimated time and date that the shipment is expected to enter each state along the route;

(6) The estimated time and date of arrival for the shipment at the destination; and

(7) A point of contact, with a telephone number, for current shipment information.

c. Revision notice.

(1) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the agency and the governor of the state or the governor's designee.

(2) A licensee shall promptly notify the agency and governor of the state or the governor's designee of any changes to the information provided in accordance with this subdivision 4.

d. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the agency and the governor of each state or to the governor's designee previously notified. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled.

e. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for three years.

f. State officials, state employees, and other individuals, whether or not licensees of the agency, NRC, or another ~~Agreement~~ agreement state, who receive schedule information of the kind specified in subdivision 4 b of this subsection shall protect that information against unauthorized disclosure as specified in subdivision C 2 d of this section.

5. Requirements for physical protection of Category 1 and Category 2 quantities of radioactive material during shipment.

a. Shipments by road.

(1) Each licensee who transports or delivers to a carrier for transport in a single shipment a Category 1 quantity of radioactive material shall:

(a) Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, seven days a week and have the ability to communicate immediately, in an emergency, with the appropriate law-enforcement agencies;

(b) Ensure that redundant communications are established that allow the transport to contact the escort vehicle, when an escort vehicle is used, and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication;

(c) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include~~, but not be limited to,~~ the identification of and contact information for the appropriate LLEA along the shipment route;

(d) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the U.S. Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver; and

(e) Develop written normal and contingency procedures to address (i) notifications to the communication center and law-enforcement agencies; (ii) communication protocols that shall include a strategy for the use of authentication codes and duress codes and provisions for refueling and other stops, detours, and locations where communication is expected to be temporarily lost; (iii) loss of communication; and (iv) responses to an actual or attempted theft or diversion of a shipment.

(f) Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

(2) Each licensee that transports Category 2 quantities of radioactive material shall maintain constant control and surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

(3) Each licensee who delivers to a carrier for transport in a single shipment a Category 2 quantity of radioactive material shall:

(a) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

(b) Use carriers that maintain constant control and surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(c) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

b. Shipments by rail.

(1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment a Category 1 quantity of radioactive material shall:

(a) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include~~, but not be limited to,~~ the identification of and contact information for the appropriate LLEA along the shipment route; and

(b) Ensure that periodic reports to the communications center are made at preset intervals.

(2) Each licensee who transports, or delivers to a carrier for transport, in a single shipment a Category 2 quantity of radioactive material shall:

(a) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

(b) Use carriers that maintain constant control and surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(c) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

c. Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall immediately conduct an investigation upon discovery that a Category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of Category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

6. Reporting of events.

a. The shipping licensee shall notify the appropriate LLEA and the agency within one hour of its determination that a shipment of Category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law-enforcement agency in the area of the shipment's last confirmed location. During the investigation required by this subsection, the shipping licensee will provide agreed upon updates to the agency on the status of the investigation.

b. The shipping licensee shall notify the agency within four hours of its determination that a shipment of Category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secure, the licensee shall immediately notify the agency.

c. The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft of diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a Category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the agency upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of Category 1 radioactive material.

d. The shipping licensee shall notify the agency as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a Category 2 quantity of radioactive material.

e. The shipping licensee shall notify the agency and the LLEA as soon as possible upon recovery of any lost or missing Category 1 quantities of radioactive material.

f. The shipping licensee shall notify the agency as soon as possible upon recovery of any lost or missing Category 2 quantities of radioactive material.

g. The initial telephonic notification required by subdivisions 6 a through 6 d of this subsection shall be followed within a period of 30 days by a written report submitted to the agency. A written report is not required for notifications on suspicious activities required by subdivisions 6 c and 6 d of this subsection. The report shall include the following information:

(1) A description of the licensed material involved, including kind, quantity, and chemical and physical form;

(2) A description of the circumstances under which the loss or theft occurred;

(3) A statement of disposition, or probable disposition, of the licensed material involved;

(4) Actions that have been taken, or will be taken, to recover the material; and

(5) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

h. Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

E. Records.

1. Each record required by this section shall be legible throughout the retention period specified. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications shall include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

2. Licensees shall maintain the records that are required by this section for the period specified. If a retention period is not otherwise specified, these records shall be retained until the agency terminates the facility's license. All records related to this section may be destroyed upon agency termination of the facility license.

12VAC5-481-1700. Authority and responsibilities for the radiation protection programs and changes.

A. In addition to the radiation protection program requirements of 12VAC5-481-630, ~~the~~ a licensee's management ~~or designee~~ shall approve, in writing:

1. Requests for a license application, renewal, or amendment before submittal to the agency;

2. Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, or an authorized medical physicist; and

3. Radiation protection program changes that do not require a license amendment and are permitted under subsection ~~F~~ I of this section.

B. The licensee's management shall appoint a radiation safety officer (RSO) who agrees, in writing, to be responsible for implementing the radiation protection program.

The licensee, through the RSO, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more associate ~~radiation safety officers~~ RSOs to support the RSO. The RSO, with written agreement of the licensee's management, must assign the specific duties and tasks to each associate RSO. These duties and tasks are restricted to the types of use for which the associate ~~radiation safety officer~~ RSO is listed on a license. The RSO may delegate duties and tasks to the associate ~~radiation safety officer~~ RSO but shall not delegate the authority or responsibilities for implementing the radiation protection program.

C. For up to 60 days each year, licensees may permit ~~an authorized user or~~ an individual qualified to be ~~a~~ an RSO, under 12VAC5-481-1750 and 12VAC5-481-1790, to function as a temporary ~~radiation safety officer~~ RSO and to perform the functions of an RSO, as provided in subsection G if the licensee takes the actions required in subsections B, E, G, and H of this section and notifies the agency in accordance with 12VAC5-481-1690 B.

D. ~~Licensees~~ A licensee may simultaneously appoint more than one temporary RSO in accordance with subsection C of this section, if needed to ensure that the licensee has a temporary RSO that satisfies the requirements to be ~~a~~ an RSO for each of the different types of uses of radioactive material permitted by the ~~licensee~~ license.

E. ~~Licensees that are~~ A licensee shall establish the authority, duties, and responsibilities of the RSO in writing.

F. A licensee that is authorized for two or more different types of uses of radioactive material under Articles 6, 7, and 9 of this part, or two or more types of units under 12VAC5-481-2040 B, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. The RSC ~~shall~~ must include an authorized user ~~for~~ of each type of use permitted by the license, the RSO, a representative of the nursing service, and a representative of management who is neither an authorized user nor ~~a~~ an RSO. The RSC may include other members the licensee considers appropriate.

~~F.~~ G. A licensee shall provide the RSO sufficient authority, organizational freedom, time, resources, and management prerogative to:

1. Identify radiation safety problems;

2. Initiate, recommend, or provide corrective actions;

3. Stop unsafe operations; and

4. Verify implementation of corrective actions.

H. A licensee shall retain a record of actions taken under subsections A, B, and E of this section in accordance with 12VAC5-481-2070.

I. A licensee may revise its radiation protection program without agency approval if:

1. The revision does not require a license amendment under 12VAC5-481-450 or 12VAC5-481-1680;

2. The revision is in compliance with this chapter and the license;

3. The revision has been reviewed and approved by the RSO and licensee management; and

4. The affected individuals are instructed on the revised program before the changes are implemented.

12VAC5-481-1750. Training for radiation safety officer and associate radiation safety officer.

Except as provided in 12VAC5-481-1780, licensees shall require an individual fulfilling the responsibilities of the radiation safety officer (RSO) or an individual assigned duties and tasks as an associate radiation safety officer as provided in 12VAC5-481-1700 to be an individual who:

1. Is certified by a specialty board who has been recognized by the agency, the NRC, or an agreement state and who meets the requirements of subdivision 5 of this section. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit Web page. To have its certification process recognized, a specialty board shall require all candidates for certification to (i) hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science; (ii) have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and (iii) pass an examination administered by diplomates of the specialty board that evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

2. Holds a master's or ~~doctor's~~ doctorate degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; has two years of full-time practical training or supervised experience in medical physics (i) under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the agency, NRC, or an agreement state or (ii) in clinical nuclear medicine facilities providing diagnostic or therapeutic services under the direction of physicians who meet the requirements for authorized users in 12VAC5-481-1780, 12VAC5-481-1940, or 12VAC5-481-1980; and has passed an examination administered by diplomates of the specialty board that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

3. Has completed a structured educational program consisting of provisions, as follows:

a. 200 hours of classroom and laboratory training in the following areas:

(1) Radiation physics and instrumentation;

(2) Radiation protection;

(3) Mathematics pertaining to the use and measurement of radioactivity;

(4) Radiation biology; and

(5) Radiation dosimetry; ~~and~~

b. One year of full-time radiation safety experience under the supervision of the individual identified as the RSO on an agency, NRC, or another agreement state license or permit issued by an NRC master material licensee that authorizes similar types of uses of radioactive material. An associate radiation safety officer may provide supervision for those areas for which the associate radiation safety officer is authorized on an agency, NRC, or another agreement state license or permit issued by an NRC master material licensee. The full-time radiation safety experience must involve the following:

(1) Shipping, receiving, and performing related radiation surveys;

(2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(3) Securing and controlling radioactive material;

(4) Using administrative controls to avoid mistakes in the administration of radioactive material;

(5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(6) Using emergency procedures to control radioactive material; and

(7) Disposing of radioactive material; and

c. This individual must obtain a written attestation signed by a preceptor radiation safety officer or associate radiation safety officer who has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual is seeking approval as a radiation safety officer or an associate radiation safety officer. The written attestation must state that the individual has satisfactorily completed the requirements in subdivisions 3 a, 3 b, and 5 of this section and is able to independently fulfill the radiation safety-related duties as a radiation safety officer or has an associate radiation safety officer for a medical use licensee; or

4. Meets the following qualifications:

a. Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the agency, NRC, or an agreement state under subdivision 1 of 12VAC5-481-1760 and has experience in radiation safety for similar types of use of radioactive material for which the licensee is seeking the approval of the individual as RSO or an associate radiation safety officer and who meets the requirements in subdivision 5 of this section; or

b. Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist (i) identified on an agency, NRC, or another agreement state license; a permit issued by a NRC master material licensee; a permit issued by an agency, NRC, or another agreement state board scope licensee; or a permit issued by a NRC master material license board scope permittee; (ii) has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has RSO or associate radiation safety officer responsibilities; and (iii) meets subdivision 5 of this section; or

c. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as a radiation safety officer and the authorized user on the same new medical use license or new medical use permit issued by a NRC master material ~~license~~ licensee. The individual must also meet the requirements in subdivision 5 of this section.

5. Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by ~~a~~ an RSO, an associate radiation safety officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the types of use for which the licensee is seeking approval.

12VAC5-481-1770. Training for an authorized nuclear pharmacist.

Except as provided in 12VAC5-481-1780, licensees shall require the authorized nuclear pharmacist (ANP) to be a pharmacist who:

1. Is certified by a specialty board whose certification process has been recognized by the NRC, the agency, or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. Have graduated from a pharmacy program accredited by the ~~American Council on Pharmaceutical Education~~ Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

b. Hold a current, active license to practice pharmacy;

c. Provide evidence of having acquired at least 4000 hours of training or experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research, and development; or

2. Meets the following requirements:

a. Has completed 700 hours in a structured educational program consisting:

(1) 200 hours of classroom and laboratory training in the following areas:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Chemistry of byproduct material for medical use; and

(e) Radiation biology; and

(2) Supervised practical experience in a nuclear pharmacy involving:

(a) Shipping, receiving, and performing related radiation surveys;

(b) Using and performing checks for proper operation of instruments used to determine the activity of dosages,

survey meters, and, if appropriate, instruments used to measure alpha-emitting or beta-emitting radionuclides;

(c) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(d) Using administrative controls to avoid medical events in the administration of radioactive material; and

(e) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

3. Has obtained written attestation, signed by a preceptor ANP, that the individual has satisfactorily completed the requirements in subdivision 2 of this section and is able to independently fulfill the radiation safety-related duties as an authorized nuclear pharmacist.

12VAC5-481-1780. Training for experienced radiation safety officer, teletherapy or medical physicist, authorized medical physicist, nuclear pharmacist, authorized nuclear pharmacist, and authorized user.

A. The following applies to individuals with experience as a radiation safety officer (RSO), teletherapy or medical physicist, authorized medical physicist (AMP), nuclear pharmacist, or authorized nuclear pharmacist (ANP):

1. An individual identified on an agency, NRC, or agreement state license or a permit issued by the agency, the NRC, or another agreement state broad scope licensee or master material license permit or by a master material license permittee of broad scope as ~~a~~ an RSO, a teletherapy or medical physicist, AMP, a nuclear pharmacist, or an ANP on or before January 14, 2019, need not comply with the training requirements of 12VAC5-481-1750, 12VAC5-481-1760, or 12VAC5-481-1770, respectively, except the RSO and AMP identified in this subdivision must meet the training requirements in subdivision 5 of 12VAC5-481-1750 or subdivision 3 of 12VAC5-481-1760, as appropriate, for any material or uses for which they were not authorized prior to this date.

2. An individual certified by the American Board of Health Physics in Comprehensive Health Physics, American Board of Radiology, American Board of Nuclear Medicine, American Board of Science in Nuclear Medicine, Board of Pharmaceutical Specialties in Nuclear Pharmacy, American Board of Medical Physics in Radiation Oncology Physics, Royal College of Physicians and Surgeons of Canada in Nuclear Medicine, American Osteopathic Board of Radiology, or American Osteopathic Board of Nuclear Medicine on or before October 24, 2005, need not comply with the training requirements of 12VAC5-481-1750 to be identified as an RSO or as an associate RSO on an agency, NRC, or another agreement state license or NRC master material permit for those materials and uses that these individuals performed on or before October 24, 2005. Any individual certified by the American Board of Radiology in therapeutic radiological physics, Roentgen ray and gamma ray physics, x-ray and radium physics, or radiological physics, or certified by the American Board of Medical Physics in radiation oncology physics, on or before October 24, 2005, need not comply with the training requirements for an authorized medical physicist described in 12VAC5-481-1760 for those materials and uses that these individuals performed on or before October 24, 2005.

3. An RSO, AMP, or ANP, who used only accelerator-produced radioactive materials or discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of 12VAC5-481-1750, 12VAC5-481-1760, or 12VAC5-481-1770, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and time period identified in this subdivision, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for purposes of this part.

B. The following applies to experienced authorized users (AU):

1. Physicians, dentists, or podiatrists identified as AUs for the medical use of radioactive material on a license issued by the agency, the NRC, or another ~~Agreement~~ agreement state; a permit issued by an NRC master material licensee; a permit issued by an agency, NRC, or other ~~Agreement~~ agreement state broad scope licensee; or a permit issued by an NRC master material license broad scope permittee on or before January 14, 2019, who perform only those medical uses for which they were authorized on or before that date need not comply with the training requirements of Articles 5 (12VAC5-481-1900 et seq.) through 9 (12VAC5-481-2040 et seq.) of this part.

2. Physicians, dentists, or podiatrists identified as AUs for the medical use of radioactive material on a license issued by the agency, the NRC, or another ~~Agreement~~ agreement state; a permit issued by an NRC master material licensee; a permit issued by an agency, NRC, or other ~~Agreement~~ agreement state broad scope licensee; or a permit issued ~~by~~ in accordance with an NRC master material broad scope license ~~broad scope permittee~~ on or before October 24, 2005, need not comply with the training requirements of Articles 5 (12VAC5-481-1900 et seq.) through 9 (12VAC5-481-2040 et seq.) of this part for those materials and uses that these individuals performed on or before October 24, 2005, as follows:

a. For uses authorized under 12VAC5-481-1900 or 12VAC5-481-1920, or oral administration of sodium iodide I-131 requiring a written directive for imaging and localization purposes, a physician who was certified on or before October 24, 2005, in nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology by the American Board of Radiology; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or American Osteopathic Board of Nuclear Medicine in nuclear medicine;

b. For uses authorized under 12VAC5-481-1950, a physician who was certified on or before October 24, 2005, by the American Board of Nuclear Medicine; the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or the American Osteopathic Board of Radiology after 1984;

c. For uses authorized under 12VAC5-481-2010 or 12VAC5-481-2040, a physician who was certified on or before October 24, 2005, in radiology, therapeutic radiology or radiation oncology by the American Board of Radiology; radiation oncology by the American Osteopathic Board of Radiology; radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; and

d. For uses authorized under 12VAC5-481-2020, a physician who was certified on or before October 24, 2005, in radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or nuclear medicine by the Royal College of Physicians and Surgeons of Canada.

3. Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials or discrete sources of radium-226, or both, for medical uses performed at a government agency or federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of Articles 5 (12VAC5-481-1900 et seq.) through 9 (12VAC5-481-2040 et seq.) of this part when performing the same medical uses. A physician, dentist, or podiatrist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both for medical uses at the locations and time period identified in this subdivision, qualifies as an AU for those materials and uses performed before these dates for purposes of this chapter.

C. Individuals who need not comply with training requirements as described in this section may serve as preceptors for, and supervisors of, applicants seeking authorization on NRC licenses for the same uses for which these individuals are authorized.

12VAC5-481-2018. Training for use of manual brachytherapy sources.

Except as provided in 12VAC5-481-1780, licensees shall require an authorized user of a manual brachytherapy source for uses authorized under 12VAC5-481-2010 to be a physician:

1. Who is certified by a medical specialty board whose certification process has been recognized by the NRC, the agency, or an agreement state. The names of board certifications that have been recognized by the NRC or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit Web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee on Post-Graduate Training~~ Council on Postdoctoral Training of the American Osteopathic Association; and

b. Pass an examination administered by diplomates of the specialty board that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or

2. Who has:

a. Completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(1) 200 hours of classroom and laboratory training in the following areas:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity; and

(d) Radiation biology; and

(2) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this subsection, 12VAC5-481-1780, or equivalent NRC or another agreement state requirements at a medical facility authorized to use radioactive material under 12VAC5-481-2010, involving:

(a) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(b) Checking survey meters for proper operation;

(c) Preparing, implanting, and removing brachytherapy sources;

(d) Maintaining running inventories of material on hand;

(e) Using administrative controls to prevent a medical event involving the use of radioactive material;

(f) Using emergency procedures to control radioactive material; and

b. Completed three years of supervised clinical experience in radiation oncology, under an AU who meets the requirements in this section, 12VAC5-481-1780, or equivalent NRC or another ~~Agreement~~ agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee~~ Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subdivision 2 a (2) of this section.

3. Who has obtained written attestation that the individual has satisfactorily completed the requirements in subdivision 2 of this section and has achieved a level of competency sufficient to function independently as an AU of manual brachytherapy sources for the medical uses authorized in 12VAC5-481-2010. This attestation must be obtained from either:

a. A preceptor authorized user who meets the requirements in this section, 12VAC5-481-1780, or equivalent NRC or other agreement state requirements; or

b. A residency program director who affirms in writing that the attestation represents the residency program faculty where at least one faculty member is an authorized user who meets the requirement in this section, 12VAC5-481-1780, or equivalent NRC or other agreement state requirements and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specific in subsection 2 of this section.

12VAC5-481-2040. Training requirements and use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit.

A. Except as provided in 12VAC5-481-1780, licensees shall require an authorized user (AU) of a sealed source in remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units to be a physician:

1. Who is certified by a medical specialty board whose certification process has been recognized by the NRC, the agency, or an agreement state and who meets the requirements in subdivision 4 of this section. The names of board certifications that have been recognized by the agency, NRC, or an agreement state are posted on the NRC's Medical Uses Licensee Toolkit Web page. To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee on Post Graduate Training~~ Council on Postdoctoral Training of the American Osteopathic Association; and

b. Pass an examination administered by diplomates of the specialty board that tests knowledge and competence radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or

2. Who has:

a. Completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

(1) 200 hours of classroom and laboratory training in the following areas: radiation physics and instrumentation; radiation protection; mathematics pertaining to the use and measurement of radioactivity; and radiation biology; and

(2) 500 hours of work experience, under the supervision of an AU who meets the requirements in this section, 12VAC5-481-1780, or equivalent NRC or another agreement state requirements at a medical institution that is authorized for subsections B and C of this section, involving: reviewing full calibration measurements and periodic spot-checks; preparing treatment plans and calculating treatment doses and times; using administrative controls to prevent a medical event involving the use of radioactive material; implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console; checking and using survey meters; and selecting the proper dose and knowing how it is to be administered; and

b. Completed three years of supervised clinical experience in radiation therapy under an AU who meets the requirements in this section, 12VAC5-481-1780, or equivalent NRC or another ~~Agreement~~ agreement state requirements as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee~~ Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by this subdivision 2.

3. Who has obtained written attestation that the individual has satisfactorily completed the requirements in subdivisions 2 a, 2 b, and 4 of this subsection and has achieved a level of competency sufficient to function independently as an AU of each type of therapeutic medical unit for which the individual is requesting AU status. The written attestation shall be signed by either:

a. A preceptor AU who meets the requirements in this subsection, 12VAC5-481-1780, or equivalent NRC or another agreement state requirements for an AU for each type of therapeutic medical unit for which the individual is requesting AU status; or

b. A residency program director who affirms in writing that the attestation of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this subsection, 12VAC5-481-1780, or equivalent NRC or other agreement state requirements for the type of therapeutic medical unit for which the individual is requesting authorized user status and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subdivisions 2 a and 2 b of this subsection.

4. Who has received training in device operation, safety procedures, and clinical use for the types of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an AU or authorized medical physicist, as appropriate, who is authorized for the types of use for which the individual is seeking authorization.

B. Licensees shall use sealed sources in photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

1. As approved in the Sealed Source and Device Registry; or

2. In research in accordance with an active Investigational Device Exemption application accepted by the U.S. Food and Drug Administration provided the requirements of 12VAC5-481-1740 are met.

C. Licensees shall use photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units:

1. As approved in the Sealed Source and Device Registry to deliver a therapeutic dose for medical use. These devices may be used for therapeutic medical treatments that are not explicitly provided for in the Sealed Source and Device Registry but must be used in accordance with radiation safety conditions and limitations described in the Sealed Source and Device Registry; or

2. In research in accordance with an active Investigational Device Exemption application accepted by the U.S. Food and Drug Administration provided the requirements of 12VAC5-481-1740 are met.

12VAC5-481-3120. Advance notification of transport of nuclear waste.

A. Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport.

B. Advance notification for transport of licensed material is required when:

1. The licensed material is required to be in Type B packaging for transportation;

2. The licensed material is being transported to or across state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and

3. The quantity of licensed material in a single package exceeds:

a. 3000 times the A_1 value of the radionuclides as specified in 12VAC5-481-3770;

b. 3000 times the A_2 value of the radionuclides as specified in 12VAC5-481-3770; or

c. 1000 terabecquerel (27,000 curies).

C. Each advance notification required by subsections A and B of this section shall contain the following information:

1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;

2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d);

3. The point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;

4. The seven-day period during which arrival of the shipment at state boundaries or tribal reservation boundaries is estimated to occur;

5. The destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

6. A point of contact with a telephone number for current shipment information.

D. The notification required by subsections A and B of this section shall be made in writing to each office of the governor or governor's designee, the office of each appropriate tribal official or tribal official's designee, and to the agency. A notification delivered by mail shall be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by any other means than mail shall reach each office of the governor or governor's designee, the office of each appropriate tribal official or tribal official's designee, and the agency, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years.

1. ~~A list of names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the Federal Register on June 30, 1995 (60 FR 34306).~~ Reserved.

2. Contact information for each state, including telephone and mailing addresses of governors and governors' designees, and participating tribes, including telephone and mailing addresses of tribal officials and tribal officials' designees, is available on the NRC website at: https://scp.nrc.gov/special/designee.pdf.

3. A list of the names and mailing addresses of the governors' designees and tribal officials' designees of participating tribes is available on request from the Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

E. The licensee shall notify the governor or governor's designee, the office of each appropriate tribal official or tribal official's designee, and the agency of any changes to schedule information provided pursuant to subsections A and B of this section. Such notification shall be by telephone to a responsible individual in the office of the governor or governor's designee, the office of each appropriate tribal official or tribal official's designee, and the agency. The licensee shall maintain for three years a record of the name of the individual contacted.

F. Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice, identifying the advance notification that is being canceled, to the governor or governor's designee, the office of each appropriate tribal official or tribal official's designee, and to the agency. A copy of the notice shall be retained by the licensee for three years.

12VAC5-481-3770. Determination of A1 and A2.

A. Values of A_1 and A_2 for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations, are given in Table 1 of this section. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) value. The terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. Where values of A_1 and A_2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

B. For individual radionuclides whose identities are known, but that are not listed in Table 1 or Table 2 of this section, the A_1 and A_2 values or exempt material activity concentration and exempt consignment activity values contained in Table 3 of this section may be used. Otherwise, the licensee shall obtain prior agency approval for radionuclides not listed in Table 1 or Table 2 of this section, before shipping the material. The licensee shall submit requests for prior approval to the agency.

C. In the calculations of A_1 and A_2 for a radionuclide not in Table 1 of this section, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no daughter radionuclide has a half-life either longer than 10 days, or longer than that of the parent radionuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied, shall be those corresponding to the parent radionuclide of that chain. In the case of radioactive decay chains in which any daughter radionuclide has a half-life either longer than 10 days or greater than that of the parent radionuclide, the parent and those daughter radionuclides shall be considered as mixtures of different radionuclides.

D. For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

1. For special form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where B(i) is the activity of radionuclide (i) in special form, and $A_1(i)$ is the A_1 value for radionuclide (i).

2. For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_2(i)} \leq 1$$

where B(i) is the activity of radionuclide (i) in normal form, and $A_2(i)$ is the A_2 value for radionuclide (i).

3. If the package contains both special and normal form radioactive material, the activity that may be transported in the Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} + \sum_j \frac{C(j)}{A_2(j)} \leq 1$$

Where B(i) is the activity of radionuclide i (i) as special form radioactive material, $A_1(i)$ is the A_1 value for the radionuclide (i), C(j) is the activity of radionuclide (j) as normal form radioactive material, and $A_2(j)$ is the A_2 value for radionuclide (j).

4. Alternatively, the A_1 value for mixtures of special form material may be determined as follows:

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where f(i) is the fraction of activity for radionuclide (i) in the mixture, and $A_1(i)$ is the appropriate A_1 value for radionuclide (i).

5. Alternatively, the A_2 value for mixtures of normal form material may be determined as follows:

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity for radionuclide (i) in the mixture, and $A_2(i)$ is the appropriate A_2 value for radionuclide (i).

6. The exempt activity concentration for mixtures of nuclides may be determined as follows:

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

where f(i) is the fraction of activity concentration of radionuclide (i) in the mixture, and [A](i) is the activity concentration for exempt material containing radionuclide (i).

