VIRGINIA REGISTER OF REGULATIONS

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TABLE OF CONTENTS

Register Information Page 2529

Publication Schedule and Deadlines 2530

Petitions for Rulemaking 2531

Periodic Reviews and Small Business Impact Reviews 2533

Regulations 2535

4VAC15-20. Definitions and Miscellaneous: In General (Proposed) 2535
4VAC15-40. Game: In General (Proposed) 2538
4VAC15-40. Game: In General (Proposed) 2539
4VAC15-50. Game: Bear (Proposed) 2539
4VAC15-70. Game: Bobcat (Proposed) 2539
4VAC15-90. Game: Deer (Proposed) 2539
4VAC15-240. Game: Turkey (Proposed) 2539
4VAC15-50. Game: Bear (Proposed) 2544
4VAC15-90. Game: Deer (Proposed) 2549
4VAC15-110. Game: Fox (Proposed) 2564
4VAC15-230. Game: Squirrel (Proposed) 2564
4VAC15-240. Game: Turkey (Proposed) 2565
4VAC15-260. Game: Waterfowl and Waterfowl Blinds (Proposed) 2566
4VAC15-390. Watercraft: Safe and Reasonable Operation of Vessels (Proposed) 2567
4VAC15-420. Watercraft: Navigation Lights and Shapes (Proposed) 2571
8VAC20-23. Licensure Regulations for School Personnel (Emergency) 2575
9VAC25-800. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges Resulting from the Application of Pesticides to Surface Waters (Forms) 2576
18VAC50-22. Board for Contractors Regulations (Final) 2576
18VAC50-30. Individual License and Certification Regulations (Final) 2576
18VAC85-80. Regulations Governing the Practice of Occupational Therapy (Proposed) 2579
18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians (Forms) 2583
18VAC110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances (Forms) 2583
18VAC110-60. Regulations Governing Pharmaceutical Processors (Forms) 2583

Governor 2586

Guidance Documents 2588

General Notices 2590

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

Members of the Virginia Code Commission: **John S. Edwards, Chair; James A. Leftwich, Jr., Vice-Chair; Ward L. Armstrong; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.**

Staff of the *Virginia Register:* **Holly Trice,** Registrar of Regulations; **Anne Bloomsburg,** Assistant Registrar; **Nikki Clemons,** Regulations Analyst; **Rhonda Dyer,** Publications Assistant; **Terri Edwards,** Senior Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

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

June 2023 through July 2024

Volume: Issue	Material Submitted By Noon*	Will Be Published On
39:22	May 31, 2023	June 19, 2023
39:23	June 14, 2023	July 3, 2023
39:24	June 28, 2023	July 17, 2023
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 **(Tuesday)**	December 4, 2023
40:9	November 29, 2023	December 18, 2023
40:10	December 13, 2023	January 1, 2024
40:11	December 27, 2023	January 15, 2024
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

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Initial Agency Notice

Title of Regulation: **9VAC25-260. Water Quality Standards.**

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Name of Petitioner: Clintwood JOD, LLC.

Nature of Petitioner's Request: On April 25, 2023, Clintwood JOD, LLC (CJOD) petitioned the State Water Control Board to promulgate a site-specific aquatic life ambient criterion for selenium. Specifically, CJOD formally requests that the board amend the existing surface water quality criteria for selenium to allow a special standard (9VAC25-260-310) incorporating Environmental Protection Agency (EPA) Recommended Aquatic Life Ambient Water Quality Criterion for Selenium in Freshwater, as published in 81 FR 45285-45287 (July 13, 2016) and revised in August 2021. CJOD requests that the special standard be applicable to the following tributaries to Knox Creek: Race Fork, Pounding Mill Creek, Right Fork of Lester Fork, and Abner Fork. The reaches included in this petition fall within Knox Creek, a sub-watershed of the Tug Fork watershed that encompasses approximately 97.8 square miles of Buchanan County (19% of the county). The Virginia portion of the Knox Creek watershed makes up 6.2% of the Tug Fork watershed, with the remainder downstream in Kentucky and West Virginia.

CJOD currently holds and operates 15 surface and deep-mining permits in the Commonwealth of Virginia under the Virginia Coal Surface Mining Reclamation Regulations (4VAC25-130). Each of these operations is also authorized under a National Pollutant Discharge Elimination System permit issued by Virginia Department of Energy's Mined Land Repurposing Division with oversight by EPA. Six of CJOD's operations are currently permitted to discharge into the reaches defined in this petition, one of which is currently under a schedule of compliance for selenium. As these mining operations are permitted activities that generate its primary source of revenue, CJOD has an interest in the requested action.

CJOD's need for the proposed amendment is directly related to the continuation of its mining operations. Virginia's current water quality criteria for selenium are over 30 years old. EPA's recommended criteria reflect the latest scientific knowledge and provide a more updated method of evaluating selenium impacts to surface waters.

Additional considerations when evaluating the requested amendment are standards associated with downstream waters. The most downstream reach requested for consideration is Race Fork. The confluence of Race Fork and Knox Creek is approximately 3.9 stream miles from Kentucky and 11.8 stream miles from West Virginia. Both Kentucky and West Virginia have established aquatic life ambient water quality criteria that were modeled after EPA's recommended criterion. If the petition is found to be reasonable, CJOD asks that the Department of Environmental Quality support utilizing EPA's criterion with any implementation guidance modeled after the approved West Virginia guidance to provide consistency with the remainder of the watershed as that guidance has been reviewed and approved by EPA Region 3.