7. The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

where f(i) is the fraction of activity of radionuclide (i) in the mixture, and [A](i) is the activity limit for exempt consignments for radionuclide (i).

E. When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped, and the lowest A_1 or A_2 value or lowest [A] (activity concentration for exempt material or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in subsection D of this section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values or the lowest [A] or A value, as appropriate, for the alpha emitters and beta/gamma emitters.

F. Table 1. A_1 and A_2 Values for Radionuclides.

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1(Ci)[b]	A_2 (TBq)	A_2(Ci)[b]	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	$8.0X10^{-1}$	$2.2X10^{-1}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.1X10^{3}$	$5.8X10^{4}$
Ac-227 (a)		$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-5}$	$2.4X10^{-3}$	2.7	$7.2X10^{1}$
Ac-228		$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$8.4X10^{4}$	$2.2X10^{6}$
Ag-105	Silver (47)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Ag-108m (a)		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.7X10^{-1}$	$2.6X10^{1}$
Ag-110m (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.8X10^{2}$	$4.7X10^{3}$
Ag-111		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Al-26	Aluminum (13)	$1.0X10^{-1}$	2.7	$1.0X10^{-1}$	2.7	$7.0X10^{-4}$	$1.9X10^{-2}$
Am-241	Americium (95)	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$1.3X10^{-1}$	3.4
Am-242m (a)		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.6X10^{-1}$	$1.0X10^{1}$
Am-243 (a)		5.0	$1.4X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.4X10^{-3}$	$2.0X10^{-1}$

Ar-37	Argon (18)	$4.0X10^{1}$	$1.1X10^{3}$	4.0X101	$1.1X10^{3}$	$3.7X10^{3}$	$9.9X10^{4}$
Ar-39		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	1.3	$3.4X10^{1}$
Ar-41		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	1.5X106	$4.2X10^{7}$
As-72	Arsenic (33)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$6.2X10^{4}$	$1.7X10^{6}$
As-73		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$8.2X10^{2}$	$2.2X10^{4}$
As-74		1.0	$2.7X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$3.7X10^{3}$	$9.9X10^{4}$
As-76		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$5.8X10^{4}$	$1.6X10^{6}$
As-77		$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.9X10^{4}$	$1.0X10^{6}$
At-211 (a)	Astatine (85)	$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.6X10^{4}$	$2.1X10^{6}$
Au-193	Gold (79)	7.0	$1.9X10^{2}$	2.0	$5.4X10^{1}$	$3.4X10^{4}$	$9.2X10^{5}$
Au-194		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{4}$	$4.1X10^{5}$
Au-195		$1.0X10^{1}$	$2.7X10^{2}$	6.0	$1.6X10^{2}$	$1.4X10^{2}$	$3.7X10^{3}$
Au-198		1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.0X10^{3}$	$2.4X10^{5}$
Au-199		$1.0X10^{1}$	$2.7X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{3}$	$2.1X10^{5}$
Ba-131 (a)	Barium (56)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.1X10^{3}$	$8.4X10^{4}$
Ba-133		3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	9.4	$2.6X10^{2}$
Ba-133m		$2.0X10^{1}$	$5.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{4}$	$6.1X10^{5}$
Ba-140 (a)		$5.0X10^{-1}$	1.4X101	$3.0X10^{-1}$	8.1	2.7X103	$7.3X10^{4}$
Be-7	Beryllium (4)	$2.0X10^{1}$	$5.4X10^{2}$	2.0X101	5.4X102	$1.3X10^{4}$	$3.5X10^{5}$
Be-10		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-1}$	$1.6X10^{1}$	$8.3X10^{-4}$	$2.2X10^{-2}$
Bi-205	Bismuth (83)	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.5X10^{3}$	$4.2X10^{4}$
Bi-206		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$3.8X10^{3}$	$1.0X10^{5}$
Bi-207		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	1.9	$5.2X10^{1}$
Bi-210		1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.6X10^{3}$	$1.2X10^{5}$
Bi-210m (a)		$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.1X10^{-5}$	$5.7X10^{-4}$
Bi-212 (a)		$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.4X10^{5}$	$1.5X10^{7}$
Bk-247	Berkelium (97)	8.0	$2.2X10^{2}$	$8.0X10^{-4}$	2.2X10-2	$3.8X10^{-2}$	1.0
Bk-249 (a)		$4.0X10^{1}$	1.1X103	$3.0X10^{-1}$	8.1	$6.1X10^{1}$	$1.6X10^{3}$
Br-76	Bromine (35)	$4.0X10^{-1}$	1.1X101	$4.0X10^{-1}$	$1.1X10^{1}$	$9.4X10^{4}$	$2.5X10^{6}$
Br-77		3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$2.6X10^{4}$	$7.1X10^{5}$
Br-82		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{4}$	$1.1X10^{6}$
C-11	Carbon (6)	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.1X10^{7}$	$8.4X10^{8}$
C-14		$4.0X10^{1}$	$1.1X10^{3}$	3.0	$8.1X10^{1}$	$1.6X10^{-1}$	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	$3.1X10^{-3}$	$8.5X10^{-2}$

Ca-45		$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$6.6X10^{2}$	$1.8X10^{4}$
Ca-47 (a)		3.0	$8.1X10^{1}$	$3.0X10^{-1}$	8.1	$2.3X10^{4}$	$6.1X10^{5}$
Cd-109	Cadmium (48)	$3.0X10^{1}$	$8.1X10^{2}$	2.0	$5.4X10^{1}$	$9.6X10^{1}$	$2.6X10^{3}$
Cd-113m		$4.0X10^{1}$	$1.1X10^{3}$	$5.0X10^{-1}$	$1.4X10^{1}$	8.3	$2.2X10^{2}$
Cd-115 (a)		3.0	$8.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.9X10^{4}$	$5.1X10^{5}$
Cd-115m		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$9.4X10^{2}$	$2.5X10^{4}$
Ce-139	Cerium (58)	7.0	$1.9X10^{2}$	2.0	$5.4X10^{1}$	$2.5X10^{2}$	$6.8X10^{3}$
Ce-141		$2.0X10^{1}$	$5.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.1X10^{3}$	$2.8X10^{4}$
Ce-143		$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.5X10^{4}$	$6.6X10^{5}$
Ce-144 (a)		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$1.2X10^{2}$	$3.2X10^{3}$
Cf-248	Californium (98)	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$5.8X10^{1}$	$1.6X10^{3}$
Cf-249		3.0	$8.1X10^{1}$	$8.0X10^{-4}$	$2.2X10^{-2}$	$1.5X10^{-1}$	4.1
Cf-250		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	4.0	$1.1X10^{2}$
Cf-251		7.0	$1.9X10^{2}$	$7.0X10^{-4}$	$1.9X10^{-2}$	$5.9X10^{-2}$	1.6
Cf-252		$1.0X10^{-1}$	2.7	$3.0X10^{-3}$	$8.1X10^{-2}$	$2.0X10^{1}$	$5.4X10^{2}$
Cf-253 (a)		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{-2}$	1.1	$1.1X10^{3}$	$2.9X10^{4}$
Cf-254		$1.0X10^{-3}$	$2.7X10^{-2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.1X10^{2}$	$8.5X10^{3}$
Cl-36	Chlorine (17)	$1.0X10^{1}$	$2.7X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.2X10^{-3}$	$3.3X10^{-2}$
Cl-38		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$4.9X10^{6}$	$1.3X10^{8}$
Cm-240	Curium (96)	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$7.5X10^{2}$	$2.0X10^{4}$
Cm-241		2.0	$5.4X10^{1}$	1.0	$2.7X10^{1}$	$6.1X10^{2}$	$1.7X10^{4}$
Cm-242		$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-2}$	$2.7X10^{-1}$	$1.2X10^{2}$	$3.3X10^{3}$
Cm-243		9.0	$2.4X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$1.9X10^{-3}$	$5.2X10^{4}$
Cm-244		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	3.0	$8.1X10^{1}$
Cm-245		9.0	$2.4X10^{2}$	$9.0X10^{-4}$	$2.4X10^{-2}$	$6.4X10^{-3}$	$1.7X10^{-1}$
Cm-246		9.0	$2.4X10^{2}$	$9.0X10^{-4}$	$2.4X10^{-2}$	$1.1X10^{-2}$	$3.1X10^{-1}$
Cm-247 (a)		3.0	$8.1X10^{1}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.4X10^{-6}$	$9.3X10^{-5}$
Cm-248		$2.0X10^{-2}$	$5.4X10^{-1}$	$3.0X10^{-4}$	$8.1X10^{-3}$	$1.6X10^{-4}$	$4.2X10^{-3}$
Co-55	Cobalt (27)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.1X10^{5}$	$3.1X10^{6}$
Co-56		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.1X10^{3}$	$3.0X10^{4}$
Co-57		1.0X101	$2.7X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$3.1X10^{2}$	$8.4X10^{3}$
Co-58		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.2X10^{3}$	$3.2X10^{4}$
Co-58m		4.0X101	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$2.2X10^{5}$	$5.9X10^{6}$
Co-60		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.2X10^{1}$	$1.1X10^{3}$

Cr-51	Chromium (24)	3.0X101	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$3.4X10^{3}$	$9.2X10^{4}$
Cs-129	Cesium (55)	4.0	$1.1X10^{2}$	4.0	$1.1X10^{2}$	2.8X104	$7.6X10^{5}$
Cs-131		$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$3.8X10^{3}$	$1.0X10^{5}$
Cs-132		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$5.7X10^{3}$	$1.5X10^{5}$
Cs-134		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.8X10^{1}$	$1.3X10^{3}$
Cs-134m		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{5}$	$8.0X10^{6}$
Cs-135		$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$4.3X10^{-5}$	$1.2X10^{-3}$
Cs-136		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.7X10^{3}$	$7.3X10^{4}$
Cs-137 (a)		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	1.6X101	3.2	$8.7X10^{1}$
Cu-64	Copper (29)	6.0	$1.6X10^{2}$	1.0	$2.7X10^{1}$	$1.4X10^{5}$	$3.9X10^{6}$
Cu-67		$1.0X10^{1}$	$2.7X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$2.8X10^{4}$	$7.6X10^{5}$
Dy-159	Dysprosium (66)	$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{1}$	$5.4X10^{2}$	$2.1X10^{2}$	$5.7X10^{3}$
Dy-165		$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{5}$	$8.2X10^{6}$
Dy-166 (a)		$9.0X10^{-1}$	$2.4X10^{1}$	$3.0X10^{-1}$	8.1	$8.6X10^{3}$	$2.3X10^{5}$
Er-169	Erbium (68)	$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$3.1X10^{3}$	$8.3X10^{4}$
Er-171		$8.0X10^{-1}$	$2.2X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$9.0X10^{4}$	$2.4X10^{6}$
Eu-147	Europium (63)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.4X10^{3}$	$3.7X10^{4}$
Eu-148		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.0X10^{2}$	$1.6X10^{4}$
Eu-149		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{1}$	$5.4X10^{2}$	$3.5X10^{2}$	$9.4X10^{3}$
Eu-150 (short lived)		2.0	$5.4X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$6.1X10^{4}$	$1.6X10^{6}$
Eu-150 (long lived)		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$6.1X10^{4}$	$1.6X10^{6}$
Eu-152		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	6.5	$1.8X10^{2}$
Eu-152m		$8.0X10^{-1}$	$2.2X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$8.2X10^{4}$	$2.2X10^{6}$
Eu-154		$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	9.8	$2.6X10^{2}$
Eu-155		$2.0X10^{1}$	$5.4X10^{2}$	3.0	$8.1X10^{1}$	$1.8X10^{1}$	$4.9X10^{2}$
Eu-156		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$2.0X10^{3}$	$5.5X10^{4}$
F-18	Fluorine (9)	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.5X10^{6}$	9.5X107
Fe-52 (a)	Iron (26)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$2.7X10^{5}$	$7.3X10^{6}$
Fe-55		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$8.8X10^{1}$	$2.4X10^{3}$
Fe-59		$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$1.8X10^{3}$	$5.0X10^{4}$
Fe-60 (a)		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-1}$	5.4	$7.4X10^{-4}$	$2.0X10^{-2}$
Ga-67	Gallium (31)	7.0	$1.9X10^{2}$	3.0	$8.1X10^{1}$	$2.2X10^{4}$	$6.0X10^{5}$
Ga-68		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.5X10^{6}$	$4.1X10^{7}$

Ga-72		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{5}$	$3.1X10^{6}$
Gd-146 (a)	Gadolinium (64)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.9X10^{2}$	$1.9X10^{4}$
Gd-148		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	1.2	$3.2X10^{1}$
Gd-153		$1.0X10^{1}$	$2.7X10^{2}$	9.0	$2.4X10^{2}$	$1.3X10^{2}$	$3.5X10^{3}$
Gd-159		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.9X10^{4}$	$1.1X10^{6}$
Ge-68 (a)	Germanium (32)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.6X10^{2}$	$7.1X10^{3}$
Ge-71		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.8X10^{3}$	$1.6X10^{5}$
Ge-77		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.3X10^{5}$	$3.6X10^{6}$
Hf-172 (a)	Hafnium (72)	$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.1X10^{1}$	$1.1X10^{3}$
Hf-175		3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$3.9X10^{2}$	$1.1X10^{4}$
Hf-181		2.0	$5.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.3X10^{2}$	$1.7X10^{4}$
Hf-182		Unlimited	Unlimited	Unlimited	Unlimited	$8.1X10^{-6}$	$2.2X10^{-4}$
Hg-194 (a)	Mercury (80)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.3X10^{-1}$	3.5
Hg-195m (a)		3.0	$8.1X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.5X10^{4}$	$4.0X10^{5}$
Hg-197		$2.0X10^{1}$	$5.4X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$9.2X10^{3}$	$2.5X10^{5}$
Hg-197m		$1.0X10^{1}$	$2.7X10^{2}$	$4.0X10^{-1}$	$1.1X10^{1}$	$2.5X10^{4}$	$6.7X10^{5}$
Hg-203		5.0	$1.4X10^{2}$	1.0	$2.7X10^{1}$	$5.1X10^{2}$	$1.4X10^{4}$
Ho-166	Holmium (67)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$2.6X10^{4}$	$7.0X10^{5}$
Ho-166m		$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.6X10^{-2}$	1.8
I-123	Iodine (53)	6.0	$1.6X10^{2}$	3.0	$8.1X10^{1}$	$7.1X10^{4}$	$1.9X10^{6}$
I-124		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$9.3X10^{3}$	$2.5X10^{5}$
I-125		$2.0X10^{1}$	$5.4X10^{2}$	3.0	$8.1X10^{1}$	$6.4X10^{2}$	$1.7X10^{4}$
I-126		2.0	$5.4X10^{1}$	1.0	$2.7X10^{1}$	$2.9X10^{3}$	$8.0X10^{4}$
I-129		Unlimited	Unlimited	Unlimited	Unlimited	$6.5X10^{-6}$	$1.8X10^{-4}$
I-131		3.0	$8.1X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.6X10^{3}$	$1.2X10^{5}$
I-132		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$3.8X10^{5}$	$1.0X10^{7}$
I-133		$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.2X10^{4}$	$1.1X10^{6}$
I-134		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$9.9X10^{5}$	$2.7X10^{7}$
I-135 (a)		$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.3X10^{5}$	$3.5X10^{6}$
In-111	Indium (49)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$1.5X10^{4}$	$4.2X10^{5}$
In-113m		4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$6.2X10^{5}$	$1.7X10^{7}$
In-114m (a)		$1.0X10^{1}$	$2.7X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$8.6X10^{2}$	$2.3X10^{4}$
In-115m		7.0	$1.9X10^{2}$	1.0	$2.7X10^{1}$	$2.2X10^{5}$	$6.1X10^{6}$
Ir-189 (a)	Iridium (77)	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$1.9X10^{3}$	$5.2X10^{4}$

Ir-190		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$2.3X10^{3}$	$6.2X10^{4}$
Ir-192		1.0 (c)	$2.7X10^{1}$ (c)	$6.0X10^{-1}$	$1.6X10^{1}$	$3.4X10^{2}$	$9.2X10^{3}$
Ir-194		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$3.1X10^{4}$	$8.4X10^{5}$
K-40	Potassium (19)	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$2.4X10^{-7}$	$6.4X10^{-6}$
K-42		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$2.2X10^{5}$	$6.0X10^{6}$
K-43		$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.2X10^{5}$	$3.3X10^{6}$
Kr-79	Krypton (36)	4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$4.2X10^{4}$	$1.1X10^{6}$
Kr-81		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$7.8X10^{-4}$	$2.1X10^{-2}$
Kr-85		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$1.5X10^{1}$	$3.9X10^{2}$
Kr-85m		8.0	$2.2X10^{2}$	3.0	$8.1X10^{1}$	$3.0X10^{5}$	$8.2X10^{6}$
Kr-87		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$1.0X10^{6}$	$2.8X10^{7}$
La-137	Lanthanum (57)	$3.0X10^{1}$	$8.1X10^{2}$	6.0	$1.6X10^{2}$	$1.6X10^{-3}$	$4.4X10^{-2}$
La-140		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$2.1X10^{4}$	$5.6X10^{5}$
Lu-172	Lutetium (71)	$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.2X10^{3}$	$1.1X10^{5}$
Lu-173		8.0	$2.2X10^{2}$	8.0	$2.2X10^{2}$	$5.6X10^{1}$	$1.5X10^{3}$
Lu-174		9.0	$2.4X10^{2}$	9.0	$2.4X10^{2}$	$2.3X10^{1}$	$6.2X10^{2}$
Lu-174m		$2.0X10^{1}$	$5.4X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$2.0X10^{2}$	$5.3X10^{3}$
Lu-177		$3.0X10^{1}$	$8.1X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.1X10^{3}$	$1.1X10^{5}$
Mg-28 (a)	Magnesium (12)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$2.0X10^{5}$	$5.4X10^{6}$
Mn-52	Manganese (25)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.6X10^{4}$	$4.4X10^{5}$
Mn-53		Unlimited	Unlimited	Unlimited	Unlimited	$6.8X10^{-5}$	$1.8X10^{-3}$
Mn-54		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$2.9X10^{2}$	$7.7X10^{3}$
Mn-56		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$8.0X10^{5}$	$2.2X10^{7}$
Mo-93	Molybdenum (42)	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	$4.1X10^{-2}$	1.1
Mo-99 (a) (h)		1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.8X10^{4}$	$4.8X10^{5}$
N-13	Nitrogen (7)	$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	5.4X107	$1.5X10^{9}$
Na-22	Sodium (11)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.3X10^{2}$	$6.3X10^{3}$
Na-24		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.2X10^{5}$	$8.7X10^{6}$
Nb-93m	Niobium (41)	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	8.8	$2.4X10^{2}$
Nb-94		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$6.9X10^{-3}$	$1.9X10^{-1}$
Nb-95		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{3}$	$3.9X10^{4}$
Nb-97		$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.9X10^{5}$	$2.7X10^{7}$
Nd-147	Neodymium (60)	6.0	$1.6X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{3}$	$8.1X10^{4}$
Nd-149		$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$4.5X10^{5}$	$1.2X1^{07}$

Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	$3.0X10^{-3}$	$8.0X10^{-2}$
Ni-63		$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	2.1	$5.7X10^{1}$
Ni-65		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{5}$	$1.9X10^{7}$
Np-235	Neptunium (93)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.2X10^{1}$	$1.4X10^{3}$
Np-236 (short-lived)		$2.0X10^{1}$	$5.4X10^{2}$	2.0	$5.4X10^{1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-236 (long-lived)		9.0X100	$2.4X10^{2}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-237		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	$2.6X10^{-5}$	$7.1X10^{-4}$
Np-239		7.0	$1.9X10^{2}$	$4.0X10^{-1}$	$1.1X10^{1}$	$8.6X10^{3}$	$2.3X10^{5}$
Os-185	Osmium (76)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$2.8X10^{2}$	$7.5X10^{3}$
Os-191		$1.0X10^{1}$	$2.7X10^{2}$	2.0	$5.4X10^{1}$	$1.6X10^{3}$	$4.4X10^{4}$
Os-191m		$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	$4.6X10^{4}$	$1.3X10^{6}$
Os-193		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{4}$	$5.3X10^{5}$
Os-194 (a)		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.1X10^{1}$	$3.1X10^{2}$
P-32	Phosphorus (15)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.1X10^{4}$	$2.9X10^{5}$
P-33		$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Pa-230 (a)	Protactinium (91)	2.0	$5.4X10^{1}$	$7.0X10^{-2}$	1.9	$1.2X10^{3}$	$3.3X10^{4}$
Pa-231		4.0	$1.1X10^{2}$	$4.0X10^{-4}$	$1.1X10^{-2}$	$1.7X10^{-3}$	$4.7X10^{-2}$
Pa-233		5.0	$1.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.7X10^{2}$	$2.1X10^{4}$
Pb-201	Lead (82)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$6.2X10^{4}$	$1.7X10^{6}$
Pb-202		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	$1.2X10^{-4}$	$3.4X10^{-3}$
Pb-203		4.0	$1.1X10^{2}$	3.0	$8.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Pb-205		Unlimited	Unlimited	Unlimited	Unlimited	$4.5X10^{-6}$	$1.2X10^{-4}$
Pb-210 (a)		1.0	$2.7X10^{1}$	$5.0X10^{-2}$	1.4	2.8	$7.6X10^{1}$
Pb-212 (a)		$7.0X10^{-1}$	$1.9X10^{1}$	$2.0X10^{-1}$	5.4	$5.1X10^{4}$	$1.4X10^{6}$
Pd-103 (a)	Palladium (46)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$2.8X10^{3}$	$7.5X10^{4}$
Pd-107		Unlimited	Unlimited	Unlimited	Unlimited	$1.9X10^{-5}$	$5.1X10^{-4}$
Pd-109		2.0	$5.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.9X10^{4}$	$2.1X10^{6}$
Pm-143	Promethium (61)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$1.3X10^{2}$	$3.4X10^{3}$
Pm-144		$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.2X10^{1}$	$2.5X10^{3}$
Pm-145		$3.0X10^{1}$	$8.1X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	5.2	$1.4X10^{2}$
Pm-147		$4.0X10^{1}$	$1.1X10^{3}$	2.0	$5.4X10^{1}$	$3.4X10^{1}$	$9.3X10^{2}$
Pm-148m (a)		$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$
Pm-149		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.5X10^{4}$	$4.0X10^{5}$

Pm-151		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.7X10^{4}$	$7.3X10^{5}$
Po-210	Polonium (84)	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$1.7X10^{2}$	$4.5X10^{3}$
Pr-142	Praseodymium (59)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.3X10^{4}$	$1.2X10^{6}$
Pr-143		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.5X10^{3}$	$6.7X10^{4}$
Pt-188 (a)	Platinum (78)	1.0	$2.7X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$2.5X10^{3}$	$6.8X10^{4}$
Pt-191		4.0	$1.1X10^{2}$	3.0	$8.1X10^{1}$	$8.7X10^{3}$	$2.4X10^{5}$
Pt-193		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	1.4	$3.7X10^{1}$
Pt-193m		$4.0X10^{1}$	$1.1X10^{3}$	$5.0X10^{-1}$	$1.4X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Pt-195m		$1.0X10^{1}$	$2.7X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.2X10^{3}$	$1.7X10^{5}$
Pt-197		$2.0X10^{1}$	$5.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.2X10^{4}$	$8.7X10^{5}$
Pt-197m		$1.0X10^{1}$	$2.7X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.7X10^{5}$	$1.0X10^{7}$
Pu-236	Plutonium (94)	$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{-3}$	$8.1X10^{-2}$	$2.0X10^{1}$	$5.3X10^{2}$
Pu-237		$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{1}$	$5.4X10^{2}$	$4.5X10^{2}$	$1.2X10^{4}$
Pu-238		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$6.3X10^{-1}$	$1.7X10^{1}$
Pu-239		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$2.3X10^{-3}$	$6.2X10^{-2}$
Pu-240		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$8.4X10^{-3}$	$2.3X10^{-1}$
Pu-241 (a)		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-2}$	1.6	3.8	$1.0X10^{2}$
Pu-242		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$1.5X10^{-4}$	$3.9X10^{-3}$
Pu-244 (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$6.7X10^{-7}$	$1.8X10^{-5}$
Ra-223 (a)	Radium (88)	$4.0X10^{-1}$	$1.1X10^{1}$	$7.0X10^{-3}$	$1.9X10^{-1}$	$1.9X10^{3}$	$5.1X10^{4}$
Ra-224 (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$5.9X10^{3}$	$1.6X10^{5}$
Ra-225 (a)		$2.0X10^{-1}$	5.4	$4.0X10^{-3}$	$1.1X10^{-1}$	$1.5X10^{3}$	$3.9X10^{4}$
Ra-226 (a)		$2.0X10^{-1}$	5.4	$3.0X10^{-3}$	$8.1X10^{-2}$	$3.7X10^{-2}$	1.0
Ra-228 (a)		$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$1.0X10^{1}$	$2.7X10^{2}$
Rb-81	Rubidium (37)	2.0	$5.4X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.1X10^{5}$	$8.4X10^{6}$
Rb-83 (a)		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$6.8X10^{2}$	$1.8X10^{4}$
Rb-84		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.8X10^{3}$	$4.7X10^{4}$
Rb-86		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{3}$	$8.1X10^{4}$
Rb-87		Unlimited	Unlimited	Unlimited	Unlimited	$3.2X10^{-9}$	$8.6X10^{-8}$
Rb(nat)		Unlimited	Unlimited	Unlimited	Unlimited	$6.7X10^{6}$	$1.8X10^{8}$
Re-184	Rhenium (75)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$6.9X10^{2}$	$1.9X10^{4}$
Re-184m		3.0	$8.1X10^{1}$	1.0	$2.7X10^{1}$	$1.6X10^{2}$	$4.3X10^{3}$
Re-186		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$6.9X10^{3}$	$1.9X10^{5}$
Re-187		Unlimited	Unlimited	Unlimited	Unlimited	$1.4X10^{-9}$	$3.8X10^{-8}$

Re-188		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$3.6X10^{4}$	$9.8X10^{5}$
Re-189 (a)		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.5X10^{4}$	$6.8X10^{5}$
Re(nat)		Unlimited	Unlimited	Unlimited	Unlimited	0.0	$2.4X10^{-8}$
Rh-99	Rhodium (45)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.0X10^{3}$	$8.2X10^{4}$
Rh-101		4.0	$1.1X10^{2}$	3.0	$8.1X10^{1}$	$4.1X10^{1}$	$1.1X10^{3}$
Rh-102		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$4.5X10^{1}$	$1.2X10^{3}$
Rh-102m		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.3X10^{2}$	$6.2X10^{3}$
Rh-103m		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$1.2X10^{6}$	$3.3X10^{7}$
Rh-105		$1.0X10^{1}$	$2.7X10^{2}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.1X10^{4}$	$8.4X10^{5}$
Rn-222 (a)	Radon (86)	$3.0X10^{-1}$	8.1	$4.0X10^{-3}$	$1.1X10^{-1}$	$5.7X10^{3}$	$1.5X10^{5}$
Ru-97	Ruthenium (44)	5.0	$1.4X10^{2}$	5.0	$1.4X10^{2}$	$1.7X10^{4}$	$4.6X10^{5}$
Ru-103 (a)		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.2X10^{3}$	$3.2X10^{4}$
Ru-105		1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.5X10^{5}$	$6.7X10^{6}$
Ru-106 (a)		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$1.2X10^{2}$	$3.3X10^{3}$
S-35	Sulphur (16)	$4.0X10^{1}$	$1.1X10^{3}$	3.0	$8.1X10^{1}$	$1.6X10^{3}$	$4.3X10^{4}$
Sb-122	Antimony (51)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.5X10^{4}$	$4.0X10^{5}$
Sb-124		$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$6.5X10^{2}$	$1.7X10^{4}$
Sb-125		2.0	$5.4X10^{1}$	1.0	$2.7X10^{1}$	$3.9X10^{1}$	$1.0X10^{3}$
Sb-126		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$3.1X10^{3}$	$8.4X10^{4}$
Sc-44	Scandium (21)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$6.7X10^{5}$	$1.8X10^{7}$
Sc-46		$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.3X10^{3}$	$3.4X10^{4}$
Sc-47		$1.0X10^{1}$	$2.7X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.1X10^{4}$	$8.3X10^{5}$
Sc-48		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$5.5X10^{4}$	$1.5X10^{6}$
Se-75	Selenium (34)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$5.4X10^{2}$	$1.5X10^{4}$
Se-79		$4.0X10^{1}$	$1.1X10^{3}$	2.0	$5.4X10^{1}$	$2.6X10^{-3}$	$7.0X10^{-2}$
Si-31	Silicon (14)	$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.4X10^{6}$	$3.9X10^{7}$
Si-32		$4.0X10^{1}$	$1.1X10^{3}$	$5.0X10^{-1}$	$1.4X10^{1}$	3.9	$1.1X10^{2}$
Sm-145	Samarium (62)	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$9.8X10^{1}$	$2.6X10^{3}$
Sm-147		Unlimited	Unlimited	Unlimited	Unlimited	~~$8.5X10^{-1}$~~ $8.5X10^{-10}$	$2.3X10^{-8}$
Sm-151		$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{1}$	$2.7X10^{2}$	$9.7X10^{-1}$	$2.6X10^{1}$
Sm-153		9.0	$2.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.6X10^{4}$	$4.4X10^{5}$
Sn-113 (a)	Tin (50)	4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$3.7X10^{2}$	$1.0X10^{4}$
Sn-117m		7.0	$1.9X10^{2}$	$4.0X10^{-1}$	$1.1X10^{1}$	$3.0X10^{3}$	$8.2X10^{4}$

Sn-119m		$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	$1.4X10^{2}$	$3.7X10^{3}$
Sn-121m (a)		$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-1}$	$2.4X10^{1}$	2.0	$5.4X10^{1}$
Sn-123		$8.0X10^{-1}$	$2.2X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{2}$	$8.2X10^{3}$
Sn-125		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{3}$	$1.1X10^{5}$
Sn-126 (a)		$6.0X10^{-1}$	$1.6X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.0X10^{-3}$	$2.8X10^{-2}$
Sr-82 (a)	Strontium (38)	$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$2.3X10^{3}$	$6.2X10^{4}$
Sr-85		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$8.8X10^{2}$	$2.4X10^{4}$
Sr-85m		5.0	$1.4X10^{2}$	5.0	$1.4X10^{2}$	$1.2X10^{6}$	$3.3X10^{7}$
Sr-87m		3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$4.8X10^{5}$	$1.3X10^{7}$
Sr-89		$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.1X10^{3}$	$2.9X10^{4}$
Sr-90 (a)		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	5.1	$1.4X10^{2}$
Sr-91 (a)		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.3X10^{5}$	$3.6X10^{6}$
Sr-92 (a)		1.0	$2.7X10^{1}$	$3.0X10^{-1}$	8.1	$4.7X10^{5}$	$1.3X10^{7}$
T(H-3)	Tritium (1)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.6X10^{2}$	$9.7X10^{3}$
Ta-178 (long-lived)	Tantalum (73)	1.0	$2.7X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$4.2X10^{6}$	$1.1X10^{8}$
Ta-179		$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$4.1X10^{1}$	$1.1X10^{3}$
Ta-182		$9.0X10^{-1}$	$2.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.3X10^{2}$	$6.2X10^{3}$
Tb-157	Terbium (65)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-158		1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-160		1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.2X10^{2}$	$1.1X10^{4}$
Tc-95m (a)	Technetium (43)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$8.3X10^{2}$	$2.2X10^{4}$
Tc-96		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.2X10^{4}$	$3.2X10^{5}$
Tc-96m (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.4X10^{6}$	$3.8X10^{7}$
Tc-97		Unlimited	Unlimited	Unlimited	Unlimited	$5.2X10^{-5}$	$1.4X10^{-3}$
Tc-97m		$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.6X10^{2}$	$1.5X10^{4}$
Tc-98		$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.2X10^{-5}$	$8.7X10^{-4}$
Tc-99		$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.3X10^{-4}$	$1.7X10^{-2}$
Tc-99m		$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$1.9X10^{5}$	$5.3X10^{6}$
Te-121	Tellurium (52)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.4X10^{3}$	$6.4X10^{4}$
Te-121m		5.0	$1.4X10^{2}$	3.0	$8.1X10^{1}$	$2.6X10^{2}$	$7.0X10^{3}$
Te-123m		8.0	$2.2X10^{2}$	1.0	$2.7X10^{1}$	$3.3X10^{2}$	$8.9X10^{3}$
Te-125m		$2.0X10^{1}$	$5.4X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.7X10^{2}$	$1.8X10^{4}$
Te-127		$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.8X10^{4}$	$2.6X10^{6}$
Te-127m (a)		$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$

Te-129		$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{5}$	$2.1X10^{7}$
Te-129m (a)		$8.0X10^{-1}$	$2.2X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Te-131m (a)		$7.0X10^{-1}$	$1.9X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{4}$	$8.0X10^{5}$
Te-132 (a)		$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Th-227	Thorium (90)	$1.0X10^{1}$	$2.7X10^{2}$	$5.0X10^{-3}$	$1.4X10^{-1}$	$1.1X10^{3}$	$3.1X10^{4}$
Th-228 (a)		$5.0X10^{-1}$	$1.4X10^{1}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.0X10^{1}$	$8.2X10^{2}$
Th-229		5.0	$1.4X10^{2}$	$5.0X10^{-4}$	$1.4X10^{-2}$	$7.9X10^{-3}$	$2.1X10^{-1}$
Th-230		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.6X10^{-4}$	$2.1X10^{-2}$
Th-231		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.0X10^{4}$	$5.3X10^{5}$
Th-232		Unlimited	Unlimited	Unlimited	Unlimited	$4.0X10^{-9}$	$1.1X10^{-7}$
Th-234 (a)		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$8.6X10^{2}$	$2.3X10^{4}$
Th(nat)		Unlimited	Unlimited	Unlimited	Unlimited	$8.1X10^{-9}$	$2.2X10^{-7}$
Ti-44 (a)	Titanium (22)	$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	6.4	$1.7X10^{2}$
Tl-200	Thallium (81)	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$2.2X10^{4}$	$6.0X10^{5}$
Tl-201		$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$7.9X10^{3}$	$2.1X10^{5}$
Tl-202		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.0X10^{3}$	$5.3X10^{4}$
Tl-204		$1.0X10^{1}$	$2.7X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.7X10^{1}$	$4.6X10^{2}$
Tm-167	Thulium (69)	7.0	$1.9X10^{2}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.1X10^{3}$	$8.5X10^{4}$
Tm-170		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{2}$	$6.0X10^{3}$
Tm-171		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$
U-230 (fast lung absorption) (a)(d)	Uranium (92)	$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-1}$	2.7	$1.0X10^{3}$	$2.7X10^{4}$
U-230 (medium lung absorption) (a)(e)		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{-3}$	$1.1X10^{-1}$	$1.0X10^{3}$	$2.7X10^{4}$
U-230 (slow lung absorption) (a)(f)		$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{-3}$	$8.1X10^{-2}$	$1.0X10^{3}$	$2.7X10^{4}$
U-232 (fast lung absorption) (d)		$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-2}$	$2.7X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-232 (medium lung absorption) (e)		$4.0X10^{1}$	$1.1X10^{3}$	$7.0X10^{-3}$	$1.9X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$

U-232 (slow lung absorption) (f)		$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-233 (fast lung absorption) (d)		$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233 (medium lung absorption) (e)		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233 (slow lung absorption) (f)		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-234 (fast lung absorption) (d)		$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (medium lung absorption) (e)		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (slow lung absorption) (f)		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-235 (all lung absorption types) (a),(d),(e),(f)		Unlimited	Unlimited	Unlimited	Unlimited	$8.0X10^{-8}$	$2.2X10^{-6}$
U-236 (fast lung absorption) (d)		Unlimited	Unlimited	Unlimited	Unlimited	$2.4X10^{-6}$	$6.5X10^{-5}$
U-236 (medium lung absorption) (e)		$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.4X10^{-6}$	$6.5X10^{-5}$
U-236 (slow lung absorption) (f)		$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.4X10^{-6}$	$6.5X10^{-5}$
U-238 (all lung absorption types) (d),(e),(f)		Unlimited	Unlimited	Unlimited	Unlimited	$1.2X10^{-8}$	$3.4X10^{-7}$
U (nat)		Unlimited	Unlimited	Unlimited	Unlimited	$2.6X10^{-8}$	$7.1X10^{-7}$
U (enriched to 20% or less) (g)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-4
U (dep)		Unlimited	Unlimited	Unlimited	Unlimited	See Table A-4	See Table A-3

V-48	Vanadium (23)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$6.3X10^{3}$	$1.7X10^{5}$
V-49		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{2}$	$8.1X10^{3}$
W-178 (a)	Tungsten (74)	9.0	$2.4X10^{2}$	5.0	$1.4X10^{2}$	$1.3X10^{3}$	$3.4X10^{4}$
W-181		$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$2.2X10^{2}$	$6.0X10^{3}$
W-185		$4.0X10^{1}$	$1.1X10^{3}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$
W-187		2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.6X10^{4}$	$7.0X10^{5}$
W-188 (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$3.0X10^{-1}$	8.1	$3.7X10^{2}$	$1.0X10^{4}$
Xe-122 (a)	Xenon (54)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.8X10^{4}$	$1.3X10^{6}$
Xe-123		2.0	$5.4X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.4X10^{5}$	1.2X10
Xe-127		4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$1.0X10^{3}$	$2.8X10^{4}$
Xe-131m		$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.1X10^{3}$	$8.4X10^{4}$
Xe-133		$2.0X10^{1}$	$5.4X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$6.9X10^{3}$	$1.9X10^{5}$
Xe-135		3.0	$8.1X10^{1}$	2.0	$5.4X10^{1}$	$9.5X10^{4}$	$2.6X10^{6}$
Y-87 (a)	Yttrium (39)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.7X10^{4}$	$4.5X10^{5}$
Y-88		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$5.2X10^{2}$	$1.4X10^{4}$
Y-90		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$2.0X10^{4}$	$5.4X10^{5}$
Y-91		$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.1X10^{2}$	$2.5X10^{4}$
Y-91m		2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.5X10^{6}$	4.2X10
Y-92		$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.6X10^{5}$	$9.6X10^{6}$
Y-93		$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.2X10^{5}$	$3.3X10^{6}$
Yb-169	Ytterbium (70)	4.0	$1.1X10^{2}$	1.0	$2.7X10^{1}$	$8.9X10^{2}$	$2.4X10^{4}$
Yb-175		$3.0X10^{1}$	$8.1X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.6X10^{3}$	$1.8X10^{5}$
Zn-65	Zinc (30)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.0X10^{2}$	$8.2X10^{3}$
Zn-69		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.8X10^{6}$	4.9X10
Zn-69m (a)		3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.2X10^{5}$	$3.3X10^{6}$
Zr-88	Zirconium (40)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$6.6X10^{2}$	$1.8X10^{4}$
Zr-93		Unlimited	Unlimited	Unlimited	Unlimited	9.3X10	2.5X10
Zr-95 (a)		2.0	$5.4X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$
Zr-97 (a)		$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{4}$	$1.9X10^{6}$

[a] A_1 and/or A_2 values include contributions from daughter nuclides with half-lives less than 10 days, as listed in the following:

Mg-28	Al-28
Ca-47	Sc-47
Ti-44	Sc-44
Fe-52	Mn-52m
Fe-60	Co-60m
Zn-69m	Zn-69

Ge-68	Ga-68
Rb-83	Kr-83m
Sr-82	Rb-82
Sr-90	Y-90
Sr-91	Y-91m
Sr-92	Y-92
Y-87	Sr-87m
Zr-95	Nb-95m
Zr-97	Nb-97m, Nb-97
Mo-99	Tc-99m
Tc-95m	Tc-95
Tc-96m	Tc-96
Ru-103	Rh-103m
Ru-106	Rh-106
Pd-103	Rh-103m
Ag-108m	Ag-108
Ag-110m	Ag-110
Cd-115	In-115m
In-114m	In-114
Sn-113	In-113m
Sn-121m	Sn-121
Sn-126	Sb-126m
Te-127m	Te-127
Te-129m	Te-129
Te-131m	Te-131
Te-132	I-132
I-135	Xe-135m
Xe-122	I-122
Cs-137	Ba-137m
Ba-131	Cs-131
Ba-140	La-140
Ce-144	Pr-144m, Pr-144
Pm-148m	Pm-148
Gd-146	Eu-146
Dy-166	Ho-166
Hf-172	Lu-172
W-178	Ta-178
W-188	Re-188
Re-189	Os-189m
Os-194	Ir-194
Ir-189	Os-189m
Pt-188	Ir-188
Hg-194	Au-194
Hg-195m	Hg-195
Pb-210	Bi-210
Pb-212	Bi-212, Po-212, TI-208
Bi-210m	Tl-206
Bi-212	Tl-208, Po-212
At-211	Po-211
Rn-222	Po-218, Pb-214, At-218, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Po-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
Ra-225	Ac-225, Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209
Ra-228	Ac-228
Ac-225	Fr-221, At-217, Bi-213, Po-213, Pb-209, TI-209

Ac-227	Fr-223
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212
Th-234	Pa-234m, Pa-234
Pa-230	Ac-226, Th-226, Fr-222, Ra-222, Rn-218, Po-214
U-230	Th-226, Ra-222, Rn-218, Po-214
U-235	Th-231
Pu-241	U-237
Pu-244	U-240, Np-240m
Am-242m	Am-242, Np-238
Am-243	Np-239
Cm-247	Pu-243
Bk-249	Am-245
Cf-253	Cm-249

[b]The values of A_1 and A_2 in Curies (Ci) are approximate and for information only; the regulatory standard units are terabecquerels (TBq).
[c]The activity of Ir-192 in special form may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.
[d]These values apply only to compounds of uranium that take the chemical form of UF_6, UO_2F_2 and $UO_2(NO_3)_2$ in both normal and accident conditions of transport.
[e]These values apply only to compounds of uranium that take the chemical form of UO_3, UF_4, UCl_4 and hexavalent compounds in both normal and accident conditions of transport.
[f]These values apply to all compounds of uranium other than those specified in notes d and e of this table.
[g]These values apply to unirradiated uranium only.
[h] A_2 = 0.74 TBq (20 Ci) for Mo-99 for domestic use.

EDITOR'S NOTE: Subsections G, H, and I of 12VAC5-481-3770 are not amended; therefore, the text of those subsections is not set out.

VA.R. Doc. No. R23-7111; Filed June 15, 2023, 8:06 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Extension of Emergency Regulation

Title of Regulation: **12VAC30-130. Amount, Duration and Scope of Selected Services (amending 12VAC30-130-140 through 12VAC30-130-260).**

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

The Governor has approved the request of the Department of Medical Assistance Services to extend the expiration date of the emergency regulation for 12VAC30-130 for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation is continued in effect through February 14, 2024. This extension is required for the department to continue enforcing requirements of Chapters 304 and 365 of the 2022 Acts of Assembly to allow qualified nursing facility staff to complete long-term services and supports (LTSS) screening for individuals who apply for or request LTSS and who are receiving non-Medicaid skilled nursing services in an institutional setting following discharge from an acute care hospital. The provisions of the emergency regulation are essential for the protection of individual choice for the setting and provider of LTSS services for every individual who applies for or requests institutional or community based services. The emergency regulation was published in 38:12 VA.R. 1415-1424 January 31, 2022.

Effective Date Extended Through: February 14, 2024.

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

VA.R. Doc. No. R22-6611; Filed June 20, 2023, 6:14 p.m.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Proposed Regulation

Title of Regulation: **12VAC35-46. Regulations for Children's Residential Facilities (adding 12VAC35-46-1260, 12VAC35-46-1270).**

Statutory Authority: §§ 37.2-203 and 37.2-408 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: September 15, 2023.

Agency Contact: Susan H. Puglisi, Regulatory Research Specialist, Office of Regulatory Affairs, Department of

Behavioral Health and Developmental Services, 1220 Bank Street, 4th Floor South, Richmond, VA 23219, telephone (804) 371-8043, FAX (804) 371-4609, TDD (804) 371-8977, or email susan.puglisi@dbhds.virginia.gov.

Basis: Section 37.2-203 of the Code of Virginia gives the State Board of Behavioral Health and Developmental Services the authority to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the Commissioner of the Department of Behavioral Health and Developmental Services.

Purpose: The purpose of this regulatory action is to align the Regulations for Children's Residential Facilities (12VAC35-46), with the requirements of the federal Family First Prevention Service Act (FFPSA) to require providers that accept Title IV-E funding to meet the standards as Qualified Residential Treatment Programs (QRTPs).

FFPSA includes reforms to child welfare financing streams by providing prevention services to families of children who are at imminent risk of entering foster care, underscores the importance of children growing up in families, and seeks to avoid the traumatic experience of children being separated from their families and entering foster care. Specifically, federal reimbursement will be available for trauma-informed mental health services, substance use disorder treatment, and in-home parenting skills training to safely maintain in-home family placement. FFPSA also aims to improve the well-being of children already in foster care by safely reducing placement of children in non-family based settings (e.g., residential treatment programs) and instead increasing placement of children in the least restrictive, most family-based setting appropriate to their individual needs. FFPSA created a specific nonfamily-based placement type called a QRTP, along with a structure around placing children in these types of placements. QRTPs serve children with specific treatment needs who need short term placement out of the home.

Substance: The proposed amendments require QRTPs to (i) have a trauma-informed treatment model; (ii) have registered licensed nursing staff and licensed clinical staff available 24 hours a day and seven days a week; (iii) facilitate outreach to the family members of the child; (iv) facilitate participation of family members in the child's treatment program; (v) provide or arrange discharge planning and family-based aftercare support for at least six months post-discharge; (vi) be licensed; and (vii) be accredited by an independent, not-for profit, accrediting organization approved by the U.S. Secretary of Health and Human Services.

Issues: The primary advantage of the amendments are children's residential licensing regulations that incorporate best practices, help to enhance support services for families, increase the number of children who remain at home, and build the capacity of communities to support children and families. This is an advantage to the public, the agency, and the Commonwealth. There are no known disadvantages to the agency or the Commonwealth.

The primary disadvantage for providers is that some may experience a financial burden in order to comply with the new regulatory provisions. However, providers have been aware for at least two years of the eventual changes brought in this regulation, and providers that do not accept Title IV-E funding shall not be affected by these amendments. Further, as these are federal requirements, the department does not have much discretion in the manner in which they are enacted.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018).[1] The analysis presented represents DPB's best estimate of these economic impacts.[2]

Summary of the Proposed Amendments to Regulation. The State Board of Behavioral Health and Developmental Services (Board) proposes to amend the licensing regulation for children's residential facilities to align with the requirements of the federal Family First Prevention Services Act (FFPSA) for providers that accept Title IV-E funding. The proposed amendments were mandated by the 2021 Appropriation Act and implemented via an emergency regulation; the Board now seeks to make those changes permanent. The proposed changes would establish a new license type for qualified residential treatment programs (QRTPs) and would allow children's residential facilities that meet the standards for QRTPs to maintain their eligibility for IV-E funding.

Background. The FFPSA, enacted in 2018, restructured federal spending on services for families and youth so as to prioritize keeping children with their families over placing them in foster care.[3] The law authorized new optional Title IV-E funding for time-limited mental health services, substance use treatment, and parenting skill-based programs.[4] It also changed the role of community service providers, how courts make decisions for families, and the types of placements that can be made.[5]

Item 318 D of the 2021 Appropriation Act requires the Board to promulgate emergency regulations to amend the children's residential facility licensing regulation to align with the requirements of the federal FFPSA for children's residential service providers to meet the standards as QRTPs.[6] Because FFPSA has changed the funding streams for some children's residential facilities, Item 318 D directs the Department of Behavioral Health and Development Services (DBHDS) to seek input from the Department of Social Services (DSS) and the Department of Medical Assistance Services (DMAS) to ensure that the regulation aligns with these changes. Item 318 D also specifies that "any regulation changes promulgated pursuant to this authority shall be budget neutral and must not exceed the funding appropriated in the Act for these services."

The proposed changes were initially implemented via an emergency regulation that became effective on January 10,

2022.[7] This action adds two new sections to the chapter: 12VAC35-46-1260, Qualified residential treatment programs, and 12VAC35-46-1270, Additional requirements for QRTP placements for children within the custody of local social service boards. 12VAC35-46-1260 requires QRTPs to have a trauma-informed model that is "designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances" and be able to implement the treatment identified for the child. In addition to the existing staffing requirements for children's residential facilities, QRTPs are also required to have registered or licensed nursing staff and other licensed clinical staff who (i) provide care on-site according to the treatment model, and (ii) are available 24 hours a day, seven days a week. The text specifies that QRTPs are not required to acquire nursing or other clinical staff solely through a direct employer-employee relationship. This means that the additional staffing requirements could be sub-contracted through nursing agencies or met through other contractual agreements.[8]

To further the goals of the FFPSA, QRTPs must facilitate and document outreach to family members (known biological family, including siblings, and fictive kin[9]) and the ways in which family members are integrated into the treatment process for the child. QRTPs must also provide or ensure discharge planning and family-based aftercare support for at least six months following discharge. Finally, QRTPs must be licensed in accordance with and accredited by an independent, nonprofit, accrediting organization approved by the U.S. Secretary of Health and Human Service.

12VAC35-46-1270 contains additional requirements that would apply for children in the custody of local social service boards. For these children, QRTPs must coordinate with local departments of social services (LDSS,) the child's family members, and other professionals who have provided services or served as a resource for the child. QRTPs are also required to maintain all documents pertaining to the child's need for placement in the child's record, including the initial assessment and any written documentation of the approval or disapproval of the placement by a court or administrative body.

Estimated Benefits and Costs.[10] Before FFPSA was enacted, children in foster care with serious emotional and behavioral disorders who were eligible for Title IV-E funding were placed at children's residential facilities, which may operate therapeutic group homes (TGH) or other institutional (congregate care) settings, or at psychiatric residential treatment facilities (PRTFs).[11] Depending on the specific nature of the child's medical needs and other eligibility criteria, the cost of the child's treatment would have been covered by a combination of funds from the Department of Medical Assistance Services (DMAS) and IV-E funding via the Department of Social Services (DSS).[12] However, once FFPSA was enacted, these facilities became ineligible for Title IV-E funds because they did not meet the new standards.[13] Establishing the QRTP license with the FFPSA standards allows children's residential facilities to become QRTPs and thus maintain their eligibility for Title IV-E funding. According to DSS, the types of programs that should be QRTPs are, "Non-family based residential programs who care for children in foster care who are eligible for IV-E funding. Any type of [non-family based residential] program licensed by DSS, DBHDS or DJJ [Department of Juvenile Justice]; regardless of whether it is or is not a Medicaid provider; can apply to be a QRTP."[14]

DBHDS reports that 52 facility locations have obtained QRTP designation by DSS since the emergency regulation went into effect.[15] Of these facilities, 50 are licensed by DBHDS and two are licensed by DSS.[16] DSS reports that at the end of fiscal year 2022 there were 189 QRTP placements: 89 placements were in facilities that operate a PRTF, and it is likely that the bulk of their placement costs are covered by Medicaid; 85 placements were in facilitates that operate a TGH, and part of their placement costs were covered by Medicaid; and 15 placements were in DSS facilities where none of their placement costs were covered by Medicaid.[17]

The state benefits from the availability of licensed QRTP facilities because their presence allows for cost-sharing with the federal government via Title IV-E. Because children at these facilities often have severe emotional and behavioral disorders and must be placed in an institutional setting, at least in the short run, these expenditures would otherwise have to be paid for through DMAS, DSS, or Office of Children's Services (OCS) regardless of whether the facilities meet IV-E standards.[18] Further, to the extent that QRTPs are able to facilitate the level of family integration that the FFPSA calls for, the proposed changes would also benefit children receiving residential treatment by providing them with a higher standard of care and mitigating the trauma of family separation.

In order to provide the higher standard of care, children's residential facilities must incur additional costs to obtain and maintain their QRTP license. These include direct costs in terms of staffing and accreditation requirements and indirect costs arising from the effort required to develop a trauma-informed model, maintain relationships with families, coordinate care with various parties, provide discharge planning and family-based aftercare for six months, and maintain additional paperwork, all of which require staff time. QRTPs may recover some of these costs through higher reimbursements via the rate-setting process. DBHDS, DSS, DMAS, and OCS have no discretion in the licensing standards since they stem from the FFPSA, which is federal law.

Due to the costs involved, some children's residential facilities may elect not to become licensed as QRTPs. DBHDS notes that this is an intended consequence of the FFPSA. By design, the FFPSA intends for fewer IV-E eligible children to be placed in institutional settings, and for such placements to be shorter in length, as family-based settings are prioritized and better supported through other interventions. However, if there are fewer licensed institutional providers able to accept IV-E funding, some IV-E eligible children who need residential

treatment may have to be placed in locations that are farther away from their families than before, if facilities located closer to them are not licensed QRTPs. To the extent that this occurs and makes it more difficult to integrate the family in the child's care (through less frequent visits for example), this would be an unintended adverse consequence of the FFPSA.

Businesses and Other Entities Affected. As mentioned previously, DBHDS reports that there are 52 residential treatment locations that have obtained designation by DSS as QRTPs. The 52 approved QRTP locations are operated by 17 unique provider organizations.[19]

Small Businesses[20] Affected.[21] The proposed amendments appear to adversely affect small businesses; however, the number of affected entities that are small businesses is unknown.

Types and Estimated Number of Small Businesses Affected. The proposed amendments would affect children's residential facilities that seek to become licensed QRTPs; however, the number of affected entities that are small businesses is unknown.

Costs and Other Effects. As mentioned previously, QRTPs incur direct costs in terms of staffing and accreditation requirements and indirect costs arising from the effort required to develop a trauma-informed model, maintain relationships with families, coordinate care with various parties, provide discharge planning and family-based aftercare for six months, and maintain additional paperwork, all of which require staff time. QRTPs may recover some of these costs through higher reimbursements via the rate-setting process.

Alternative Method that Minimizes Adverse Impact. These license standards are based on the FFPSA, which is federal law. Thus there is no appropriate alternative.

Localities[22] Affected.[23] The proposed amendments do not introduce costs for local departments of social services or for local governments. Consequently, an adverse economic impact[24] is not indicated for any localities.

Projected Impact on Employment. The proposed amendments could increase the employment of registered or licensed nursing staff or licensed clinical staff.

Effects on the Use and Value of Private Property. The proposed amendments would not affect the value of children's residential facilities. Some facilities will incur costs to be licensed as QRTPs, but they would benefit by being eligible to receive Title IV-E covered placements. The proposed amendments do not affect real estate development costs.

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[1]This stage was submitted to DPB on June 30, 2022, when Executive Order 14 was still in effect.

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

[3]See https://familyfirstact.org/about-law.

[4]See https://www.acf.hhs.gov/cb/title-iv-e-prevention-program.

[5]See https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/.

[6]See Chapter 552 or the 2021 Acts of Assembly (Special Session I) at https://budget.lis.virginia.gov/item/2021/2/HB1800/Chapter/1/318/.

[7]See https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9439. The emergency regulation is scheduled to expire on July 9, 2023.

[8]In response to a comment received at the Emergency/NOIRA stage, DBHDS clarified that after hours care can be supplied either in person, via telehealth, or via telephone as needed. DBHDS plans on issuing guidance regarding this provision when the permanent regulation takes effect. See Agency Background Document (ABD) at https://townhall.virginia.gov/L/GetFile.cfm?File=65\5849\9581\AgencyStatement_DBHDS_9581_v4.pdf.

[9]"Fictive kin" both here and in the regulation means "persons who are not related to a child by blood or adoption but have an established relationship with the child or his family." See https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-228/.

[10]The Economic Impact Analysis compares the proposed regulation to the regulation in the Virginia Administrative Code. The emergency regulation is: 1) not in the Virginia Administrative Code (see http://law.lis.virginia.gov/admincode) and 2) temporary. Thus, the Economic Impact Analysis assesses the impact of changing the permanent regulations. Consequently, to the extent that the proposed text matches the emergency text, some of the benefits and costs described here have likely already accrued.

[11]PRTFs fall under Title XIX (Medicaid) and are licensed differently although they serve a very similar population. For a discussion of the impact of FFPSA on congregate care settings vs. PRTFs, see https://www.macpac.gov/wp-content/uploads/2021/08/Medicaid-Coverage-of-Qualified-Residential-Treatment-Programs-for-Children-in-Foster-Care.pdf

[12]The Office of Children's Services (OCS) also provides funding in some cases, either directly or via DMAS.

[13]These payments have been covered in the interim by OCS; funds that were allocated for these payments at DSS were transferred over to OCS. However, since these payments do not fall under Title IV-E, the state does not receive any federal reimbursement for them.

[14]See https://familyfirstvirginia.com/foster_care/qrtp_faq.html.

[15]Updated information received via email from DBHDS dated October 27, 2022.

[16]Email from DBHDS dated July 19, 2022.

[17]These numbers are based on the Adoption and Foster Care Report pulled on June 29, 2022, and received in an email from DSS dated August 5, 2022.

[18]In this sense, the emergency regulation is "budget neutral" as required by the 2021 Appropriations Act. The proposed changes would maintain that budget neutrality since the eligibility criteria for children receiving services would not be changed.

[19]Email from DBHDS dated July 19, 2022.

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

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

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

[22]"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.

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

[24]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.

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

Summary:

Item 318 D of Chapter 552 of the 2021 Acts of Assembly, Special Session 1, requires the State Board of Behavioral Health and Developmental Services to align the Regulations for Children's Residential Facilities (12VAC35-46) with the requirements of the federal Family First Prevention Services Act (FFPSA) for children's residential service providers who accept Title IV-E funding to meet the standards as qualified residential treatment programs (QRTPs). The proposed amendments require QRTPs to (i) have a trauma-informed treatment model; (ii) have registered licensed nursing staff and licensed clinical staff who are available 24 hours a day and seven days a week; (iii) facilitate outreach to the family members of the child; (iv) facilitate participation of family members in the child's treatment program; (v) provide or arrange discharge planning and family-based aftercare support for at least six months after discharge; and (vi) be licensed and accredited by an independent, not-for-profit accrediting organization approved by the U.S. Secretary of Health and Human Services.

12VAC35-46-1260. Qualified residential treatment programs.

A. A qualified residential treatment program (QRTP) shall have a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child.

B. In addition to the staffing requirements within Part II (12VAC35-46-170 et seq.) through Part VI (12VAC35-46-1120 et seq.) of this chapter, a QRTP shall have registered or licensed nursing staff and other licensed clinical staff who:

1. Provide care within the scope of their practice as defined by state law;

2. Are on-site according to the treatment model referred to in subsection A of this section; and

3. Are available 24 hours a day and seven days a week.

The QRTP is not required to acquire nursing or other clinical staff solely through means of a direct employer to employee relationship.

C. To the extent appropriate and in accordance with the child's best interests, the QRTP shall facilitate participation of family members in the child's treatment program.

D. The QRTP shall facilitate outreach to the family members of the child, including siblings, document how the outreach is made, including contact information, and maintain contact information for any known biological family and fictive kin of the child. Documentation of outreach to family members and contact information of family members shall be placed within the child's record at the QRTP.

E. The QRTP shall document how family members are integrated into the treatment process for the child, including after discharge, and how sibling connections are maintained. Documentation of family member integration shall be placed within the child's record at the QRTP.

F. The QRTP shall provide or ensure discharge planning and family-based aftercare support for at least six months following discharge.

G. The QRTP shall be licensed in accordance with 42 USC § 471(a)(10) and accredited by any of the following independent nonprofit organizations:

1. The Commission on Accreditation of Rehabilitation Facilities (CARF);

2. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

3. The Council on Accreditation (COA); or

4. Any other independent, nonprofit accrediting organization approved by the U.S. Secretary of Health and Human Services.

12VAC35-46-1270. Additional requirements for QRTP placements for children within the custody of local social service boards.

A. The qualified residential treatment program (QRTP) shall coordinate with the local departments of social services, the child's biological family members, relative and fictive kin of the child, and, as appropriate, professionals who are a resource to the family of the child, such as teachers, clergy, or medical or mental health providers who have treated the child.

B. All documents related to a child's need for placement shall be placed within the child's record at the qualified residential treatment program, including the assessment determination of the qualified individual, as defined in 42 USC § 675a(c)(1)(D)(i), and the written documentation of the approval or disapproval of the placement in a qualified

residential treatment program by a court or administrative body.

C. This section shall not apply to direct parental placements of children into the QRTP that are made outside of the social services system.

VA.R. Doc. No. R22-6861; Filed June 27, 2023, 4:57 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443 of the Code of Virginia. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-323).**

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: August 16, 2023.

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

Summary:

The amendments (i) add four compounds to Schedule I; and (ii) delete one compound from Schedule IV of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) pursuant to § 54.1-3443 of Code of Virginia to conform Virginia scheduled drugs with federal scheduling actions. These amendments represent changes made by the federal government July 7, 2022, through February 3, 2023.

18VAC110-20-323. Scheduling for conformity with federal law or rule.

Pursuant to subsection E of § 54.1-3443 of the Code of Virginia and in order to conform the Drug Control Act to recent scheduling changes enacted in federal law or rule, the board:

1. Adds MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl) piperazine) to Schedule I;

2. Adds Dronabinol ((-)-delta-9-trans tetrahydrocannabinol) in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration to Schedule II;

3. Deletes naldemedine from Schedule II;

4. Deletes naloxegol and 6β-naltrexol from Schedule II;

5. Replaces 4-anilino-N-phenethyl-4-piperidine (CASRN 21409-26-7) in Schedule II with 4-anilino-N-phenethylpiperidine (ANPP);

6. Adds 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine (4,4'-Dimethylaminorex, 4,4'-DMAR) to Schedule I;

7. Adds 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)pyrrolo [2,3-b]pyridine-3-carboxamide (5F-CUMYL-P7AICA) to Schedule I;

8. Adds ethyl N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]carbamate (fentanyl carbamate) to Schedule I;

9. Adds N-(2-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide (ortho-fluoroacryl fentanyl) to Schedule I;

10. Adds N-(2-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (ortho-fluoroisobutyryl fentanyl) to Schedule I;

11. Adds N-(4-fluorophenyl)-N-[1-(2-phenylethyl) piperidin-4-yl]furan-2-carboxamide (para-fluoro furanyl fentanyl) to Schedule I;

12. Adds N-(2-fluorophenyl)-N-[1-[2-(2-fluorophenyl) ethyl]piperidin-4-yl]propanamide (2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl) to Schedule I;

13. Adds N-[1-[2-(4-methylphenyl)ethyl]piperidin-4-yl]-N-phenylacetamide (4'-methyl acetyl fentanyl) to Schedule I;

14. Adds N,3-diphenyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (β'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl fentanyl) to Schedule I;

15. Adds N-phenyl-N-[1-(2-phenylpropyl)piperidin-4-yl] propanamide (β-methyl fentanyl) to Schedule I;

16. Adds N-(2-fluorophenyl)-N-[1-(2-phenylethyl) piperidin-4-yl]butanamide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl) to Schedule I;

17. Adds N-(2-methylphenyl)-N-[1-(2-phenylethyl) piperidin-4-yl]acetamide (ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl) to Schedule I;

18. Adds 2-methoxy-N-(2-methylphenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl) to Schedule I;

19. Adds N-(4-methylphenyl)-N-[1-(2-phenylethyl) piperidin-4-yl]propanamide (para-methylfentanyl; 4-methylfentanyl) to Schedule I;

20. Adds N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]thiophene-2-carboxamide (thiophene fentanyl) to Schedule I;

21. Adds N-(4-chlorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (para-chloroisobutyryl fentanyl) to Schedule I;

22. Adds 24. 2-[2-[(4-butoxyphenyl)methyl]-5-nitrobenzimidazol-1-yl]-N,N-diethylethanamine (Butonitazene) to Schedule I;

23. Adds N,N-diethyl-2-[2-[(4-fluorophenyl)methyl]-5-nitrobenzimidazol-1-yl] ethanamine (Flunitazene) to Schedule I;

24. Adds Oliceridine to Schedule II;

25. Deletes Samidorphan from Schedule II;

26. Adds Remimazolam to Schedule IV;

27. Adds Serdexmethylphenidate to Schedule IV;

28. Adds Lemborexant to Schedule IV;

29. Adds Daridorexant to Schedule IV; ~~and~~

30. Adds Ganaxolone to Schedule V;

31. Adds N-methyl-1-(thiophen-2-yl)propan-2-amine (other name: methiopropamine) to Schedule I;

32. Adds N-phenyl-N′-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate (other name: mesocarb) to Schedule I;

33. Adds 1-methoxy-3-[4-(2-methoxy-2-phenylethyl) piperazin-1-yl]-1-phenylpropan-2-ol (other name: zipeprol) to Schedule I;

34. Adds 7-[(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid (other name: amineptine) to Schedule I; and

35. Deletes Fenfluramine from Schedule IV.

VA.R. Doc. No. R23-7477; Filed June 15, 2023, 8:23 a.m.

Final Regulation

REGISTRAR'S NOTICE: The agency is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 54.1-3442.6 of the Code of Virginia, which excludes actions of the Board of Pharmacy relating to the permits to operate pharmaceutical processors or cannabis dispensing facilities.

Title of Regulation: **18VAC110-60. Regulations Governing Pharmaceutical Processors (amending 18VAC110-60-10, 18VAC110-60-20, 18VAC110-60-50 through 18VAC110-60-90, 18VAC110-60-140, 18VAC110-60-160, 18VAC110-60-190, 18VAC110-60-200 through 18VAC110-60-230, 18VAC110-60-250, 18VAC110-60-251, 18VAC110-60-280 through 18VAC110-60-320, 18VAC110-60-330; adding 18VAC110-60-281, 18VAC110-60-295).**

Statutory Authority: § 54.1-3442.6 of the Code of Virginia.

Effective Date: August 16, 2023.

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

Summary:

Pursuant to Chapters 391 and 392 of the 2022 Acts of Assembly, the amendments (i) eliminate mandatory patient registration; and (ii) change allowable manufacturing and extraction of cannabis products, wholesale transactions of bulk cannabis, and marketing of cannabis products.

18VAC110-60-10. Definitions.

In addition to words and terms defined in §§ 54.1-3408.3 and 54.1-3442.5 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"90-day supply" means the amount of cannabis products reasonably necessary to ensure an uninterrupted availability of supply for a 90-day period for ~~registered~~ patients with a valid, unexpired written certification issued by a practitioner for the use of cannabis products.

"Advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication through any means to directly induce any person to patronize a particular pharmaceutical processor or cannabis dispensing facility or to purchase particular approved cannabis products. Advertising includes marketing.

"Batch" means a quantity of (i) cannabis oil from a production lot or (ii) harvested botanical cannabis product that is identified by a batch number or other unique identifier.

"Board" means the Board of Pharmacy.

"Certification" means a written statement, consistent with requirements of § 54.1-3408.3 of the Code of Virginia, issued by a practitioner for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Dispensing error" means one or more of the following was discovered after the final verification by the pharmacist, regardless of whether the patient received the product:

1. Variation from the intended product to be dispensed, including:

a. Incorrect product;

b. Incorrect product strength;

c. Incorrect dosage form;

d. Incorrect patient; or

e. Inadequate or incorrect packaging, labeling, or directions.

2. Failure to exercise professional judgment in identifying and managing:

a. Known therapeutic duplication;

b. Known drug-disease contraindications;

c. Known drug-drug interactions;

d. Incorrect drug dosage or duration of drug treatment;

e. Known drug-allergy interactions;

f. A clinically significant, avoidable delay in therapy; or

g. Any other significant, actual, or potential problem with a patient's drug therapy.

3. Delivery of a cannabis product to the incorrect patient.

4. An act or omission relating to the dispensing of cannabis product that results in, or may reasonably be expected to result in, injury to or death of a ~~registered~~ patient or results in any detrimental change to the medical treatment for the patient.

"Electronic tracking system" means an electronic radio-frequency identification (RFID) seed-to-sale tracking system that tracks the Cannabis from either the seed or immature plant stage until the cannabis product is sold to a ~~registered~~ patient, parent, legal guardian, or registered agent or until the Cannabis, including the seeds, parts of plants, and extracts, are destroyed. The electronic tracking system shall include, at a minimum, a central inventory management system and standard and ad hoc reporting functions as required by the board and shall be capable of otherwise satisfying required recordkeeping.

"ISO/IEC" means the joint technical committee of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

"ISO/IEC 17025" means the general requirements specified by the ISO/IEC for the competence of testing and calibration laboratories.

"On duty" means that a pharmacist, the responsible party, or a person who is qualified to provide supervision in accordance with 18VAC110-60-170 is on the premises at the address of the permitted pharmaceutical processor and is available as needed.

"Perpetual inventory" means an ongoing system for recording quantities of cannabis product received, dispensed, or otherwise distributed by a cannabis dispensing facility.

"PIC" means the pharmacist-in-charge whose name is on the pharmaceutical processor or cannabis dispensing facility application for a permit that has been issued and who shall have oversight of the processor's dispensing area or cannabis dispensing facility.

"Production" or "produce" means the manufacture, planting, preparation, cultivation, growing, harvesting, propagation, conversion, or processing of marijuana for the creation of usable cannabis, botanical cannabis, or a cannabis product derived thereof, (i) directly or indirectly by extraction from substances of natural origin, (ii) independently by means of chemical synthesis, or (iii) by a combination of extraction and chemical synthesis. "Production" or "produce" includes any packaging or repackaging of the substance or labeling or relabeling of its container.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 54.1-3408.3 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

~~"Registered patient" means a qualifying patient who has been issued a registration by the board for the dispensing of cannabis products to such patient.~~

"Registration" means an identification card or other document issued by the board that identifies a person as a practitioner ~~or~~; a qualifying patient, parent, or legal guardian~~,~~ who has voluntarily registered with the board; or a registered agent.

"Resident" means a person whose principal place of residence is within the Commonwealth as evidenced by a federal or state income tax return or a current Virginia driver's license. If a person is a minor, residency may be established by evidence of Virginia residency by a parent or legal guardian.

"Responsible party" means the person designated on the pharmaceutical processor application who shall have oversight of the cultivation and production areas of the pharmaceutical processor.

"Temperature and humidity" means temperature and humidity maintained in the following ranges:

Room or Phase	Temperature	Humidity
Mother room	65 - 85° F	50% - 75%
Nursery phase	65 - 85° F	50% - 75%
Vegetation phase	65 - 85° F	50% - 75%
Flower/harvest phase	65 - 85° F	40% - 75%
Drying/extraction rooms	< 75° F	40% - 75%

"Temporarily resides" means a person that does not maintain a principal place of residence within Virginia but resides in

Virginia on a temporary basis as evidenced by documentation substantiating such temporary residence.

18VAC110-60-20. Fees.

A. Fees are required by the board as specified in this section. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Registration of practitioner.

1. Initial registration.	$50
2. Annual renewal of registration.	$50
3. Replacement of registration for a qualifying practitioner whose information has changed or whose original registration certificate has been lost, stolen, or destroyed.	$50

C. ~~Registration~~ Voluntary registration by a qualifying patient, parent, legal guardian, or registered agent.

1. Initial voluntary registration of a patient.	$50
2. Annual renewal of voluntary registration of a patient. 3. Initial voluntary registration of a parent or legal guardian. 4. Annual voluntary renewal of registration of a parent or guardian.	$50 $25 $25
5. Initial registration or annual renewal of a registered agent	$25
6. Replacement of registration for a qualifying patient, parent, legal guardian, or registered agent whose original registration certificate has been lost, stolen, or destroyed.	$25

D. Pharmaceutical processor permit.

1. Application.	$10,000
2. Initial permit.	$60,000
3. Annual renewal of permit.	$10,000
4. Change of name of processor.	$100
5. Change of PIC or responsible party or any other information provided on the permit application.	$100
6. Change of ownership not requiring a criminal background check.	$100
7. Change of ownership requiring a criminal background check.	$250
8. Any acquisition, expansion, remodel, or change of location requiring an inspection.	$1,000
9. Reinspection fee.	$1,000
10. Registration of each cannabis oil product.	$25

E. Cannabis dispensing facility permit.

1. Initial permit.	$5,000
2. Annual renewal of permit.	$1,500
3. Change of name of dispensing facility.	$100
4. Change of PIC or any other information provided on the permit application.	$100
5. Change of ownership not requiring a criminal background check.	$100
6. Change of ownership requiring a criminal background check.	$250
7. Any acquisition, expansion, remodel, or change of location requiring an inspection.	$1,000
8. Reinspection fee.	$1,000

F. The handling fee for returned check or dishonored credit card or debit card shall be $50.

18VAC110-60-50. ~~Registration~~ Voluntary registration of a patient, parent, legal guardian, or registered agent.

A. A qualifying patient, or a parent or legal guardian of a minor or vulnerable adult, for whom a practitioner has issued a certification ~~shall register with the board~~ may voluntarily request registration in accordance with this section. ~~If the qualifying patient is a minor or an incapacitated adult, the qualifying patient's parent or legal guardian shall register with the board in accordance with this section.~~ For issuance of a registration ~~application to be considered complete~~, the following items shall be submitted:

1. A copy of the certification issued by a registered practitioner;

2. Proof of residency of the qualifying patient and proof of residency of a parent or legal guardian, if applicable, such as a government-issued identification card or tax receipt or proof of temporary residency, if applicable, such as a current academic identification card from a Virginia institution of higher learning, rental agreement, utility bill, or attestation on a form prescribed by the board that contains information sufficient to document temporary residency in Virginia;

3. Proof of identity of the qualifying patient and, if the patient is a minor, proof of identity of the parent or legal guardian in the form of a government-issued identification card;

4. Proof of the qualifying patient's age in the form of a birth certificate or other government-issued identification;

5. Payment of the appropriate fees; and

6. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

B. A patient, or the patient's parent or legal guardian, may choose a registered agent to receive cannabis products on behalf of the patient. An individual may serve as a registered agent for no more than two ~~registered~~ patients. For a registration application to be approved, the following shall be submitted:

1. The name, address, and birthdate~~, and registration number~~ of each ~~registered~~ patient for whom the individual intends to act as a registered agent;

2. A copy of the written certification issued to the patient for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease;

3. Proof of identity in the form of a copy of a government-issued identification card;

~~3.~~ 4. Payment of the applicable fee; and

~~4.~~ 5. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

C. A qualifying patient shall not be issued a written certification by more than one practitioner during a given time period.

~~D. Patients, parents, legal guardians, and registered agents issued a registration shall carry their registrations with them whenever they are in possession of cannabis products.~~

18VAC110-60-60. Denial of a qualifying patient, parent, legal guardian, or registered agent registration application.

A. The board may deny an application or renewal of the registration of a registered agent, or the voluntary registration or renewal of a qualifying patient, parent, or legal guardian~~, or registered agent~~ if the applicant:

1. Does not meet the requirements set forth in law or regulation or fails to provide complete information on the application form;

2. Does not provide acceptable proof of identity, residency or temporary residency, or age of the patient to the board;

3. Provides false, misleading, or incorrect information to the board;

4. Has had a ~~qualifying~~ registration ~~of a qualifying patient, parent, legal guardian,~~ request denied or registered agent status denied, suspended, or revoked by the board in the previous six months;

5. Has presented a certification issued by a practitioner who is not authorized to certify patients for cannabis products; or

6. Has a prior conviction of a violation of any law pertaining to controlled substances.

B. If the board denies an application or renewal of a ~~qualifying~~ patient, parent, legal guardian, or registered agent applicant, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

18VAC110-60-70. Reporting requirements for practitioners, patients, parents, legal guardians, or registered agents.

A. A practitioner shall report to the board, on a form prescribed by the board, the death of a ~~registered~~ patient or a change in status ~~involving~~ of a ~~registered~~ patient for whom the practitioner has issued a certification if such change affects the patient's continued eligibility to use cannabis products or the practitioner's inability to continue treating the patient. A practitioner shall report such death, change of status, or inability to continue treatment not more than 15 days after the practitioner becomes aware of such fact.

B. A patient, parent, or legal guardian who has been issued a registration shall notify the board of any change in the information provided to the board not later than 15 days after such change. The patient, parent, or legal guardian shall report changes that include a change in name, address, contact information, medical status of the patient, or change of the certifying practitioner. The patient, parent, or legal guardian shall report such changes on a form prescribed by the board.

C. A registered agent who has been issued a registration shall notify the board of any change in the information provided to the board not later than 15 days after such change, to include a change in the identifying information of the patient for whom he is serving as a registered agent.

D. If a patient, parent, legal guardian, or registered agent notifies the board of any change that results in information on the registration of the patient, parent, legal guardian, or registered agent being inaccurate, the board shall issue a replacement registration. Upon receipt of a new registration, the qualifying patient, parent, legal guardian, or registered agent shall destroy in a nonrecoverable manner the registration that was replaced.

E. If a patient, parent, legal guardian, or registered agent becomes aware of the loss, theft, or destruction of the registration of such patient, parent, legal guardian, or registered agent, the registrant shall notify the board not later than five business days after becoming aware of the loss, theft, or destruction, and submit the fee for a replacement registration. The board shall ~~inactivate the initial registration upon receiving such notice and~~ issue a replacement registration upon receiving the applicable fee, provided the applicant continues to satisfy the requirements of law and regulation.

18VAC110-60-80. Proper storage and disposal of cannabis products by patients, parents, legal guardians, or registered agents.

A. A ~~registered~~ patient, parent, legal guardian, or registered agent shall exercise reasonable caution to transport and store cannabis products in a manner to prevent theft, loss, or access by unauthorized persons.

B. A ~~registered~~ patient, parent, legal guardian, or registered agent shall dispose of all usable cannabis products in possession of the ~~registered~~ patient, parent, legal guardian, or registered agent no later than 10 calendar days after the expiration of the patient's registration if such registration is not renewed, or sooner should the patient no longer wish to possess cannabis products. A ~~registered~~ patient, parent, legal guardian, or registered agent shall complete such disposal by one of the following methods:

1. By removing the product from the original container and mixing it with an undesirable substance such as used coffee grounds, dirt, or kitty litter. The mixture shall be placed in a sealable bag, empty can, or other container to prevent the drug from leaking or breaking out of a garbage bag.

2. By transferring it to law enforcement via a medication drop-box or drug take-back event if permissible under state and federal law.

18VAC110-60-90. Revocation or suspension of a ~~qualifying patient, parent, legal guardian, or~~ registered agent registration or invalidation of the voluntary registration of a patient, parent, or legal guardian.

The board may revoke or suspend the registration of a ~~registrant (i.e., a patient, parent, legal guardian, or registered agent)~~ registered agent or invalidate the voluntary registration of a patient, parent, or legal guardian under the following circumstances:

1. The patient's practitioner notifies the board that the practitioner is withdrawing the written certification submitted on behalf of the patient, and 30 days after the practitioner's withdrawal of the written certification, the patient has not obtained a valid written certification from a different practitioner;

2. The ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian provided false, misleading, or incorrect information to the board;

3. The ~~registrant~~ patient on whose behalf the registered agent is receiving cannabis products or the voluntarily registered patient, parent, or legal guardian is no longer a resident of Virginia or is no longer temporarily residing in Virginia;

4. The ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian obtained more than a 90-day supply of cannabis products in a 90-day period;

5. The ~~registrant provided or~~ registered agent or voluntarily registered patient, parent, or legal guardian sold or improperly provided cannabis products to any person, including another ~~registrant~~ registered agent;

6. The ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian permitted another person to use the registration of the ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian, except as required for a registered agent to act on behalf of a patient;

7. The ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian tampered, falsified, altered, modified, or allowed another person to tamper, falsify, alter, or modify the registration of the ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian;

8. The registration of the ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian was lost, stolen, or destroyed, and the ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian failed to notify the board or notified the board of such incident more than five business days after becoming aware that the registration was lost, stolen, or destroyed;

9. The ~~registrant~~ registered agent or voluntarily registered patient, parent, or legal guardian failed to notify the board of a change in registration information or notified the board of such change more than 15 days after the change; or

10. The registered agent or voluntarily registered patient, parent, or legal guardian violated any federal or state law or regulation.

18VAC110-60-140. Notification of changes by pharmaceutical processor or cannabis dispensing facility.

A. Unless otherwise provided in law or regulation, the PIC or the responsible party designated on the application of the pharmaceutical processor or a cannabis dispensing facility shall provide any notification or information that is required from a pharmaceutical processor or a cannabis dispensing facility with respect to their designated areas of oversight.

B. Prior to making any change to the pharmaceutical processor or cannabis dispensing facility name, the pharmaceutical processor or cannabis dispensing facility shall submit an application for such change to the board and pay the fee.

C. Any person wishing to engage in the acquisition of an existing pharmaceutical processor or cannabis dispensing facility, change the location of an existing pharmaceutical processor or cannabis dispensing facility, make structural changes to an existing pharmaceutical processor or cannabis dispensing facility, or make changes to a previously approved security system shall submit an application to the board and pay the required fee.

1. The proposed location or structural changes shall be inspected by an authorized agent of the board prior to issuance of a permit.

2. Cannabis, ~~oil acquired from~~ industrial hemp ~~extract~~ extracts, or cannabis products shall not be moved to a new location until approval is granted by the inspector or board staff.

18VAC110-60-160. Grounds for action against a pharmaceutical processor permit or a cannabis dispensing facility.

In addition to the bases enumerated in § 54.1-3316 of the Code of Virginia, the board may suspend, revoke, or refuse to grant or renew a permit issued; place such permit on probation; place conditions on such permit; or take other actions permitted by statute or regulation on the following grounds:

1. Any criminal conviction under federal or state statutes or regulations or local ordinances, unless the conviction was based on a federal statute or regulation related to the possession, purchase, or sale of cannabis products that is authorized under state law and regulations;

2. Any civil action under any federal or state statute or regulation or local ordinance (i) relating to the applicant's, licensee's, permit holder's, or registrant's profession; or (ii) involving drugs, medical devices, or fraudulent practices, including fraudulent billing practices;

3. Failure to maintain effective controls against diversion, theft, or loss of Cannabis, cannabis products, or other controlled substances;

4. Intentionally or through negligence obscuring, damaging, or defacing a permit or registration card;

5. Permitting another person to use the permit of a permit holder ~~or registration~~; the written certification of a qualifying patient, parent, or legal guardian; the registration of a qualifying patient, parent, or legal guardian who has voluntarily registered with the board; or a registered agent, except as required for a registered agent to act on behalf of a patient;

6. Failure to cooperate or give information to the board on any matter arising out of conduct at a pharmaceutical processor or cannabis dispensing facility; or

7. Discontinuance of business for more than 60 days, unless the board approves an extension of such period for good cause shown upon a written request from a pharmaceutical processor or cannabis dispensing facility. Good cause includes exigent circumstances that necessitate the closing of the facility. Good cause shall not include a voluntary closing of the pharmaceutical processor or cannabis dispensing facility.

18VAC110-60-190. Pharmacy technicians; ratio; supervision and responsibility.

A. The ratio of pharmacy technicians to pharmacists on duty in the areas of a pharmaceutical processor designated for production or dispensing or in a cannabis dispensing facility shall not exceed six pharmacy technicians to one pharmacist.

B. The pharmacist providing direct supervision of pharmacy technicians may be held responsible for the pharmacy technicians' actions. Any violations relating to the dispensing of cannabis products resulting from the actions of a pharmacy technician shall constitute grounds for action against the license of the pharmacist and the registration of the pharmacy technician. As used in this subsection, "direct supervision" means a supervising pharmacist who:

1. Is on duty where the pharmacy technician is performing routine cannabis product production or dispensing functions; and

2. Conducts in-process and final checks on the pharmacy technician's performance.

C. Pharmacy technicians shall not:

1. Counsel a ~~registered~~ patient or the patient's parent, legal guardian, or registered agent regarding (i) cannabis products or other drugs either before or after cannabis products have been dispensed or (ii) any medical information contained in a patient medication record;

2. Consult with the practitioner who certified the qualifying patient, or the practitioner's agent, regarding a patient or any medical information pertaining to the patient's cannabis product or any other drug the patient may be taking;

3. Interpret the patient's clinical data or provide medical advice;

4. Determine whether a different formulation of cannabis product should be substituted for the cannabis product or formulation recommended by the practitioner or requested by the ~~registered~~ patient ~~or~~, parent, or legal guardian; or

5. Communicate with a practitioner who certified a ~~registered~~ patient, or the practitioner's agent, to obtain a clarification on a qualifying patient's written certification or instructions.

18VAC110-60-200. Responsibilities of the PIC.

A. The PIC of a pharmaceutical processor shall not serve as PIC of any other facility at any one time. A processor shall employ the PIC at the pharmaceutical processor for at least 35 hours per week, except as otherwise authorized by the board. A person may serve simultaneously as the PIC for no more than two cannabis dispensing facilities located within the same health service area at any one time.

B. The PIC or the pharmacist on duty shall control all aspects of the practice in the dispensing area of the pharmaceutical

processor or in a cannabis dispensing facility. Any decision overriding such control of the PIC or other pharmacist on duty may be grounds for disciplinary action against the pharmaceutical processor or cannabis dispensing facility permit.

C. The PIC of a pharmaceutical processor or cannabis dispensing facility shall be responsible for ensuring that:

1. Pharmacy technicians are registered and properly trained;

2. All record retention requirements pertaining to the dispensing area met;

3. All requirements for the physical security of the cannabis products are met;

4. The pharmaceutical processor or cannabis dispensing facility has appropriate pharmaceutical reference materials to ensure that cannabis products can be properly dispensed;

5. The following items are conspicuously posted in the pharmaceutical processor or cannabis dispensing facility in a location and in a manner so as to be clearly and readily identifiable to ~~registered~~ patients, parents, legal guardians, or registered agents:

a. Pharmaceutical processor permit or cannabis dispensing facility permit;

b. Licenses for all pharmacists practicing at the pharmaceutical processor or cannabis dispensing facility; and

c. The price of all cannabis products offered by the pharmaceutical processor or cannabis dispensing facility; and

6. Any other required filings or notifications are made on behalf of the dispensing area of the pharmaceutical processor or the dispensing facility as set forth in regulation.

D. When the PIC ceases practice at a pharmaceutical processor or cannabis dispensing facility or no longer wishes to be designated as PIC, he shall immediately return the permit to the board indicating the effective date on which he ceased to be the PIC.

E. An outgoing PIC shall have the opportunity to take a complete and accurate inventory of all cannabis products on hand in the dispensing area of the pharmaceutical processor or the dispensing facility on the date he ceases to be the PIC, unless the owner submits written notice to the board showing good cause as to why this opportunity should not be allowed.

F. A PIC who is absent from practice for more than 30 consecutive days shall be deemed to no longer be the PIC. If the PIC knows of an upcoming absence of longer than 30 days, ~~he~~ the PIC shall be responsible for notifying the board and returning the permit. For unanticipated absences by the PIC that exceed 15 days with no known return date within the next 15 days, the permit holder shall immediately notify the board and shall obtain a new PIC.

G. An application for a permit designating the new PIC shall be filed with the required fee within 14 days of the original date of resignation or termination of the PIC on a form provided by the board. It shall be unlawful for a pharmaceutical processor or cannabis dispensing facility to operate without a new permit past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The executive director for the board may grant an extension for up to an additional 14 days for good cause shown.

18VAC110-60-210. General provisions.

A. A pharmaceutical processor or cannabis dispensing facility shall only sell cannabis products in a child-resistant, secure, and light-resistant container. Upon a written request from the ~~registered~~ patient, parent, legal guardian, or registered agent, the product may be dispensed in a non-child-resistant container so long as all labeling is maintained with the product.

B. Only a pharmacist may dispense cannabis products to ~~registered~~ patients ~~or~~, parents, or legal guardians of patients who are minors or ~~incapacitated~~ vulnerable adults ~~and who are registered with the board,~~ or to a registered agent. A pharmacy technician who meets the requirements of 18VAC110-60-170 C may assist, under the direct supervision of a pharmacist, in the dispensing and selling of cannabis products.

C. The PIC, pharmacist, responsible party, or person who is qualified to provide supervision in accordance with 18VAC110-60-170 on duty shall restrict access to the pharmaceutical processor or cannabis dispensing facility to:

1. A person whose responsibilities necessitate access to the pharmaceutical processor or cannabis dispensing facility and then for only as long as necessary to perform the person's job duties; or

2. A person who is a ~~registered~~ patient, parent, legal guardian, registered agent, or a companion of the patient, in which case such person shall not be permitted behind the service counter or in other areas where Cannabis plants, extracts, or cannabis products are stored

D. A pharmacist, pharmacy technician, or an employee of the pharmaceutical processor or cannabis dispensing facility who has routine access to confidential patient data and who has signed a patient data confidentiality agreement with the processor or dispensing facility may determine eligibility for access to the processor or facility by verifying through a verification source recognized by the board that the registration of the patient, parent, legal guardian, or registered agent is current.

E. All pharmacists and pharmacy technicians shall at all times while at the pharmaceutical processor or cannabis dispensing facility have their current license or registration available for inspection by the board or the board's agent.

F. While inside the pharmaceutical processor or cannabis dispensing facility, all employees shall wear name tags or

similar forms of identification that clearly identify them, including their position at the pharmaceutical processor or cannabis dispensing facility.

G. A pharmaceutical processor or cannabis dispensing facility shall be open for ~~registered~~ patients, parents, legal guardians, or registered agents to purchase cannabis products for a minimum of 35 hours a week, except as otherwise authorized by the board.

H. A pharmaceutical processor or cannabis dispensing facility that closes the dispensing area during its normal hours of operation shall implement procedures to notify ~~registered~~ patients, parents, legal guardians, and registered agents of when the pharmaceutical processor or cannabis dispensing facility will resume normal hours of operation. Such procedures may include telephone system messages and conspicuously posted signs. If the cultivation, production, or dispensing area of the pharmaceutical processor or if a cannabis dispensing facility is or will be closed during its normal hours of operation for longer than two business days, the pharmaceutical processor or cannabis dispensing facility shall immediately notify the board.

I. A pharmacist shall counsel ~~registered~~ patients, parents, legal guardians, and registered agents, if applicable, regarding the use of cannabis products. Such counseling shall include information related to safe techniques for proper use and storage of cannabis products and for disposal of the products in a manner that renders them nonrecoverable.

J. The pharmaceutical processor or cannabis dispensing facility shall establish, implement, and adhere to a written alcohol-free, drug-free, and smoke-free work place policy that shall be available to the board or the board's agent upon request.

18VAC110-60-215. ~~Advertising~~ Marketing and advertising.

A. A pharmaceutical processor may engage in marketing activities related to products, the medical cannabis program, the pharmaceutical processor company, and related communications, except those marketing activities that (i) include false or misleading statements; (ii) promote excessive consumption; (iii) depict a person younger than 21 years of age consuming cannabis; (iv) include any image designed or likely to appeal to minors, specifically including cartoons, toys, animals, children, or any other likeness to images, characters, or phrases that are popularly used to advertise to children; (v) depict products or product packaging or labeling that bear reasonable resemblance to any product legally available for consumption as a candy or that promotes cannabis consumption; or (vi) contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the general public to believe that the cannabis product has been endorsed, made, or used by the Commonwealth of Virginia or any of its representatives, except where specifically authorized.

B. A pharmaceutical processor or cannabis dispensing facility shall not advertise (i) through any means unless at least 85% of the audience is reasonably expected to be 18 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

~~B.~~ C. Advertising must accurately and legibly identify the pharmaceutical processor or cannabis dispensing facility responsible for its content and include a statement that cannabis products are for use by ~~registered~~ patients only. Any advertisement for cannabis products that is related to the benefits, safety, or efficacy, including therapeutic or medical claims, shall:

1. Be supported by substantial, current clinical evidence or data; and

2. Include information on side effects or risks associated with the use of cannabis.

~~C.~~ D. Advertising shall not:

1. Be misleading, deceptive, or false or contain any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of cannabis consumption;

2. Contain a statement, design, illustration, picture, or representation that:

a. Encourages or represents the recreational use of cannabis;

b. Targets or is attractive to persons younger than 18 years of age, including a cartoon character, a mascot, or any other depiction or image that is commonly used to market products to minors;

c. Displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;

d. Encourages or promotes cannabis for use as an intoxicant; or

e. Is obscene or indecent.

3. Display cannabis or cannabis product pricing except as allowed in ~~18VAC110-60-215 F~~ subsection G of this section.

4. Display cannabis products or images of products where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place; and

5. Include coupons, giveaways of free cannabis products, or distribution of merchandise that displays anything other than the facility name and contact information.

~~D.~~ E. A pharmaceutical processor or cannabis dispensing facility may list its business in public phone books, business directories, search engines, or other places where it is reasonable for a business to maintain an informational

presence of its existence and a description of the nature of the business. A pharmaceutical processor or cannabis dispensing facility shall not engage in the use of pop-up digital advertisements.

~~E.~~ F. Any website or social media site owned, managed, or operated by a pharmaceutical processor or cannabis dispensing facility shall employ a neutral age-screening mechanism that verifies that the user is at least 18 years of age, including by using an age-gate, age-screen, or age verification mechanism.

~~F.~~ G. A pharmaceutical processor or cannabis dispensing facility may display the following information on its website or social media site:

1. Name and location of the processor or facility;

2. Contact information for the processor or facility;

3. Hours and days the pharmaceutical processor or cannabis dispensing facility is open for dispensing cannabis products;

4. Laboratory results;

5. Product information and pricing;

6. Directions to the processor or facility; and

7. Educational materials regarding the use of cannabis products that are supported by substantial, current clinical evidence or data.

~~G.~~ H. Communication and engagement for educational purposes with registered practitioners, ~~registered~~ patients, parents, legal guardians, registered agents, other health care practitioners, and the general public, including the dissemination of information permitted by ~~18VAC110-60-215 F~~ subsection G of this section and educational materials regarding the use of cannabis products available from the pharmaceutical processor or cannabis dispensing facility, is allowed.

~~H.~~ I. No outdoor cannabis product advertising shall be placed within 1,000 feet of (i) a school or daycare; (ii) a public or private playground or similar recreational or child-centered facility; or (iii) a substance use disorder treatment facility.

~~I.~~ J. Signs placed on the property of a pharmaceutical processor or cannabis dispensing facility shall not:

1. Display imagery of cannabis or the use of cannabis or utilize long luminous gas-discharge tubes that contain rarefied neon or other gases;

2. Draw undue attention to the facility but may be designed to assist ~~registered~~ patients, parents, legal guardians, and registered agents to find the pharmaceutical processor or cannabis dispensing facility; or

3. Be illuminated during non-business hours.

~~J.~~ K. All outdoor signage must be in compliance with local or state requirements.

~~K.~~ L. A pharmaceutical processor or cannabis dispensing facility shall not advertise at any sporting event or use any billboard advertisements.

~~L.~~ M. No cannabis product advertising shall be on or in a public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

18VAC110-60-220. Pharmaceutical processor or cannabis dispensing facility prohibitions.

A. No pharmaceutical processor shall:

1. Cultivate Cannabis plants or produce or dispense cannabis products in any place except the approved facility at the address of record on the application for the pharmaceutical processor permit;

2. Sell, deliver, transport, or distribute Cannabis, including cannabis products, to any other facility except for wholesale distribution ~~between pharmaceutical processors and to a cannabis dispensing facility~~ pursuant to 18VAC110-60-251;

3. Produce or manufacture cannabis products for use outside of Virginia; or

4. Provide cannabis products samples.

B. No cannabis dispensing facility shall:

1. Dispense cannabis products in any place except the approved facility at the address of record on the application for the cannabis dispensing facility permit;

2. Sell, deliver, transport, or distribute cannabis products to any other facility, except ~~that it may distribute cannabis products back to the pharmaceutical processor from which it obtained the products or distribute cannabis oil products between cannabis dispensing facilities~~ for wholesale distribution pursuant to 18VAC110-60-251; or

3. Provide cannabis product samples.

C. Except for certain employee access to secured areas designated for cultivation and production and authorized by the responsible party pursuant to § 54.1-3442.6 of the Code of Virginia, no pharmaceutical processor or cannabis dispensing facility shall be open or in operation, and no person shall be in the dispensing area of a pharmaceutical processor or in a cannabis dispensing facility, unless a pharmacist is on the premises and directly supervising the activity within the dispensing area of the pharmaceutical processor or a cannabis dispensing facility. At all other times, the dispensing area of the pharmaceutical processor or the cannabis dispensing facility shall be closed and properly secured.

D. No pharmaceutical processor or cannabis dispensing facility shall sell anything other than cannabis products except for devices for administration of dispensed products or hemp-based CBD products that meet the applicable standards set

forth in state and federal law and that meet testing requirements of 18VAC110-60-280 D 2 and D 3.

E. No cannabis products shall be consumed on the premises of a pharmaceutical processor or cannabis dispensing facility, except for emergency administration to a ~~registered~~ patient. Such administration shall be recorded and a file maintained for a period of two years.

F. No person except a pharmaceutical processor or cannabis dispensing facility employee or a ~~registered~~ patient, parent, legal guardian, registered agent, or a companion of a patient shall be allowed on the premises of a processor or facility with the following exceptions: laboratory staff may enter a processor for the sole purpose of identifying and collecting Cannabis or cannabis products samples for purposes of conducting laboratory tests; the board or the board's authorized representative may waive the prohibition upon prior written request.

G. All persons who have been authorized in writing to enter the facility by the board or the board's authorized representative shall obtain a visitor identification badge from a pharmaceutical processor or cannabis dispensing facility employee prior to entering the processor or facility.

1. An employee shall escort and monitor an authorized visitor at all times the visitor is in the pharmaceutical processor or cannabis dispensing facility.

2. A visitor shall visibly display the visitor identification badge at all times the visitor is in the pharmaceutical processor or cannabis dispensing facility and shall return the visitor identification badge to an employee upon exiting the processor or facility.

3. All visitors shall log in and out. The pharmaceutical processor or cannabis dispensing facility shall maintain the visitor log that shall include the date, time, and purpose of the visit and that shall be available to the board.

4. If an emergency requires the presence of a visitor and makes it impractical for the pharmaceutical processor or cannabis dispensing facility to obtain a waiver from the board, the processor or facility shall provide written notice to the board as soon as practicable after the onset of the emergency. Such notice shall include the name and company affiliation of the visitor, the purpose of the visit, and the date and time of the visit. A pharmaceutical processor or cannabis dispensing facility shall monitor the visitor and maintain a log of such visit as required by this subsection.

H. No cannabis products shall be sold, dispensed, or distributed via a delivery service or any other manner outside of a pharmaceutical processor or cannabis dispensing facility, except that a ~~registered~~ parent, legal guardian, or registered agent or an agent of the processor or cannabis dispensing facility may deliver cannabis products to the ~~registered~~ patient or in accordance with 18VAC110-60-310 A.

I. Notwithstanding the requirements of subsection F of this section, an agent of the board or local law enforcement or other federal, state, or local government officials may enter any area of a pharmaceutical processor or cannabis dispensing facility if necessary to perform their governmental duties.

18VAC110-60-230. Inventory requirements.

A. Each pharmaceutical processor or cannabis dispensing facility prior to commencing business shall:

1. Conduct an initial comprehensive inventory of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis products, at the facility. The responsible party shall ensure all required inventories are performed in the cultivation and production areas, and the PIC shall ensure all required inventories are performed in the dispensing area. The inventories shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist, pharmacy technician, responsible party, or person authorized by the responsible party who provides supervision of cultivation or production-related activities who conducted the inventory. If a facility commences business with no Cannabis or cannabis products on hand, the pharmacist or responsible party shall record this fact as the initial inventory; and

2. Establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis products, that shall enable the facility to detect any diversion, theft, or loss in a timely manner.

B. Upon commencing business, each pharmaceutical processor shall conduct a weekly inventory of all Cannabis plants, including the seeds, parts of plants, and cannabis products in stock, that shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist, pharmacy technician, responsible party, or person authorized by the responsible party who provides supervision of cultivation or production-related activities who conducted the inventory.

C. Upon commencing business, each cannabis dispensing facility shall maintain a perpetual inventory of all cannabis products received and dispensed that accurately indicates the physical count of each cannabis product on hand at the time of performing the inventory. The perpetual inventory shall include a reconciliation of each cannabis product at least monthly with a written explanation for any difference between the physical count and the theoretical count.

D. The record of all cannabis products sold, dispensed, or otherwise disposed of shall show the date of sale or disposition; the name of the pharmaceutical processor or cannabis dispensing facility; the name and address of the ~~registered~~ patient, parent, legal guardian, or registered agent to whom the

cannabis product was sold; the kind and quantity of cannabis product sold or disposed of; and the method of disposal.

E. A complete and accurate record of all Cannabis plants, including the seeds, parts of plants, and cannabis products on hand, shall be prepared annually on the anniversary of the initial inventory or such other date that the PIC or responsible party may choose, so long as it is not more than one year following the prior year's inventory.

F. All inventories, procedures, and other documents required by this section shall be maintained on the premises and made available to the board or its agent.

G. Inventory records shall be maintained for three years from the date the inventory was taken.

H. Whenever any sample or record is removed by a person authorized to enforce state or federal law for the purpose of investigation or as evidence, such person shall tender a receipt in lieu thereof and the receipt shall be kept for a period of at least three years.

18VAC110-60-250. Requirements for the storage and handling of Cannabis or cannabis products.

A. A pharmaceutical processor or cannabis dispensing facility shall:

1. Have storage areas that provide adequate lighting, ventilation, sanitation, temperature, and humidity as defined in 18VAC110-60-10 and space, equipment, and security conditions for the cultivation of Cannabis and the production and dispensing of cannabis products;

2. Separate for storage in a quarantined area Cannabis plants, seeds, parts of plants, extracts, including cannabis products, that are outdated, damaged, deteriorated, misbranded, or adulterated, or whose containers or packaging have been opened or breached, until such Cannabis plants, seeds, parts of plants, extracts, or cannabis products are destroyed;

3. Be maintained in a clean, sanitary, and orderly condition; and

4. Be free from infestation by insects, rodents, birds, or vermin of any kind.

B. A pharmaceutical processor shall compartmentalize all areas in the facility based on function and shall restrict access between compartments. The processor shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure and proper cultivation of Cannabis and production of cannabis products. These shall include policies and procedures that:

1. Restrict movement between compartments;

2. Provide for different colored identification cards for facility employees based on the compartment to which they are assigned at a given time so as to ensure that only employees necessary for a particular function have access to that compartment of the facility;

3. Require pocketless clothing for all employees working in an area containing Cannabis plants, seeds, and extracts, including cannabis oil and cannabis products; and

4. Document the chain of custody of all Cannabis plants, parts of plants, seeds, extracts, and cannabis products.

C. A cannabis dispensing facility shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure and proper dispensing of cannabis products, including a requirement for pocketless clothing for all facility employees working in an area containing cannabis products.

D. The PIC and responsible party of a pharmaceutical processor or the PIC of a cannabis dispensing facility shall establish, maintain, and comply with written policies and procedures for the cultivation, production, security, storage, and inventory of Cannabis, including the seeds, parts of plants, extracts, and the cannabis products, as applicable. Such policies and procedures shall include methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. Pharmaceutical processors and cannabis dispensing facilities shall include in their written policies and procedures a process for the following:

1. Handling mandatory and voluntary recalls of cannabis products and bulk cannabis oil, botanical cannabis, and usable cannabis distributed or received via wholesale distribution. The process shall be adequate to deal with recalls due to any action initiated at the request of the board and any voluntary action by the pharmaceutical processor or cannabis dispensing facility to (i) remove defective or potentially defective cannabis products from the market or (ii) promote public health and safety by replacing existing cannabis products with improved products or packaging;

2. Preparing for, protecting against, and handling any crises that affect the security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;

3. Ensuring that any outdated, damaged, deteriorated, misbranded, or adulterated Cannabis, including seeds, parts of plants, extracts, and cannabis products, is segregated from all other Cannabis, seeds, parts of plants, extracts, and cannabis products and destroyed. This procedure shall provide for written documentation of the Cannabis, including seeds, parts of plants, extracts, and cannabis product disposition; and

4. Ensuring the oldest stock of Cannabis, including seeds, parts of plants, extracts, and cannabis products are used first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

E. The pharmaceutical processor shall store all Cannabis, including seeds, parts of plants, extracts, and cannabis products, in the process of production, transfer, or analysis in such a manner as to prevent diversion, theft, or loss; shall make Cannabis, including the seeds, parts of plants, extracts, and cannabis products accessible only to the minimum number of specifically authorized employees essential for efficient operation; and shall return the aforementioned items to their secure location immediately after completion of the production, transfer, or analysis process or at the end of the scheduled business day. If a production process cannot be completed at the end of a working day, the pharmacist, responsible party, or other person authorized by the responsible party to supervise cultivation and production at the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing Cannabis, including the seeds, parts of plants, extracts, and cannabis products, inside an area or building that affords adequate security.

F. The cannabis dispensing facility shall store all cannabis products in such a manner as to prevent diversion, theft, or loss; shall make cannabis products accessible only to the minimum number of specifically authorized employees essential for efficient operation; and shall return the cannabis products to their secure location at the completion of the dispensing or at end of the scheduled business day.

18VAC110-60-251. Wholesale distribution of cannabis ~~oil~~ products, bulk cannabis oil, botanical cannabis, and usable cannabis.

A. Cannabis oil, cannabis products, botanical cannabis, and usable cannabis from a batch that have passed the tests required in 18VAC110-60-300 G and H and are packaged and labeled for sale with an appropriate expiration date in accordance with 18VAC110-60-300 may be wholesale distributed between pharmaceutical processors ~~and~~, between a pharmaceutical processor and a cannabis dispensing facility, and between cannabis dispensing facilities.

B. ~~Cannabis oil products from a batch that passed the microbiological, mycotoxin, heavy metal, residual solvent, and pesticide chemical residue tests and are packaged and labeled for sale with an appropriate expiration date in accordance with 18VAC110-60-300 may be wholesale distributed between cannabis dispensing facilities.~~ Bulk cannabis oil, botanical cannabis, and usable cannabis that has not been packaged for sale and has not passed the tests required in 18VAC110-60-300 G and H and does not bear an appropriate expiration date may be wholesale distributed between pharmaceutical processors. Prior to distribution, the bulk cannabis oil, botanical cannabis, and usable cannabis shall be labeled in compliance with 18VAC110-60-295.

C. A pharmaceutical processor or cannabis dispensing facility wholesale distributing the products shall create a record of the transaction that shows (i) the date of distribution, (ii) the names and addresses of the processor or cannabis dispensing facility distributing the product and the processor or cannabis dispensing facility receiving the product, (iii) the kind and quantity of product being distributed, and (iv) the batch and lot identifying information to include harvest date, testing date, processing or manufacturing date, and expiration date. The record of the transaction shall be maintained by the distributing pharmaceutical processor or cannabis dispensing facility with its records of distribution, and a copy of the record shall be provided to and maintained by the processor or facility receiving the product in its records of receipt. Such records shall be maintained by each processor or facility for three years in compliance with 18VAC110-60-260.

D. A pharmaceutical processor wholesale distributing bulk cannabis oil, botanical cannabis, and usable cannabis shall create a record of the transaction that shows (i) the date of distribution; (ii) the names and addresses of the processor distributing the bulk cannabis oil, botanical cannabis, and usable cannabis and the processor receiving the bulk cannabis oil, botanical cannabis, and usable cannabis; (iii) the quantity or weight of the bulk cannabis oil, botanical cannabis, and usable cannabis in each container; (iv) the quantity of each type of container being distributed; (v) the identification of the contents of each container, including a brief description of the type or form of cannabis oil, botanical cannabis, or usable cannabis and the strain name, as appropriate; (vi) the lot or batch number or unique identifier so as to facilitate any warnings or recalls the board or pharmaceutical processor deem appropriate; and (vii) the dates of harvest and packaging. The record of the transaction shall be maintained by the distributing pharmaceutical processor with its records of distribution, and a copy of the record shall be provided to and maintained by the processor receiving the product in its records of receipt. Such records shall be maintained by each processor for three years in compliance with 18VAC110-60-260.

E. A pharmaceutical processor or cannabis dispensing facility wholesale distributing cannabis products shall provide the receiving processor or cannabis dispensing facility with a copy of the lab results for the distributed product or electronic access to the information that can be shared upon request to ~~registered~~ patients, parents, legal guardians, registered agents, registered practitioners who have certified qualifying patients, or an agent of the board.

~~E.~~ F. A pharmaceutical processor or cannabis dispensing facility wholesale distributing cannabis products and pharmaceutical processors wholesale distributing bulk cannabis oil, botanical cannabis, and usable cannabis shall store and handle ~~products~~ the items and maintain policies and procedures, to include a process for executing or responding to mandatory and voluntary recalls, in a manner that complies with 18VAC110-60-250.

~~F.~~ G. If a pharmaceutical processor or cannabis dispensing facility participating in wholesale ~~distributing products~~ distribution uses an electronic system for the storage and

retrieval of records related to distributing ~~products~~, the pharmaceutical processor shall use a system that is compliant with 18VAC110-60-260.

18VAC110-60-280. Cultivation and production of cannabis products.

A. No cannabis products shall have had pesticide chemicals or petroleum-based solvents, except for hydrocarbon-based solvents described in 18VAC110-60-281, used during the cultivation, extraction, production, or manufacturing process, except that the board may authorize the use of pesticide chemicals for purposes of addressing an infestation that could result in a catastrophic loss of Cannabis crops.

B. Cultivation methods for Cannabis plants ~~and~~, extraction methods used to produce the cannabis products, and the manufacturing of cannabis products shall be performed in a manner deemed safe and effective based on current standards or scientific literature.

1. The cultivation, extraction, production, and manufacturing of cannabis products may include the use of hydrocarbon-based solvents as described in 18VAC110-60-281.

2. The cultivation, extraction, production, and manufacturing of cannabis products may include any other generally accepted technology, provided that:

a. The pharmaceutical processor complies with any applicable requirements contained in 18VAC110-60-281 regarding flammable solvents as defined in that section;

b. The pharmaceutical processor complies with any Virginia licensing, permitting, and general safety laws or regulations of any federal or Virginia state agency that governs the technology and use of such technology; and

c. The pharmaceutical processor maintains sole responsibility for any adverse outcomes or violations of federal or Virginia state laws or regulations caused by such use.

C. Any Cannabis plant, seed, parts of plant, extract, or cannabis products not in compliance with this section shall be deemed adulterated.

D. A pharmaceutical processor may acquire ~~oil from~~ industrial hemp extract, including isolates and distillates, for the purpose of formulating such ~~oil extract with cannabis plant extract~~ extracts into allowable dosages of cannabis ~~oil~~ products provided:

1. The pharmaceutical processor acquires the ~~oil~~ extracts from industrial hemp extract processed in Virginia and in compliance with state or federal law from a registered industrial hemp dealer or processor;

2. The ~~oil~~ extracts from industrial hemp acquired by a pharmaceutical processor ~~is~~ are subject to the same third-party testing requirements applicable to cannabis plant extract as verified by testing performed by a laboratory located in Virginia and in compliance with state law; and

3. The industrial hemp dealer or processor provides such third-party testing results to the pharmaceutical processor before ~~oil~~ extracts from industrial hemp ~~is~~ are acquired.

E. A pharmaceutical processor acquiring oil from industrial hemp extract shall ensure receipt of a record of the transaction that shows the date of distribution, the names and addresses of the registered industrial hemp dealer or processor distributing the product and the pharmaceutical processor receiving the product, and the kind and quantity of product being distributed. The record of the transaction shall be maintained by the pharmaceutical processor with its records of receipt. Such records shall be maintained by each pharmaceutical processor for three years.

F. A pharmaceutical processor shall maintain policies and procedures for the proper storage and handling of ~~oil from~~ industrial hemp ~~extract~~ extracts, to include a process for executing or responding to mandatory and voluntary recalls in a manner that complies with 18VAC110-60-250.

G. No cannabis oil intended to be vaporized or inhaled shall contain vitamin E acetate.

18VAC110-60-281. Use of hydrocarbon-based solvents or other flammable solvents.

A. The following words and phrases used in this section shall have the following meanings, unless the context clearly indicates otherwise:

1. "Closed-loop system" means machinery in which volatile hydrocarbon substances are self-contained without the loss or escape of those substances.

2. "Flammable solvent" means a liquid that has a flash point below 100 degrees Fahrenheit. Flammable solvents include hydrocarbon-based solvents.

3. "Hydrocarbon-based solvent" means a type of solvent composed of hydrogen and carbon compounds, such as N-butane, isobutene, propane, any isomer, or combination thereof.

B. Hydrocarbon-based solvents may be used in the cultivation, extraction, production, or manufacturing of cannabis products provided that:

1. A pharmaceutical processor complies with all requirements in this section.

2. A pharmaceutical processor using hydrocarbon-based solvents in general industrial use as promulgated by the Occupational Safety and Health Administration and published in 29 CFR 1910 or any subsequent regulation governing such use, including regulations governing:

a. Ventilation requirements;

b. Air contaminants; and

c. Hazard communication.

3. A pharmaceutical processor using hydrocarbon-based solvents shall comply with any requirements issued by the Virginia Department of Labor and Industry regarding use of hydrocarbon-based solvents.

4. A pharmaceutical processor using hydrocarbon-based solvents shall comply with any requirements issued by the Virginia Department of Environmental Quality regarding use of hydrocarbon-based solvents.

5. A pharmaceutical processor using hydrocarbon-based solvents maintains sole responsibility for any adverse outcomes or violations of federal or Virginia state laws or regulations caused by such use.

6. A pharmaceutical processor using hydrocarbon-based solvents shall ensure that all equipment, counters, and surfaces used in the cultivation, extraction, production, or manufacturing of cannabis products are food-grade and do not react adversely with any hydrocarbon solvent used. All counters and surface areas shall be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned.

7. A pharmaceutical processor using hydrocarbon-based solvents shall ensure that any room in which hydrocarbon-based solvents will be used contains an emergency eye-wash station.

8. A pharmaceutical processor using hydrocarbon-based solvents shall ensure that a professional grade, closed-loop extraction system capable of recovering solvent is used in the cultivation, extraction, production, or manufacturing of cannabis products.

a. Closed-loop extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

b. A pharmaceutical processor using a closed-loop extraction system must obtain a certification from a licensed engineer that certifies that the system was commercially manufactured, is safe for its intended use, and has been built to codes of recognized and generally accepted good engineering practices, such as (i) the American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) the American Society for Testing and Materials (ASTM).

c. The certification must contain the signature and stamp of a professional engineer and include the serial number of the extraction unit certified.

9. A pharmaceutical processor using hydrocarbon-based solvents shall obtain a safety data sheet for each hydrocarbon-based solvent used and store such data sheet on the premises. All such records shall be subject to inspection by the board.

10. A pharmaceutical processor using hydrocarbon-based solvents shall develop standard operating procedures, good manufacturing practices, and a training plan prior to using such solvents. Standard operating procedures shall specifically address the following:

a. Safe and proper handling and use of hydrocarbon-based solvents;

b. Safe and proper operation of machinery and equipment;

c. Adequate cleaning and maintenance of machinery and equipment;

d. Incident reporting for any instances where the operator does not follow the stated standard operating procedures that identifies (i) the operator's name; (ii) the date and time of the incident; (iii) the supervising employees to which the incident report will be sent; and (iv) an incident summary that includes whether any cannabis products or other substances escaped from the closed-loop system, the amount of escaped material, whether the material was destroyed, and how the incident was resolved; and

e. Safe and proper disposal of waste created during processes using hydrocarbon-based solvents.

11. A pharmaceutical processor using hydrocarbon-based solvents shall ensure that any person using such solvents in a closed-loop system:

a. Is fully trained on how to use the system;

b. Has direct access to applicable material safety data sheets; and

c. Handles and stores the solvents safely.

C. If a pharmaceutical processor intends to use a flammable solvent, then a designated industrial hygienist or professional engineer that is not an employee of the pharmaceutical processor must:

1. Establish a maximum amount of flammable solvents and other flammable materials that may be stored within the pharmaceutical processor facility in accordance with applicable laws and regulations;

2. Determine what type of electrical equipment must be installed within the room in which flammable solvents are to be stored in accordance with applicable laws and regulations;

3. Determine whether a gas monitoring system must be installed within the room in which flammable solvents are to be used or stored, and, if required, the system's specifications in accordance with applicable laws and regulations;

4. Determine whether a fire suppression system must be installed within the room in which the flammable solvents are to be used or stored, and, if required, the system's specifications in accordance with applicable laws and regulations; and

5. Determine whether a fume vent hood or exhaust system must be installed within the room in which a flammable solvent will be used, and, if required, the system's specifications in accordance with applicable laws and regulations.

D. If a pharmaceutical processor makes a material change to its use of flammable solvents in any part of the manufacturing process, a designated industrial hygienist or professional engineer who is not an employee of the pharmaceutical processor must recertify the standard operating procedures for use of flammable solvents determined under subsection C of this section.

E. A pharmaceutical processor shall maintain copies of all reports generated by or received from the designated industrial hygienist or professional engineer for inspection by the board.

F. A pharmaceutical processor shall not store an amount of flammable solvents on site that exceeds the maximum amount allowable as identified by the designated industrial hygienist or professional engineer.

G. A pharmaceutical processor shall ensure that all appropriate safety and sanitary equipment, including personal protective equipment, is provided to and appropriately used by each employee handling a flammable solvent.

H. The board shall approve chemicals for use as hydrocarbon or other flammable solvents in the cultivation, extraction, production, or manufacturing of cannabis products based on availability of testing for residual material of individual solvents.

18VAC110-60-285. Registration of products.

A. A pharmaceutical processor shall assign a brand name to each product of cannabis. The pharmaceutical processor shall register each brand name with the board on a form prescribed by the board prior to any dispensing and shall associate each brand name with a specific laboratory test that includes a terpenes profile and a list of all active ingredients, including:

1. Tetrahydrocannabinol (THC);

2. Tetrahydrocannabinol acid (THC-A);

3. Cannabidiols (CBD); and

4. Cannabidiolic acid (CBDA).

For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required.

B. A pharmaceutical processor shall not label two products with the same brand name unless the laboratory test results for each product indicate that they contain the same level of each active ingredient listed in subsection A of this section within a range of 90% to 110%, except (i) where the total tetrahydrocannabinol (THC) concentration is less than five milligrams per dose, the concentration of THC shall be within 0.5 milligrams per dose; and (ii) where the total cannabidiol (CBD) concentration is less than five milligrams per dose, the concentration of total CBD shall be within 0.5 milligrams per dose.

C. The board shall not register any brand name that:

1. Is identical to or confusingly similar to the name of an existing commercially available product;

2. Is identical to or confusingly similar to the name of an unlawful product or substance;

3. Is confusingly similar to the name of a previously approved cannabis oil product brand name;

4. Is obscene or indecent;

5. May encourage the use of marijuana or cannabis products for recreational purposes;

6. May encourage the use of cannabis products for a disease or condition other than the disease or condition the practitioner intended to treat;

7. Is customarily associated with persons younger than the age of 18; or

8. Is related to the benefits, safety, or efficacy of the cannabis product unless supported by substantial evidence or substantial clinical data.

18VAC110-60-290. Labeling of batch of cannabis products.

A. Cannabis products produced as a batch shall not be adulterated.

B. Cannabis products produced as a batch shall be:

1. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements, 21 CFR Part 111; and

2. Labeled with:

a. The name and address of the pharmaceutical processor;

b. The brand name of the cannabis product that was registered with the board pursuant to 18VAC110-20-285;

c. A unique serial number that matches the product with the pharmaceutical processor batch and lot number, including the cultivator and manufacturer if produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, so as to facilitate any warnings or recalls the board or pharmaceutical processor deem appropriate;

d. The date of testing and packaging;

e. For products produced from bulk cannabis oil, botanical cannabis, or usable cannabis obtained through distribution from another pharmaceutical processor, the name and address of the testing laboratory;

f. The expiration date, which shall be six months or less from the date of ~~packaging~~ the cannabis product registration approval, unless supported by stability testing;

~~f.~~ g. The quantity of cannabis products contained in the batch;

~~g.~~ h. A terpenes profile and a list of all active ingredients, including:

(1) Tetrahydrocannabinol (THC);

(2) Tetrahydrocannabinol acid (THC-A);

(3) Cannabidiol (CBD); and

(4) Cannabidiolic acid (CBDA).

For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required;

~~h.~~ i. For cannabis oil products, pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis; and

~~i.~~ j. For botanical cannabis products, a pass or fail rating based on the laboratory's microbiological, mycotoxins, heavy metals, pesticide chemical residue analysis, water activity, and moisture content, and the potency.

18VAC110-60-295. Labeling of bulk cannabis oil, botanical cannabis, and usable cannabis.

A. Bulk cannabis oil, botanical cannabis, and usable cannabis shall not be adulterated.

B. Bulk cannabis oil, botanical cannabis, and usable cannabis produced for wholesale distribution shall be:

1. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements, 21 CFR Part 111, except as exempted in this section;

2. Packaged in a tamper-evident container; and

3. Labeled with:

a. The name and addresses of the pharmaceutical processor distributing the product and the pharmaceutical processor receiving the product;

b. The quantity or weight of the cannabis oil, botanical cannabis, or usable cannabis in the container;

c. Identification of the contents of the container, including a brief description of the type or form of cannabis oil, botanical cannabis, or usable cannabis and the strain or name, as appropriate;

d. The statement "Not Packaged for Final Sale" displayed prominently;

e. A unique serial number that will match a cannabis product with the cultivator and manufacturer and lot or batch number so as to facilitate any warnings or recalls the board or pharmaceutical processor deem appropriate; and

f. The dates of harvest and packaging.

C. Cannabis products produced from bulk cannabis oil, botanical cannabis, and usable cannabis shall comply with all laboratory testing and labeling requirements prior to dispensing.

18VAC110-60-300. Laboratory requirements; testing.

A. No pharmaceutical processor shall utilize a laboratory to handle, test, or analyze cannabis products unless such laboratory:

1. Is independent from all other persons involved in the cannabis industry in Virginia, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial interest in a pharmacist, pharmaceutical processor, cannabis dispensing facility, certifying practitioner, or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase, or use of cannabis products; and

2. Has employed at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's level degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

3. Has obtained a controlled substances registration certificate pursuant to § 54.1-3423 of the Code of Virginia authorizing the testing of cannabis products.

4. Has provided proof to the board of accreditation in testing and calibration in accordance with the most current version of the International Standard for Organization and the ISO/IEC 17025 or proof that the laboratory has applied for accreditation in testing and calibration in the most current version of ISO/IEC 17025. Any testing and calibration method utilized to perform a cannabis-related analysis for pharmaceutical processors shall be in accordance with the laboratory's ISO/IEC 17025 accreditation. The accrediting body shall be recognized by International Laboratory Accreditation Cooperation.

a. A laboratory applying for authorization to provide cannabis-related analytical tests for pharmaceutical processors shall receive ISO/IEC 17025 accreditation within two years from the date the laboratory applied for ISO/IEC 17025 accreditation. A laboratory may request, and the board may grant for good cause shown, additional time for the laboratory to receive ISO/IEC 17025 accreditation.

b. A laboratory shall send proof of ISO/IEC 17025 accreditation to the board for cannabis-related analytical test methods for pharmaceutical processors for which it has received ISO/IEC 17025 accreditation no later than

five business days after the date in which the accreditation was received.

c. A laboratory may use nonaccredited analytical test methods so long as the laboratory has commenced an application for ISO/IEC 17025 accreditation for analytical test methods for cannabis-related analysis for pharmaceutical processors. No laboratory shall use nonaccredited analytical test methods for cannabis-related analysis for pharmaceutical processors if it has applied for and has not received ISO/IEC 17025 accreditation within two years. The laboratory may request and the board may grant for good cause shown additional time for the laboratory to utilize nonaccredited analytical test methods for cannabis-related analysis.

d. At such time that a laboratory loses its ISO/IEC 17025 accreditation for any cannabis-related analytical test methods for pharmaceutical processors, it shall inform the board within 24 hours. The laboratory shall immediately stop handling, testing, or analyzing Cannabis for pharmaceutical processors.

5. Complies with a transportation protocol for transporting Cannabis or cannabis products to or from itself or to or from pharmaceutical processors.

B. After processing and before dispensing the cannabis oil product, a pharmaceutical processor shall make a sample available from each homogenized batch of product for a laboratory to (i) test for microbiological contaminants, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue; and (ii) conduct an active ingredient analysis and terpenes profile. Each laboratory shall determine a valid sample size for testing, which may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5% of individual units for dispensing or distribution from each homogenized batch of cannabis oil is required to achieve a representative sample for analysis.

C. A pharmaceutical processor shall make a sample available from each harvest batch of botanical cannabis product to (i) test for microbiological contaminants, mycotoxins, heavy metals, pesticide chemical reside, water activity, and moisture content and (ii) conduct an active ingredient analysis and terpenes profile. In determining the minimum sample size for testing from each batch of botanical cannabis, the certified testing laboratory may determine the minimum sample size. The sample must be representative of the entire batch to include selection from various points in the batch lot and be of sufficient sample size to allow for analysis of all required tests.

D. From the time that a batch of cannabis product has been sampled for testing until the laboratory provides the results from its tests and analysis, the pharmaceutical processor shall segregate and withhold from use the entire batch, except the samples that have been removed by the laboratory for testing. During this period of segregation, the pharmaceutical processor shall maintain the batch in a secure, cool, and dry location so as to prevent the batch from becoming contaminated or losing its efficacy.

E. Under no circumstances shall a pharmaceutical processor or cannabis dispensing facility sell a cannabis product prior to the time that the laboratory has completed its testing and analysis and provided a certificate of analysis to the pharmaceutical processor or other designated facility employee.

F. The processor shall require the laboratory to immediately return or properly dispose of any cannabis products and materials upon the completion of any testing, use, or research.

G. If a sample of cannabis oil product does not pass the microbiological, mycotoxin, heavy metal, ~~pesticide chemical residue,~~ or residual solvent test based on the standards set forth in this subsection, the batch may be remediated with further processing. A cannabis oil product that does not pass the pesticide chemical residue test cannot be remediated. After further processing, the batch shall be retested for microbiological, mycotoxin, heavy metal, pesticide chemical residue, and residual solvent, and an active ingredient analysis and terpenes profile shall be conducted.

1. For purposes of the microbiological test, a cannabis oil sample shall be deemed to have passed if it satisfies the standards set forth in Section 1111 of the United States Pharmacopeia.

2. For purposes of the mycotoxin test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

Test Specification	
Aflatoxin B1	<20 ug/kg of Substance
Aflatoxin B2	<20 ug/kg of Substance
Aflatoxin G1	<20 ug/kg of Substance
Aflatoxin G2	<20 ug/kg of Substance
Ochratoxin A	<20 ug/kg of Substance

3. For purposes of the heavy metal test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

Metal	Limits - parts per million (ppm)
Arsenic	<10 ppm
Cadmium	<4.1 ppm
Lead	<10 ppm
Mercury	<2 ppm

4. For purposes of the pesticide chemical residue test, a sample of cannabis oil product shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food, 40 CFR Part 180.

5. For purposes of the active ingredient analysis, a sample of the cannabis oil product shall be tested for:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiols (CBD); and

d. Cannabidiolic acid (CBDA).

6. For the purposes of the residual solvent test, a sample of the cannabis oil product shall be deemed to have passed if it meets the standards and limits recommended by the American Herbal ~~Pharmacopia~~ Pharmacopoeia for Cannabis Inflorescence.

H. If a sample of botanical cannabis product does not pass the microbiological, mycotoxin, heavy metal, ~~pesticide chemical residue,~~ water activity, or moisture content test based on the standards set forth in this subsection, the batch may be remediated. A botanical cannabis product that does not pass the pesticide chemical residue test cannot be remediated. Once remediated, the batch shall be retested for microbiological, mycotoxin, heavy metal, pesticide chemical residue, water activity, and moisture content, and an active ingredient analysis and terpenes profile shall be conducted. If the botanical cannabis batch fails retesting, it shall be considered usable cannabis and may be processed into cannabis oil, unless the failure is related to pesticide requirements, in which case the batch shall not be considered usable cannabis and shall not be processed into cannabis oil. Any batch processed into cannabis oil shall comply with all testing standards set forth in subsection G of this section.

1. For purposes of the microbiological test, a botanical cannabis product sample shall be deemed to have passed if it satisfies the standards set forth in the most current American Herbal Pharmacopoeia Cannabis Inflorescence Standards of Identity, Analysis, and Quality Control.

2. For purposes of the mycotoxin test, a sample of botanical cannabis product shall be deemed to have passed if it meets the following standards:

Test Specification	
Aflatoxin B1	<20 ug/kg of Substance
Aflatoxin B2	<20 ug/kg of Substance
Aflatoxin G1	<20 ug/kg of Substance
Aflatoxin G2	<20 ug/kg of Substance
Ochratoxin A	<20 ug/kg of Substance

3. For purposes of the heavy metal test, a sample of botanical cannabis product shall be deemed to have passed if it meets the following standards:

Metal	Limits - parts per million (ppm)
Arsenic	<10 ppm
Cadmium	<4.1 ppm
Lead	<10 ppm
Mercury	<2 ppm

4. For purposes of the pesticide chemical residue test, a sample of botanical cannabis product shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the ~~federal~~ U.S. Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR Part 180).

5. For purposes of the active ingredient analysis, a sample of the botanical cannabis product shall be tested for:

a. Total tetrahydrocannabinol (THC); and

b. Total cannabidiol (CBD).

6. For the purposes of water activity and moisture content for botanical cannabis, the product shall be deemed to have passed if the water activity rate does not exceed 0.65Aw and the moisture content does not exceed 15%.

I. If a sample of cannabis product passes the required tests listed in subsections G and H of this section, the entire batch may be utilized by the processor for immediate packaging and labeling for sale. An expiration date shall be assigned to the product that is based upon validated stability testing that addresses product stability when opened and the shelf-life for unopened products, except stability testing shall not be required for cannabis products if ~~the pharmaceutical processor assigns~~ an expiration date of six months or less from the date of ~~packaging~~ the cannabis product registration approval is signed.

J. The processor shall require the laboratory to file with the board an electronic copy of each laboratory test result for any batch that does not pass the required tests listed in subsections G and H of this section at the same time that it transmits those results to the pharmaceutical processor. In addition, the laboratory shall maintain the laboratory test results and make them available to the board or an agent of the board.

K. Each pharmaceutical processor or cannabis dispensing facility shall have such laboratory results available upon request to ~~registered~~ patients, parents, legal guardians, registered agents, registered practitioners who have certified qualifying patients, the board, or an agent of the board.

18VAC110-60-310. Dispensing of cannabis products.

A. A pharmacist in good faith may dispense cannabis products to any ~~registered~~ patient, parent, or legal guardian as indicated on the written certification or to a registered agent for a specific patient.

1. Prior to the initial dispensing of cannabis products pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall view in person or by audiovisual means a current photo identification of the patient, parent, legal guardian, or registered agent. The pharmacist or pharmacy technician shall verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that ~~the~~ any registrations, if applicable, are current, the written certification has not expired, and the date and quantity of the last dispensing of cannabis products to the ~~registered~~ patient.

2. A pharmacist or pharmacy technician employed by the processor or cannabis dispensing facility shall make a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible and shall maintain it on site or by electronic means for two years. The pharmaceutical processor and cannabis dispensing facility shall also provide an electronic copy of the written certification to the board.

3. Prior to any subsequent dispensing, the pharmacist or pharmacy technician shall verify that the written certification on file has not expired. An employee or delivery agent shall view a current photo identification ~~and current registration~~ of the patient, parent, legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a ~~registered~~ patient's 90-day supply of cannabis product. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis products at any time except that no ~~registered~~ patient, parent, legal guardian, or registered agent shall receive more than a 90-day supply of cannabis products for a patient in a 90-day period from any pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. However, no more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of cannabis product to be dispensed to a patient, a pharmacist shall consider all cannabis products dispensed and adjust the amount dispensed accordingly.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label to the container of cannabis product that contains:

1. A serial number assigned to the dispensing of the product;

2. The brand name of cannabis product that was registered with the board pursuant to 18VAC110-60-285 and its strength;

3. The serial number assigned to the product during production;

4. The date of dispensing the cannabis product;

5. The quantity of cannabis products dispensed;

6. A terpenes profile and a list of all active ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA)~~;~~.

For botanical cannabis products, only the total cannabidiol (CBD) and total tetrahydrocannabinol (THC) are required;

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis;

8. The name ~~and registration number~~ of the ~~registered~~ patient;

9. The name and registration number of the certifying practitioner;

10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;

11. For botanical cannabis, the amount recommended by the practitioner or dispensing pharmacist;

12. The name or initials of the dispensing pharmacist;

13. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;

14. Any necessary cautionary statement;

15. A prominently printed expiration date based on stability testing; and

16. The pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual.

D. The label shall be exempt from containing the items listed in subdivisions C 6, C 7, and C 15 if the items are included on the batch label as required in 18VAC110-60-290 and are clearly visible to the patient.

E. A pharmaceutical processor shall not label cannabis products as "organic" unless the Cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

F. The cannabis products shall be dispensed in child-resistant packaging, except as provided in 18VAC110-60-210 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).

G. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

H. A pharmacist shall be responsible for verifying the accuracy of the dispensed product in all respects prior to dispensing and shall document that each verification has been performed.

I. A pharmacist shall document a ~~registered~~ patient's self-assessment of the effects of cannabis products in treating the ~~registered~~ patient's diagnosed condition or disease or the symptoms thereof. If the authorization for botanical cannabis for a minor is communicated verbally or in writing to the pharmacist at the time of dispensing, the pharmacist shall also document such authorization. A pharmaceutical processor or cannabis dispensing facility shall maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

J. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis products to a ~~registered~~ patient, parent, legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis products to the ~~registered~~ patient, parent, legal guardian, or registered agent may have negative health or safety consequences for the ~~registered~~ patient or the public.

18VAC110-60-320. Dispensing error review and reporting; quality assurance program.

A. A pharmaceutical processor or cannabis dispensing facility shall implement and comply with a quality assurance program that describes~~,~~ in writing~~,~~ policies and procedures to detect, identify, and prevent dispensing errors. A pharmaceutical processor or cannabis dispensing facility shall distribute the written policies and procedures to all pharmaceutical processor or cannabis dispensing facility employees and shall make the written policies and procedures readily available on the premises of the pharmaceutical processor or cannabis dispensing facility. The policies and procedures shall include:

1. Directions for communicating the details of a dispensing error to the practitioner who certified a qualifying patient and to the qualifying patient, the patient's parent or legal guardian, the patient's registered agent, or appropriate family member if the patient is deceased or is unable to fully comprehend the communication. The communication shall describe methods of correcting the dispensing error or reducing the negative impact of the error on the qualifying patient; and

2. A process to document and assess dispensing errors to determine the cause of the error and an appropriate response.

B. A pharmaceutical processor or cannabis dispensing facility shall use the findings of its quality assurance program to develop systems and workflow processes designed to prevent dispensing errors. A pharmaceutical processor or cannabis dispensing facility PIC shall:

1. Inform pharmaceutical processor or cannabis dispensing facility employees of changes to policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program;

2. Notify all processor or facility employees that the discovery or reporting of a dispensing error shall be relayed immediately to a pharmacist on duty;

3. Ensure that a pharmacist performs a quality assurance review for each dispensing error. A pharmacist shall commence such review as soon as is reasonably possible, but no later than two business days from the date the dispensing error is discovered; and

4. Create a record of every quality assurance review. This record shall contain at least the following:

a. The date of the quality assurance review and the names and titles of the persons performing the review;

b. The pertinent data and other information relating to the dispensing error reviewed;

c. Documentation of contact with the ~~registered~~ patient, parent, legal guardian, or registered agent, where applicable, and the practitioner who certified the patient;

d. The findings and determinations generated by the quality assurance review; and

e. Recommended changes to pharmaceutical processor or cannabis dispensing facility policy, procedure, systems, or processes if any.

C. A pharmaceutical processor or cannabis dispensing facility shall maintain for three years a copy of the pharmaceutical processor's or cannabis dispensing facility's quality assurance program and records of all reported dispensing errors and quality assurance reviews in an orderly manner and filed by date.

18VAC110-60-330. Disposal of cannabis products.

A. To mitigate the risk of diversion, a pharmaceutical processor shall routinely and promptly dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded, or

deteriorated green waste~~,~~; chemical, dangerous, and hazardous waste; extracts~~,~~; and cannabis products, as applicable. Green waste includes Cannabis plants seeds and parts of plants. Green waste shall be weighed, ground, and combined with a minimum of 51% non-cannabis waste to render the mixture inactive and unrecognizable. Once rendered unrecognizable, green waste shall be considered agricultural waste and may be disposed of accordingly.

B. The destruction and disposal of green waste, extracts, and cannabis oil, as applicable, shall be witnessed by a pharmacist ~~and at least one other employee~~ or the responsible party of the pharmaceutical processor or cannabis dispensing facility, respectively, and shall be conducted under video surveillance. The persons destroying and disposing of the green waste, extracts, or cannabis products shall maintain and make available a separate record of each occurrence of destruction and disposal indicating:

1. The date and time of destruction and disposal;

2. The manner of destruction and disposal;

3. The name and quantity of cannabis product and green waste destroyed and disposed of; and

4. The signatures of the persons destroying and disposing of the green waste, extracts, or cannabis products.

C. Disposal of green waste may be by incineration, inert composting, or any other means of disposal or destruction.

D. A pharmaceutical processor may sell or otherwise distribute inert composted green waste.

E. The record of destruction and disposal shall be maintained at the pharmaceutical processor or cannabis dispensing facility for three years from the date of destruction and disposal.

F. Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state, and local statutes and regulations. This may include any waste product soaked in a flammable solvent.

1. Any waste that may be hazardous must be treated as hazardous waste in regard to storage, labeling, and disposal.

2. The pharmaceutical processor can, alternatively, test waste that may be hazardous for elemental impurities content.

a. When tested for elemental impurities content, materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act (RCRA) or other applicable federal, state, or local statutes and regulations, must be treated as hazardous waste. Such materials must be properly labeled, contained, stored, and disposed of in accordance with U.S. Environmental Protective Agency requirements, RCRA, and other applicable regulations for hazardous waste.

b. Materials that contain elemental impurities concentrations less than the allowable concentration limits as specified in RCRA and are not designated hazardous waste by other applicable federal, state, or local statutes and regulations, may be disposed of in accordance with this section.

VA.R. Doc. No. R23-7283; Filed June 15, 2023, 8:24 a.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

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

Title of Regulation: **18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-10, 18VAC130-20-110, 18VAC130-20-220).**

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Effective Date: August 16, 2023.

Agency Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4298, or email reappraisers@dpor.virginia.gov.

Summary:

Pursuant to Chapter 118 of the 2022 Acts of Assembly, the amendments (i) add continuing education requirements for appraisers, to include a minimum of two hours of fair housing or appraisal bias courses; and (ii) provide acceptable content for a course in fair housing or appraiser bias so that the course qualifies for approval by the Appraisal Qualifications Board.

18VAC130-20-10. Definitions.

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

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the State Council of Higher Education for Virginia or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers or a recognized international equivalent.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia

Department of Education or any other local, state, or federal government agency, board, or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal bias" means bias based on race, ethnicity, or national origin in the opinion of value rendered by an appraiser.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing, and promoting such standards.

"Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means an individual who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

"Appraiser classification" means any category of appraiser, which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities, and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties that the supervising appraiser is permitted to appraise.

"Board" means the Real Estate Appraiser Board.

"Business entity" means any corporation, partnership, association, or other business entity under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified instructor" means an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise or provide a review appraisal of nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests, which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student (i.e., CD-ROM, online learning, correspondence courses, etc.).

"Experience" as used in this chapter includes experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate consulting, highest and best use analysis, and feasibility analysis or study.

For the purpose of this chapter, experience has been divided into four major categories: (i) fee and staff appraisal, (ii) ad valorem tax appraisal, (iii) review appraisal, and (iv) real estate consulting.

1. "Fee and staff appraiser experience" means experience acquired as a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee and staff appraiser experience, an individual must have prepared written appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 1 and 2.

2. "Ad valorem tax appraisal experience" means experience obtained by an individual who assembles and analyzes the relevant facts and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants

under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee and staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 6.

In addition to the preceding, to qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "Reviewer experience" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate but does review and analyze relevant facts assembled by fee and staff appraisers and by the use of reason and exercise of judgment forms objective conclusions as to the validity of fee and staff appraisers' opinions. Reviewer experience shall not constitute more than 1,000 hours of total experience claimed, and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports after January 30, 1989, recommending the acceptance, revision, or rejection of the fee and staff appraiser's opinions that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 3.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee and staff appraiser experience.

4. "Real estate consulting experience" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment forms objective opinions concerning matters other than value estimates relating to real property. Real estate consulting experience includes the following:

Absorption Study
Ad Valorem Tax Study
Annexation Study
Assemblage Study
Assessment Study
Condominium Conversion Study
Cost-Benefit Study
Cross Impact Study
Depreciation/Cost Study
Distressed Property Study
Economic Base Analysis
Economic Impact Study
Economic Structure Analysis
Eminent Domain Study
Feasibility Study
Highest and Best Use Study
Impact Zone Study
Investment Analysis Study
Investment Strategy Study
Land Development Study
Land Suitability Study
Land Use Study
Location Analysis Study
Market Analysis Study
Market Strategy Study
Market Turning Point Analysis
Marketability Study
Portfolio Study
Rehabilitation Study
Remodeling Study
Rental Market Study
Right of Way Study
Site Analysis Study
Utilization Study
Urban Renewal Study
Zoning Study

To qualify for real estate consulting experience, an individual must have prepared written reports after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 4 and 5. Real estate consulting shall not constitute more than 500 hours of experience for any type of appraisal license.

"Inactive license" means a license that has been renewed without meeting the continuing education requirements specified in this chapter. Inactive licenses do not meet the requirements set forth in § 54.1-2011 of the Code of Virginia.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one-to-four residential units, including federally related transactions, where the transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice is less than $1

million, and complex one-to-four residential units having a transaction value less than $400,000. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value or market value as defined by the Uniform Standards of Professional Appraisal Practice up to $250,000, whichever is the lesser.

"Licensee" means any individual holding an active license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

"Local, state, or federal government agency, board, or commission" means an entity established by any local, federal, or state government to protect or promote the health, safety, and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, or junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.

"Real estate appraisal" or "real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Registrant" means any corporation, partnership, association, or other business entity that provides appraisal services and that is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

"Sole proprietor" means any individual, but not a corporation, partnership, or association, who is trading under ~~his~~ the individual's own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent" means any educational course or seminar, experience, or examination taken in this or another jurisdiction that is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia for licensure and renewal.

"Supervising appraiser" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser or certified residential real estate appraiser who supervises any unlicensed individual acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"Transaction value" means the monetary amount of a transaction that may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases, and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means the 2020-2021 edition of those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

"Valuation" means an estimate or opinion of the value of real property.

"Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion, or conclusion that results in an estimate or opinion of the value of an identified parcel of real property as of a specified date.

"Waiver" means the voluntary, intentional relinquishment of a known right.

18VAC130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all active certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, or junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 28 classroom hours during each licensing term.

2. All real estate appraisers may also satisfy up to one half of an individual's continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes, including ~~but not limited to~~ teaching, program development, or authorship of textbooks.

3. Seven of the classroom hours completed to satisfy the continuing education requirements shall be the National Uniform Standards of Professional Appraisal Practice update course or its equivalent.

4. Aside from complying with the requirement to complete the ~~7-Hour~~ seven-hour National USPAP Update Course, or its equivalent, appraisers may not receive credit for completion of the same continuing education course within a licensing term.

5. As part of the required hours, all real estate appraisers must complete a minimum two-hour course on either fair housing or appraisal bias. Such course must be (i) a fair housing or appraisal bias course approved by the Appraiser Qualifications Board; (ii) approved by the Real Estate Board in its fair housing category; or (iii) approved by the board in accordance with Part V (18VAC130-20-200 et seq.) of this chapter.

B. As a condition of renewal, all licensed real estate appraiser trainees shall meet the continuing education requirements set forth in subsection A of this section.

C. All applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3, and 4 of 18VAC130-20-30.

D. Applicants for the renewal of a registration shall meet the requirement for registration as set forth in 18VAC130-20-20.

E. Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in 18VAC130-20-80.

F. Licensees applying to activate an inactive license must complete all required continuing education hours that would have been required if the licensee was active prior to application to activate the license.

18VAC130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops, or conferences that may be accepted for continuing education credit includes~~, but is not limited to~~ those topics listed in 18VAC130-20-210 A 2 and ~~below~~ listed in this subdivision.

Ad valorem taxation

Appraisal bias

Arbitration, dispute resolution

Courses related to the practice of real estate appraisal or consulting

Development cost estimating

Ethics and standards of professional practice, Uniform Standards of Professional Appraisal Practice

Fair housing

Land use planning, zoning

Management, leasing, timesharing

Property development, partial interests

Real estate financing and investment

Real estate law, easements, and legal interests

Real estate litigation, damages, condemnation

Real estate appraisal related computer applications

Real estate securities and syndication

Developing opinions of real property value in appraisals that also include personal property or business value

Seller concessions and impact on value

Energy efficient items and "green building" appraisals

2. Any course related to appraisal bias designed to meet the requirements of 18VAC130-20-110 A 5 must be directly applicable to rendering of an opinion of value by an appraiser. Acceptable topics should consist of:

a. Awareness and identification of appraisal bias;

b. Effects of appraisal bias on consumers;

c. Assisting consumers who may have been subjected to biased appraisals;

d. Strategies to address appraisal bias; and

e. Laws and regulations applicable to appraisal bias.

3. Courses, seminars, workshops, or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased ~~his~~ the licensee's knowledge, skill, and competency in real estate appraisal.

~~3.~~ 4. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

B. Instruction. Although continuing education offerings are not required to be taught by board certified instructors, the

Uniform Standards of Professional Appraisal Practice course must be taught by an Appraiser Qualifications Board certified instructor who is also a state certified appraiser.

VA.R. Doc. No. R23-7488; Filed June 28, 2023, 11:15 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

Title of Regulation: **22VAC40-601. Supplemental Nutrition Assistance Program (repealing 22VAC40-601-50).**

Statutory Authority: § 63.2-217 Code of Virginia.

Effective Date: August 17, 2023.

Agency Contact: Celestine Jackson, Human Services Consultant, Department of Social Services, 7 North Eighth Street, Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356, or email celestine.jackson1@dss.virginia.gov.

Summary:

The amendment repeals 22VAC40-601-50, which established a potential local work reduction effort but has since been abandoned as a possible change to processing applications for Supplemental Nutrition Assistance Program benefits.

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

22VAC40-601-50. ~~Application processing.~~ (Repealed.)

~~Applications for SNAP benefits must be disposed of within 30 days. Applicants have 30 days to provide verification or information needed to determine eligibility of the household. If an application cannot be processed by the 30th day because such information is lacking due to the fault of the household, the application must be denied. If the applicant provides the information during the next 30 days, the eligibility worker must reinstate the application and prorate benefits to the date the last verification was provided.~~

VA.R. Doc. No. R21-6420; Filed June 15, 2023, 8:41 a.m.

TITLE 23. TAXATION

DEPARTMENT OF TAXATION

Fast-Track Regulation

Title of Regulation: **23VAC10-210. Retail Sales and Use Tax (amending 23VAC10-210-340, 23VAC10-210-410).**

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: September 15, 2023.

Effective Date: September 30, 2023.

Agency Contact: Joe Mayer, Lead Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299, FAX (804) 371-2355, or email joseph.mayer@tax.virginia.gov.

Basis: Section 58.1-203 of the Code of Virginia authorizes the Tax Commissioner to issue regulations relating to the interpretation and enforcement of the laws governing taxes administered by the Department of Taxation. Section 58.1-601 of the Code of Virginia authorizes the Department of Taxation to administer the Retail Sales and Use Tax.

Purpose: This action is necessary to conform 23VAC10-210-340 to the repeal of § 58.1-626 of the Code of Virginia by Chapter 758 of the 2019 Acts of Assembly. This action is also necessary to conform 23VAC10-210-410 to changes to § 58.1-610 of the Code of Virginia made by Chapters 436 and 449 of the 2017 Acts of Assembly. Without this regulatory change, the regulation would be incorrect and potentially a source of confusion for dealers and their customers. As the Retail Sales and Use Tax plays a critical role in providing revenue for Virginia's General Fund and funding for transportation and public schools, this regulatory change is essential to protect the health, safety, or welfare of citizens by eliminating a potential source of confusion for taxpayers.

Rationale for Using Fast-Track Rulemaking Process: The changes to 23VAC10-210-340 are necessitated by 2019 legislation that allowed Virginia dealers to offer to absorb payment of the sales tax for their customers, as allowed in some other states. The Department of Taxation has implemented the legislation and is not aware of any concerns expressed by affected parties. Accordingly, the changes to this regulation section are expected to be noncontroversial. The changes to 23VAC10-210-410 are necessitated by 2017 legislation that received industry support because it provided administrative simplification to businesses by treating businesses that sell and install the statutorily listed items the same as other contractors. The statutory provision repealed by the legislation had caused confusion among some taxpayers as to whether they should be paying the tax on their purchases of the listed items or collecting sales tax on their sales of the items. The Department of Taxation has implemented the legislation and is not aware of any concerns expressed by the affected parties. Accordingly, the changes to this regulation section are expected to be noncontroversial.

Substance: The amendments allow dealers to absorb payment of the tax charged pursuant to § 58.1-626 of the Code of Virginia, provided that such dealer (i) separately states the sales price of the item and the full amount of tax due on the item at the point of sale; and (ii) remits to the Department of

Taxation the full amount of tax due with the return that covers the period in which the dealer completed the sale or transaction. This action also removes language listing the different tax rates in different areas of the Commonwealth to eliminate the need for future amendments of the section whenever there is a rate change. This action removes provisions stating that persons selling and installing tangible personal property that becomes real property after installation, including fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, kitchen equipment, window air conditioning units, and other like or comparable items, are treated as retailers rather than using or consuming contractors. In order to maintain the current numbering of the succeeding subsections of the regulation, the text being removed will be replaced with "Reserved."

Issues: The primary advantage to the public, the Commonwealth, and the agency of the amendments is that this action will conform the regulation to current statutory law. As the regulatory action will update the regulation to reflect current law, there are no disadvantages to the public, the Commonwealth, or the agency associated with this action.

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

Summary of the Proposed Amendments to Regulation. Following a periodic review,[2] the Department of Taxation (Department) proposes to update the regulation to incorporate provisions of (i) Chapters 436 and 449 of the 2017 Acts of Assembly[3] that shifted the collection and remittance responsibility of sales and use tax on certain construction materials from installer to the supplier of these items and (ii) Chapter 758 of the 2019 Acts of Assembly[4] that repealed the restriction prohibiting sales and use tax dealers from absorbing the payment of the tax. The Department also proposes a discretionary change in rules applicable to overcollection of the tax to simplify and to indicate that sales tax rates differ in some areas of the Commonwealth.

Background. Chapters 436 and 449 of the 2017 Acts of Assembly shift the collection and remittance responsibility of sales and use tax on fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, countertops, kitchen equipment, window air conditioning units, or other like or comparable items from the contractor who sold and installed these items to the contractor's supplier or vendor.

Although most consumers are familiar with paying sales tax on their purchases from grocery or department stores, special rules apply to tangible personal property installed on real estate. Examples of these types of items are construction materials for plumbing, electrical, roofing systems, central air conditioning, heating, and heat pump units. Once sold and installed by a contractor respecting real estate, these items lose their identity as a tangible property and become part of the real estate. In that sense, contractors are considered to be the users of tangible personal property as a general rule and pay the sales tax on these items when they obtain them from their supplier or vendor. The supplier or vendor is treated as the sales tax dealer and remits the amount collected from contractors to the Department.

Prior to the 2017 legislative change, however, fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items were specifically exempted from the general rule, and the homeowner was considered to be the user of these items. Therefore, contractors were required to collect sales tax when they sold and installed these items and remit it to the Department. Furthermore, since the homeowner was treated as the user, the contractor was expected to obtain these items from its vendors by using its sales tax exemption certificate so as not to pay double sales tax on them.

According to the Department, the differential sales tax treatment of these specific items listed in the legislation from the general rule created confusion among the contractors. As a result, two national home improvement chains sponsored the 2017 legislative amendments that made the sales tax treatment of such items the same as any other tangible personal property installed on real estate. Pursuant to the legislation, this action removes the regulatory language regarding the exempt treatment of the affected items from the general sales tax rule applicable to tangible property installed on real estate.

Another proposed change incorporates in the regulatory text language from Chapter 758 of the 2019 Acts of Assembly, which repealed the restriction prohibiting retail sales and use tax dealers from absorbing the payment of the tax. Prior to this law change, dealers were generally prohibited from absorbing or advertising or holding out to the public that they will absorb payment of all or any part of the sales or use tax due on a taxable transaction. Under the amended statute, a dealer is now allowed to absorb all, or a portion of the sales tax provided it separately states the sales price of the item and the full amount of tax due on the item at the point of sale and remits to the Department the full amount of tax due. This action would also edit the regulatory text to incorporate the 2019 legislative change.

The last proposed change would remove references, in the rules applicable to overcollection of the tax, to specific areas of the Commonwealth that have a different sales tax rate than the 5.3% generally applicable statewide rate. The proposed text would reference the Department's website on sales and use tax for the statutory rates applicable at different areas of the Commonwealth.

Estimated Benefits and Costs. The main impact of the incorporation of the legislative changes in the regulatory text is to make the text consistent with the statutes and prevent

possible confusion from conflicting language. Although the anticipated impact of incorporation of the two changes in regulation is relatively small, the legislative changes themselves appear to be substantial.

The 2017 legislation appears to have eliminated a significant source of confusion with respect to collection and remittance of the sales tax by contractors that sold and installed the specific list of tangible property on real estate. Because of the general rule, most contractors have grown accustomed to purchasing tangible property from their suppliers with sales tax and not collecting the tax from their customers. However, according to the Department, the exemption from this general rule at that time had required the contractors to obtain materials from their suppliers without paying the tax using an exemption certificate and instead collecting the tax from their customers and later remitting the amount collected to the Department. The Department acknowledges that there were significant compliance issues as a result of that exempt treatment of such items from the general rule. Additionally, contractors usually add a markup to the items they resell to their customers. This practice has a direct impact on the amount subject to the sales tax. Since the collection of the sales tax on the certain items affected by the legislation changed from the sales price charged by the contractor to the price charged by the contractor's vendor, a reduction on sales tax due would have likely occurred. However, the Department has no information on the data elements needed to estimate the magnitude of the likely revenue impact (e.g., compliance rates with the exemption to the general rule, statewide vendor sales of affected items, and the markup contractors charge).

Similarly, the impact of the 2019 legislative change that allowed absorption of the sales tax by retailers likely included providing more flexibility in advertising or an additional promotional tool. It is not unusual to hear or see commercials during the sales tax holidays in order to promote sales of items that are temporarily exempt from sales tax under Virginia law. With the 2019 legislation, retailers have been free to absorb the sales tax due for a variety of purposes, such as to promote the goods they sell or to show customer appreciation. To the extent this legislative change enhanced the availability of marketing approaches and had promoted sales, a positive sales tax revenue impact would have likely occurred.

Finally, the proposed edits to the text regarding the overcollection of the tax strike references to specific areas of the Commonwealth that have different sales tax rate than the 5.3% rate otherwise applicable statewide. Instead, the proposed text would reference the Department's website on sales and use tax for the statutory rates applicable at different areas of the Commonwealth. According to the Department, this change would eliminate the need for future regulatory amendments of the section whenever there is a legislative rate change. Thus, this change appears to be mainly editorial in nature and is not expected to create any other economic effects.

Businesses and Other Entities Affected. The proposed amendments to the regulatory text apply to all entities subject to Virginia sales and use tax. Suppliers, contractors and installers of fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items may be particularly affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[5] An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted, this action incorporates legislative changes that occurred a number of years ago and the proposed discretionary change is editorial in nature with no adverse impact. Thus, no adverse impact on any entity is indicated.

Small Businesses[6] Affected.[7] The proposed amendments to the regulatory text do not appear to adversely affect small businesses.

Localities[8] Affected.[9] The proposed amendments to the regulatory text do not introduce costs for local governments or affect any locality more than others.

Projected Impact on Employment. The proposed amendments to the regulatory text do not appear to affect employment.

Effects on the Use and Value of Private Property. The proposed amendments to the regulatory text do not affect the use and value of private property or real estate development costs.

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

[2]https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=2187

[3]https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0436 & https://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0449

[4]https://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0758

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

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

[7]If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses

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

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

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

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

Summary:

The amendments (i) pursuant to Chapter 758 of the 2019 Acts of Assembly, allow Retail Sales and Use Tax dealers to absorb the payment of tax, provided that such dealer separately states the sales price of the item and the full amount of tax due on the item at the point of sale and remits to the Department of Taxation the full amount of tax due with the return that covers the period in which the dealer completed the sale or transaction; (ii) pursuant to Chapter 436 and 449 of the 2017 Acts of Assembly, change the treatment of Retail Sales and Use Tax from being charged to the persons who sell certain items of tangible personal property to those who install such items onto a customer's real property; and (iii) remove language listing the different tax rates in different areas of the Commonwealth.

23VAC10-210-340. Collection of tax by dealers.

A. Generally. The tax must be paid to the state by the dealer, but the dealer must separately state the amount of the tax and add the tax to the sales price or charge. Thereafter, the tax is a debt from the purchaser, consumer, or lessee to the dealer until paid and is recoverable at law in the same manner as other debts.

Identification of the tax by a separate writing or symbol is not required provided the amount of the tax is shown as a separate item on the record of the transaction. For special rules relating to vending machines sales, see 23VAC10-210-6040 through 23VAC10-210-6043.

B. Advertising absorption of tax by dealers. ~~It is a misdemeanor for a dealer to advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer or lessee of the payment of all or any part of the tax, except as may be authorized under the bracket system or the special provisions relating to vending machine sales. This prohibition does not apply during the sales tax holiday provided under §§ 58.1-609.1, 58.1-611.2, and 58.1-611.3 of the Code of Virginia, nor for the 14 days immediately preceding the commencement of the sales tax holiday. During this 17-day period, dealers may advertise that they will absorb the tax on any or all nonqualifying items. The dealer may not absorb the tax prior to or following the sales tax holiday period and may not advertise that he will do so.~~ A dealer may absorb and assume payment of all or any part of the sales or use tax otherwise due from the purchaser, consumer, or lessee provided such dealer separately states the sales price of an item and the full amount of sales and use tax due on such item at the point of the sale or transaction, and such dealer remits to the Department of Taxation the full amount of tax due with the return that covers the period in which the dealer completed the sale or transaction.

C. Erroneous collection of tax on nontaxable transactions. All sales and use tax collected by a dealer is held in trust for the state. Therefore, any dealer collecting the sales or use tax on nontaxable transactions must remit to the Department of Taxation such erroneously or illegally collected tax unless ~~he~~ the dealer can show that the tax has been refunded to the purchaser or credited to the purchaser's account.

D. Overcollection of the tax. Any dealer who collects tax in excess of ~~a 5.3% (6.0% in the Hampton Roads and Northern Virginia Regions)~~ the statutory rate or who otherwise overcollects the tax, except as may be authorized under the bracket system or the special provisions relating to vending machine sales, must remit any amount overcollected to the state on a timely basis. Failure to do so will result in a penalty of 25% of the amount of the overcollection. ~~For definitions of the "Hampton Roads Region" and the "Northern Virginia Region" see 23VAC10-210-2070.~~ Statutory rates are listed on the Department of Taxation's website at https://www.tax.virginia.gov/retail-sales-and-use-tax.

23VAC10-210-410. Contractors respecting real estate.

A. Basic rules. A contractor is defined as any person who contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, including highways, and in connection therewith to furnish tangible personal property, whether such person be a prime contractor or subcontractor. Unless otherwise noted, the law treats every contractor as the user or consumer of all tangible personal property furnished to ~~him~~ the contractor or by ~~him~~ the contractor in connection with real property construction, reconstruction, installation, repair, and similar contracts.

Tangible personal property incorporated in real property construction ~~which~~ that loses its identity as tangible personal property and becomes real property is deemed to be tangible personal property used or consumed by the contractor. Any sale, distribution, or lease to or storage for such a contractor is deemed a sale, distribution, or lease to or storage for the ultimate consumer (the contractor), and not for resale by the contractor. The dealer (supplier) making the sale, distribution,

or lease to or storage for such a contractor must collect the tax from ~~him~~ the contractor. No sale to a contractor is exempt on the ground that the other party to the contract is a governmental agency, a public service corporation, a nonprofit school, or nonprofit hospital, or on the ground that the contract is a cost-plus contract.

A contractor must remit the use tax on any tangible personal property purchased exclusive of the tax and furnished to ~~him~~ the contractor except when such property is purchased and furnished to a contractor by a governmental unit or agency. Property ~~which~~ that is exempt from the tax when purchased by a manufacturer, processor, miner, public service corporation, commercial radio, television or cable television operation, farmer, or shipbuilding and repair business may also be furnished to a contractor without such contractor becoming subject to use tax. Contractors may also purchase machinery and tools to be used directly in industrial manufacturing or processing (see 23VAC10-210-920) exempt from the tax.

A contractor, whether ~~he~~ the contractor be a prime contractor or subcontractor, does not pass the sales or use tax on to anyone else as a tax. ~~He~~ The contractor will take the amount of the tax into consideration in submitting bids.

If a supplier of a contractor doing work in Virginia does not collect the Virginia tax from the contractor, the contractor will be liable for the use tax on ~~his~~ the contractor's purchases from the supplier.

B. Person who is a using or consuming contractor and also a seller. A person who is a using or consuming contractor, as explained in subsection A of this section, may also be engaged in the business of selling tangible personal property to customers, including contractors, for use or consumption by ~~them~~ such customers. If so, the person is a dealer with respect to such sales~~,~~ and is required to obtain a Certificate of Registration.

After obtaining a Certificate of Registration as a dealer because ~~he~~ the contractor is engaged in the business of selling tangible personal property to customers for use or consumption by ~~them~~ the customers, a contractor may purchase the tangible personal property under a resale exemption certificate. ~~He~~ The contractor may not purchase under a resale exemption certificate any tangible personal property which ~~he~~ the contractor knows at the time of purchase will be furnished by ~~him~~ the contractor in connection with any specific contract. If such a person, as a using or consuming contractor, removes from ~~his~~ the contractor's sales inventory for use in the performance of any contract any tangible personal property purchased under a resale certificate, ~~he~~ the contractor must include the cost to ~~him~~ such contractor of such tangible personal property on ~~his~~ the contractor's dealer's return and pay the tax.

C. Fabricator (manufacturer, processor, or miner) who fabricates tangible personal property and sells it to customers. A person who fabricates tangible personal property and sells it to customers, including contractors, for use or consumption by them, must add the sales tax to the sales price and collect it from the customer for payment to the state. Raw materials, component parts, and other tangible personal property to be fabricated for sale may be purchased under a resale certificate of exemption.

D. Fabricator (manufacturer, processor, or miner) who fabricates tangible personal property exclusively for use and consumption in real property construction contracts. A fabricator who contracts to perform services with respect to real estate construction, and in connection therewith to furnish tangible personal property for incorporation in real estate construction thereby causing it to lose its identity as tangible personal property by becoming real property, is classified as a using or consuming contractor and must pay the tax on the cost price of the raw materials ~~which~~ that make up such fabricated property. The tax must be paid at the time of purchase to all suppliers who are authorized to collect the tax. In instances where the supplier is not authorized to collect the tax or fails to collect the tax, the tax must be remitted directly to the Department of Taxation on Form ST-7, Consumer's Use Tax Return.

E. Fabricator (manufacturer, processor, or miner) who operates in a dual capacity of fabricating tangible personal property for sale or resale and fabricating for its own use and consumption in the performance of real property construction contracts. A manufacturer, processor, or miner who operates in a dual capacity of fabricating tangible personal property for sale or resale and fabricating for ~~his~~ the manufacturer's, processor's, or miner's own use and consumption in the performance of real property construction contracts shall follow a primary purpose rule based on gross receipts in determining sales and use tax application.

Any person who is principally fabricating tangible personal property for sale or resale shall apply the tax according to subsection C ~~above~~ of this section. Such fabricators should collect and remit the tax based upon the total amount for which tangible personal property and services are sold, except that charges for labor and services rendered in installing, applying, remodeling, or repairing property sold may be excluded from the tax when separately stated or charged. In addition, any person who withdraws tangible personal property from inventory for use and consumption in the performance of real property construction contracts is liable for the tax based on the fabricated cost price of the tangible personal property withdrawn. Fabricated cost price is computable by totaling the cost of materials, labor, and overhead charged to work in process. Freight inward at the plant is treated as an element of the cost of the materials.

Any person who is principally fabricating tangible personal property for ~~his~~ that person's own use and consumption in real property construction contracts shall apply the tax according to

subsection D ~~above~~ in this section. In addition, persons who sell tangible personal property to consumers must register, collect, and pay the tax on the retail selling price of the tangible personal property. Such person is entitled to purchase exempt from the tax only that tangible personal property ~~which~~ that can be identified at the time of purchase as purchases for resale. If the person is unable to identify at the time of purchase the tangible personal property ~~which~~ that will be resold, such person is required to pay the tax to ~~his~~ the person's supplier. If at a later date, the person sells the tangible personal property at retail, the tax is collected upon retail selling price. Such persons are not entitled to credit for the tax paid to suppliers since the transactions are separate and distinct taxable transactions.

A person who fabricates tangible personal property, both for sale or resale and for use in real property construction contracts, may apply to the Tax Commission to pay any tax directly to the state and avoid the collection of tax by suppliers, if ~~his~~ such person's purchases are made under circumstances ~~which~~ that normally make it impossible at the time of sale to determine the manner in which such property will be used. (See 23VAC10-210-510 on direct payment permits.)

F. Fabricator's production exemptions, when allowable. Fabricators of tangible personal property may take the status of industrial manufacturers, processors, or miners under 23VAC10-210-920 or 23VAC10-210-960, and when ~~they fabricate~~ fabricating tangible personal property for sale or resale, ~~they~~ such fabricators may enjoy the production exemptions set out in 23VAC10-210-920 or the mining exemptions set out in 23VAC10-210-960. The production and mining exemptions are not available to a fabricator of tangible personal property who fabricates for ~~his~~ the fabricator's own use or consumption (as a contractor or otherwise) and not for sale or resale. However, a fabricator whose principal or primary business is the fabrication of tangible personal property for sale or resale, and who, as a lesser or minor part of this business, fabricates for ~~his~~ such fabricator's own use and consumption, will not be deprived of the production exemptions set out in 23VAC10-210-920, or the mining exemptions set out in 23VAC10-210-960.

G. ~~Contractor or retailer selling and installing tangible personal property that becomes real property after installation (including fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings, cabinets, kitchen equipment, window air conditioning units, and other like or comparable items).~~

~~A person selling and installing tangible personal property that becomes real property after installation is generally considered a contractor, except that a retailer selling and installing fences, venetian blinds, window shades, awnings, storm windows and doors, floor coverings (as distinguished from floors themselves), cabinets, kitchen equipment, window air conditioning units or other like or comparable items is not classified as a using or consuming contractor with respect to them.~~

~~For purposes of this subsection only, a "retailer" shall be deemed to be any person who maintains a retail or wholesale place of business, an inventory of the aforementioned items and/or materials which enter into or become a component part of the aforementioned items, and who performs installation as part of or incidental to the sale of the aforementioned items. As so defined, a retailer is not classified as a using or consuming contractor with respect to installations of the aforementioned items. A retailer must treat such transactions as taxable sales except that installation charges when separately stated on an invoice are exempt from tax.~~

~~Persons who are not classified as retailers within the definition set forth above and who sell and install fences, venetian blinds, etc., are deemed to be contractors and must pay the sales tax on such items at the time of purchase.~~

~~"Floor coverings" (as distinguished from the floors themselves) include rugs, mats, padding, wall-to-wall carpets when installed by the tack strip or stretch-in methods, and other floor coverings which are not glued, cemented, or otherwise permanently attached to the floor below. Persons selling and installing floor coverings which become permanently attached to floors are deemed to be using or consuming contractors with respect to such items. Such floor coverings include carpet, wood block, cork, tile, linoleum, and vinyl floor coverings when glued, cemented or otherwise permanently attached to floors or plywood and concrete subflooring.~~

~~Both retailers and contractors are deemed to be the users or consumers of supplies used in installing tangible personal property that becomes real property after installation. Therefore, retailers and contractors are subject to the tax on their purchases of tacks, stripping, glue, cement, and other supplies purchased.~~

~~Subsection B is applicable to persons engaged as contractors with respect to the installation of fences, venetian blinds, etc., and also as sellers of such items at retail to customers, including contractors, on an uninstalled basis for use or consumption by them.~~ Reserved.

H. Retailer selling and installing tangible personal property. Any person who sells tangible personal property at retail and installs such property as part of or incidental to the sale is a retailer and is required to add the sales tax to the sales price. The tax does not apply to installation charges when separately stated on a sales invoice. If the installation charge is not separately stated, the tax must be computed on the total charge.

Retailers are deemed to be the users or consumers of all supplies used in installing tangible personal property. Therefore, retailers are subject to the tax on all such supplies purchased.

I. Construction materials temporarily stored in Virginia. Construction contractors may purchase exempt from tax construction materials for temporary storage in Virginia to be used in exempt construction projects in other states or foreign countries. Contractors entitled to this exemption may obtain certificates of exemption upon written request to the Department of Taxation. The request should include information to show that the construction materials could be purchased by the contractor free from sales or use tax in the other state or foreign country.

This exemption is restricted to construction materials incorporated into exempt real property construction. The tax applies to equipment, tools, supplies, etc., used in performance of the construction contract. The tax applies to all other construction materials, temporarily stored in Virginia, that will be incorporated into real estate construction projects outside Virginia.

J. Government contracts. Generally, purchases of tangible personal property by contractors in connection with real property construction contracts with the governments of Virginia or the United States or political subdivisions thereof, are sales to such contractors for ~~their~~ such contractors' own use or consumption and contractors are subject to the tax on such transactions. This applies regardless of whether title to such property passes directly to the governmental entity upon purchase by the contractor or if the contractor is reimbursed directly by the government entity for the cost of such property.

Only in instances where the credit of a governmental entity is bound directly and the contractor has been officially designated as the purchasing agent for such governmental entity will such purchases be deemed exempt from the tax.

Contractors are not subject to the use tax when provided with tangible personal property purchased by a governmental entity for use in real property construction contracts. For further information relating to the sales and use tax exemption for purchases by governments generally, see 23VAC10-210-690 on Governments.

For pollution control equipment and facilities, see 23VAC10-210-2070; use tax generally, see 23VAC10-210-6030; highway contractors specifically, see 23VAC10-210-410.

VA.R. Doc. No. R23-7462; Filed June 21, 2023, 1:26 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

Final Regulation

Title of Regulation: **24VAC30-640. Parking on Primary and Secondary Highways (adding 24VAC30-640-10 through 24VAC30-640-50).**

Statutory Authority: § 46.2-1223 of the Code of Virginia.

Effective Date: August 16, 2023.

Agency Contact: JoAnne P. Maxwell, Regulatory Coordinator, Governance and Legislative Affairs Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email joanne.maxwell@vdot.virginia.gov.

Summary:

The action establishes a new regulation to address the parking-related issues of concern to the Virginia Department of Transportation (VDOT) that are not in conflict with any locality's authority to regulate parking under the Code of Virginia, including (i) the specific factors that VDOT will consider in determining whether to restrict or prohibit parking, stopping, or standing on a portion of a primary or secondary highway; (ii) a requirement that any restriction or prohibition shall be indicated by signs that meet the relevant standards for traffic control devices; (iii) enforcement provisions that meet the requirements specified in § 46.2-1227 of the Code of Virginia; and (iv) instances when VDOT will not regulate parking, such as where localities or other state agencies have authority to regulate parking pursuant to the Code of Virginia.

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

Chapter 640
Parking on Primary and Secondary Highways

24VAC30-640-10. Definitions.

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

"Bicycle lane" means that portion of a roadway designated by signs or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds.

"Business district" means the territory contiguous to a highway where 75% or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Clear zone" means the total border area of a roadway, including, if any, parking lanes or planting strips, that is sufficiently wide for an errant vehicle to avoid a serious accident. Details on the clear zone are in VDOT's Road Design Manual (see 24VAC30-151-760).

"Commissioner" means the Commissioner of Highways, the individual who serves as the chief executive officer of the Virginia Department of Transportation or his designee.

"Department" or "VDOT" means the Virginia Department of Transportation.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Parking" means halting a vehicle, whether occupied or not, other than "stopping" or "standing," for an appreciable period of time.

"Primary highway" means any highway in or component of the primary state highway system as defined in § 33.2-100 of the Code of Virginia.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75% or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of (i) land improved for dwelling purposes or is occupied by dwellings, (ii) land or buildings in use for business purposes, or (iii) territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.

"Secondary highway" means any highway in or component of the secondary state highway system as defined in § 33.2-100 of the Code of Virginia.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Standing" means the halting of a vehicle, while still occupying the vehicle, for the purpose of and while actually engaged in receiving or discharging passengers.

"Stopping" means the momentary halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

"Travel lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Vehicle" means every device in, on, or by which any person or property is or may be transported or drawn on a highway, except personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks.

24VAC30-640-20. Regulation of parking generally.

A. The commissioner may restrict or prohibit parking, stopping, or standing on any portion of the right-of-way of a primary or secondary highway where, in the commissioner's discretion, such parking, stopping, or standing impedes the safe or intended use of the highway.

B. Parking, stopping, or standing is prohibited on any bridge or in any tunnel and on any sidewalk, bicycle lane, or shared-use path unless otherwise indicated by the department.

C. The commissioner shall consider the following factors when determining whether to restrict or prohibit parking, stopping, or standing in a location pursuant to subsection A of this section:

1. The intended use of the highway. Generally, highways with a federal functional classification of arterial or collector facilitate the mobility of traffic and typically have higher speed limits (such as greater than 35 miles per hour). Highways with a federal functional classification of local generally serve to provide access, including parking to adjacent residences and businesses, and generally have speed limits of 35 miles per hour or less, such as in a business district or residence district.

2. The roadway design, speed, and traffic. Generally, parking, stopping, or standing may be prohibited where the roadway features, traffic and speeds do not conform to VDOT's design standards for the provision of parking (such design standards include design speed, traffic volume, truck percentage and the widths of pavement, travel lane, shoulder, parking lane, clear zone as well as geometric and sight distance standards). The proximity of parking to horizontal or vertical curves, intersections, entrances, or crosswalks should be considered as parking may impede the ability of vehicles or pedestrians to safely see the highway and other vehicles or pedestrians ahead or for vehicles to negotiate a turn onto or off the highway.

3. Potential damage to the highway or right of way. Where parking, stopping, or standing may cause undue damage to any portion of the highway or right of way maintained by VDOT.

4. Potential for obstruction. Where parking, stopping, or standing obstructs the actions required by VDOT for operating, maintaining, or constructing the highway or right of way.

24VAC30-640-30. Signs.

A. Any restriction or prohibition on parking, stopping, or standing pursuant to 24VAC30-640-20 shall be indicated by signs erected in the area of the restriction or prohibition.

B. All signs erected in accordance with this section shall conform in content, location, and design with the uniform standards for traffic control devices established by the commissioner pursuant to § 46.2-830 of the Code of Virginia.

24VAC30-640-40. Enforcement.

A. Any vehicle parked, stopped, or standing in violation of this chapter may be issued a citation by an appropriate law-enforcement officer for a traffic infraction and shall be subject to penalties set in accordance with § 46.2-113 of the Code of Virginia and the Rules of the Supreme Court of Virginia.

B. Citations issued under the provisions of this chapter that are uncontested shall be paid to the administrative official appointed under the provisions of § 46.2-1227 of the Code of Virginia in the locality in which the part of the highway lies, or for any locality where there is no such appointed administrative official, the citations shall be paid to the local treasurer, who shall promptly pay them into the general fund of the state treasury.

C. Citations issued under the provisions of this section that are contested or delinquent shall be certified or a complaint, summons, or warrant shall be issued as provided in § 46.2-1225 of the Code of Virginia to the general district court in whose jurisdiction the part of the highway lies. Any sums collected by such court minus court costs shall be promptly paid by the clerk into the general fund of the state treasury.

24VAC30-640-50. Exceptions and authority of localities.

A. Any restriction or prohibition on parking pursuant to this chapter shall not apply to law-enforcement vehicles, emergency vehicles, and VDOT vehicles being operated in the performance of the operator's official duties.

B. Nothing in this chapter shall be construed so as to infringe on locality authority to regulate or prohibit parking in accordance with the Code of Virginia.

C. Nothing in this chapter shall be construed so as to infringe on the authority of any board of visitors or other governing body of an educational institution relating to parking on property owned by the institution in accordance with the Code of Virginia.

D. Nothing in this chapter shall be construed so as to infringe on the authority of the State Board of Behavioral Health and Developmental Services relating to parking on property owned by the Department of Behavioral Health and Developmental Services in accordance with the Code of Virginia.

E. Notwithstanding the provisions of 24VAC30-640-30, no signs shall be required to be posted at the locations specified in § 46.2-1239 of the Code of Virginia. The provisions of § 46.2-1239 shall be valid and enforceable whether or not signs are placed prohibiting or restricting parking at those locations.

VA.R. Doc. No. R21-5832; Filed June 15, 2023, 6:43 a.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (http://www.townhall.virginia.gov) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: Virginia Informed Choice.

Public Comment Deadline: August 16, 2023.

Effective Date: August 17, 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@dmas.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

Public Comment Opportunity on a Proposed Update to the Mobile Vehicle Emission Budgets for Nitrogen Oxides and Volatile Organic Compounds Applicable to the Northern Virginia 2008 Ozone National Ambient Air Quality Standards Maintenance Area

Notice of action: The Department of Environmental Quality (DEQ) is seeking comments and announcing a public comment period on a proposed update to the mobile vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) applicable to the Northern Virginia 2008 ozone National Ambient Air Quality Standards (NAAQS) maintenance area. The Commonwealth intends to submit the updated MVEBs as a revision to the Virginia State Implementation Plan (SIP) in accordance with the federal Clean Air Act. The SIP is the plan developed by Virginia to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the NAAQS promulgated by the U.S. Environmental Protection Agency (EPA).

Purpose of notice: DEQ is seeking comments on the MVEB updates associated with the 2008 ozone maintenance plan covering the Northern Virginia portion of the Metropolitan Washington, DC-MD-VA 2008 ozone NAAQS maintenance area. The Northern Virginia portion of the Metropolitan Washington, DC-MD-VA 2008 ozone maintenance area consists of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Public comment period: July 17, 2023, through August 16, 2023.

Public hearing: DEQ will hold a public hearing on August 16, 2023, 11 a.m. in Conference Room #2, Northern Regional Office, 13901 Crown Court, Woodbridge, VA, 22193.

Description of proposal: The proposal consists of updates to the MVEBs as well as a description of the techniques used to develop those budgets. The proposal was prepared by the Metropolitan Washington Air Quality Committee (MWAQC), which consists of elected officials from the affected localities and representatives of state transportation and air quality planning agencies.

The complete proposal is available at https://www.mwcog.org/documents/2023/06/13/washington-dc-md-va-2008-ozone-naaqs-maintenance-plan-air-quality-air-quality-conformity-ozone/.

Federal information: This notice is being given to satisfy the public participation requirements of 40 CFR 51.102. The proposed inventory and supporting technical documents will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104.

How to comment: DEQ accepts written comments by email, fax, and postal mail. To be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ no later than the last day of the comment period. A cover page with recipient designation must be part of each fax. DEQ prefers that all comments be provided in writing, along with any supporting documents or exhibits. Comments must be submitted to Doris A. McLeod, Air Quality Planner, Department of Environmental Quality, 1111 East Main Street, P.O. Box 1105, Richmond, VA 23219, telephone (804) 659-1990, FAX (804) 698-4178, or email doris.mcleod@deq.virginia.gov. All materials received are part of the public record.

To review the proposal**:** The proposal and any supporting documents are available on the Metropolitan Washington Council of Governments website at https://www.mwcog.org/documents/2023/06/13/washington-dc-md-va-2008-ozone-naaqs-maintenance-plan-air-quality-air-quality-conformity-ozone/.

The documents may also be obtained by contacting the DEQ representative listed. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

Main Street Office, 1111 East Main Street, 22nd Floor, Richmond, VA, telephone (804) 659-1990; and

Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800.

Contact Information: Doris A. McLeod, Air Quality Planner, Department of Environmental Quality, 1111 East Main Street, P.O. Box 1105, Richmond, VA 23219, telephone (804) 659-1990, FAX (804) 698-4178, or email doris.mcleod@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Central Crossing LLC

An enforcement action has been proposed for Central Crossing LLC for violations of State Water Control Law and regulations at Central Crossing Section 2 located in King William County, Virginia. The proposed order is available from the Department of Environment Quality contact or at https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders. The staff contact will accept written comments from July 17, 2023, to August 17, 2023.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont

Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, or email matthew.richardson@deq.virginia.gov.

Proposed Enforcement Action for LCVA Holdings LLC

An enforcement action has been proposed for LCVA Holdings LLC for violations of State Water Control Law and regulations and applicable permit at the Chantilly Place sewage treatment plant facility located in Chantilly, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at https://www.deq.virginia.gov/permits/public-notices. The DEQ contact will accept written comments from July 17, 2023, through August 16, 2023.

Contact Information: Katherine Mann, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email katherine.mann@deq.virgnia.gov.

Proposed Enforcement Action for Pilot Travel Centers LLC

An enforcement action has been proposed for Pilot Travel Centers LLC for violations near Buchanan, Virginia on Interstate-81 at mile marker 164.3. The Department of Environmental Quality (DEQ) proposes to issue a special order by consent to Pilot Travel Centers LLC to address noncompliance with the State Water Control Law and regulations. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The staff contact will accept comments by email or postal mail from July 17, 2023, through August 16, 2023.

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

Proposed Enforcement Action for Harold A. Puryear Trucking Inc.

An enforcement action has been proposed for Harold A. Puryear Trucking Inc. for violations of the State Water Control Law and regulations in Russell County, Virginia. The proposed order is available from the Department of Environmental Quality contact or at https://www.deq.virginia.gov/permits/public-notices/enforcement-orders. The staff contact will accept written comments from July 17, 2023, through August 16, 2023.

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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Intent to Amend the Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - Supplemental Payments for Services Provided by Physicians at Freestanding Children's Hospitals

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from the agency contact listed.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted in writing within 30 days of this notice publication to Meredith Lee, and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall public comment forum at https://townhall.virginia.gov/L/generalnotice.cfm.

Methods and Standards for Establishing Payment Rates-Other Types of Care (12VAC30-80)

In accordance with the Virginia Medicaid State Plan (Supplement 6 to Attachment 4.19-B) and 12VAC30-80-300, the state plan is being amended to update the average commercial rate calculation for supplemental payments for services provided by physicians at Virginia's freestanding children's hospitals effective July 1, 2023. The updated average commercial rate percentage of Medicare will be 191%.

The anticipated expenditures are $345,331 in state general funds and $391,768 in federal funds in federal fiscal year 2023, and $1,427,172 in state general funds and $1,521,225 in federal funds in federal fiscal year 2024.

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

Draft Addiction and Recovery Treatment Services Provider Manual Chapters II, IV, and VI Available for Review and Comment

The draft Addiction and Recovery Treatment Services Provider Manual Chapters II, IV, and VI 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 July 22, 2023.

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

Draft Opioid Treatment Services Provider Manual Supplement Available for Review and Comment

The draft Opioid Treatment Services Provider Manual Supplement is now available for public comment on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ until July 22, 2023.

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

DEPARTMENTS OF MEDICAL ASSISTANCE SERVICES AND BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Notice of Public Comment Period for § 1915(c) Home and Community Based Services Medicaid Waivers

The Department of Medical Assistance Services (DMAS) and the Department of Behavioral Health and Developmental Services (DBHDS) will welcome public comment regarding the submission to the U.S. Centers for Medicare and Medicaid Services (CMS) amended applications for the following § 1915(c) Home and Community Based Services (HCBS) Medicaid Waivers: Community Living (CL) Waiver; Family and Individual Supports (FIS) Waiver; and Commonwealth Coordinated Care Plus (CCC+) Waiver.

This notice serves to inform interested parties that a 30-day public comment period opens June 27, 2023, and closes at 5 p.m. July 27, 2023. The § 1915(c) HCBS Waiver amendment applications can be located at https://dmas.virginia.gov/for-providers/long-term-care/waivers/.

The state is requesting amendments to the CL, FIS, and CCC+ Waivers to revise the following:

Updating language for the permanent allowance of spouses and parents of minors, otherwise known as legally responsible individuals, to be compensated to provide the personal care or personal assistance service when extraordinary care is being provided and no one else is available to provide the care.

Instructions for public comment submissions: Comments should be submitted via the Virginia Regulatory Town Hall public comment forum at https://townhall.virginia.gov/L/ViewNotice.cfm?gnid=2618 or via postal mail to Department of Medical Assistance Services, ATTN: Andrew Greer, Senior Policy Analyst, Office of Community Living, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

VIRGINIA CODE COMMISSION

Notice to State Agencies

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

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

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

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