Agency Plan for Disposition of Request: A 21-day public comment period is being announced in the Virginia Register of Regulations. Upon completion of the public comment period, the State Water Control Board will consider the petition at a future meeting and decide whether or not to move forward with the rulemaking.

Public Comment Deadline: June 26, 2023.

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

VA.R. Doc. No. PFR23-29; Filed May 4, 2023, 2:36 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Initial Agency Notice

Title of Regulation: **18VAC85-50. Regulations Governing the Practice of Physician Assistants.**

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

Name of Petitioner: Jonathan Williams, Virginia Academy of Physician Assistants.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend subdivision 1 of 18VAC85-50-110 to state that the patient care team physician or podiatrist shall provide appropriate consultation or collaboration for complex clinical cases and patient emergencies as noted in the written or electronic practice agreement for the patient evaluation process.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on June 5, 2023. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which will open on June 5, 2023, and will close on July 5, 2023. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for August 4, 2023. The

petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: July 5, 2023.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR23-31; Filed May 12, 2023, 4:16 p.m.

Initial Agency Notice

Title of Regulation: **18VAC85-50. Regulations Governing the Practice of Physician Assistants.**

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

Name of Petitioner: Jonathan Williams, Virginia Academy of Physician Assistants.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-50-160 A to remove the requirement that the patient care team physician's name be included on any prescription for Schedule II-V drugs.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on June 5, 2023. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which will open on June 5, 2023, and will close on July 5, 2023. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for August 4, 2023. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: July 5, 2023.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR23-32; Filed May 12, 2023, 4:18 p.m.

Initial Agency Notice

Title of Regulation: **18VAC85-101. Regulations Governing the Practice of Radiologic Technology.**

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

Name of Petitioner: Jeffrey LaPole.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-101-92 to permit remote supervision of radiologist assistants for minimally invasive procedures and diagnostic imaging.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on June 5, 2023. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which will open on June 5, 2023, and will close on July 5, 2023. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for August 4, 2023. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: July 5, 2023.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR23-30; Filed May 8, 2023, 9:12 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 2. AGRICULTURE

STATE MILK COMMISSION

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Milk Commission conducted a periodic review and a small business impact review of **2VAC15-20, Regulations for the Control and Supervision of Virginia's Milk Industry**, and determined that this regulation should be retained as is. The commission is publishing its report of findings dated October 4, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare in that it ensures that Virginians will have an adequate supply of milk and that farmers receive a fair price for their milk. The regulation is clearly written and easily understandable.

The commission has determined that the regulation should stay in effect without change because it is necessary to adequately maintain a stable milk market and is effective in its current format. No changes to agency or industry practices have occurred that would necessitate any modifications.

The Southeastern United States, including Virginia, is not considered ideal for dairying due to the summer heat and humidity. The regulation provides for some incentive for dairy farms, many of which are small businesses, to continue to operate within the state, as the regulation allows for farms that own milk quota to be paid an amount greater than the price established by the federal government.

There have been no complaints from the public concerning the regulation. The regulation is not unnecessarily complex. There is no overlap with the federal or state law or regulations. The commission has determined that no changes have occurred in the area affected by this regulation since the last periodic review that would make it necessary to amend or repeal the regulation. The commission has determined that the current version of the regulation is consistent with current industry practices and is the least burdensome and least intrusive alternative.

Contact Information: Crafton Wilkes, Administrator, State Milk Commission, Oliver Hill Building, 102 Governor Street, Room 206, Richmond, VA 23218, telephone (804) 786-2013, or email crafton.wilkes@vdacs.virginia.gov.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC20-130, Solid Waste Planning and Recycling Regulations**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether 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 June 5, 2023, and ends June 26, 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: Sanjay Thirunagari, Programs Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1532.

TITLE 12. HEALTH

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Behavioral Health and Developmental Services conducted a periodic review and a small business impact review of **12VAC35-250, Peer Recovery Specialists**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated March 20, 2023, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare. The regulation provides administrative structure for Department of Behavioral Health and Developmental Services (DBHDS) qualifications, education,

and experience for peer recovery specialists to ensure that individuals providing peer recovery services in Virginia's public system of behavioral health services demonstrate a baseline of practical knowledge. The availability of peer recovery specialist services was expanded through the Virginia Medicaid Addiction and Recovery Treatment Services new substance use disorder benefit. Peer support resources are an integral component of community integration, wellness, resiliency, and recovery.

Comprehensive behavioral health is essential to population health and cost containment. Behavioral health issues add to medical care costs and individuals with mental illness or substance use disorders or co-occurring mental illness and substance use disorders have higher medical care costs as much as those without them. Peer recovery services help decrease reliance on institutions and increase focus on community services. The services also facilitate integration of behavioral health and primary care, as well as housing, employment, schools, and social services.

The regulation is clearly written and understandable as evidenced by the number of persons who have followed the requirements to become Peer Recovery Specialists in Virginia. The board has decided to retain the regulation as is. Since the emergency regulation took effect, 1,155 of peers have become peer recovery specialists. The language was designed to work seamlessly with related regulations from the Department of Medical Assistance Services and the Department of Health Professions; this has proven to be a successful structure.

No comments were received concerning the regulation during the periodic review. The regulation makes clear who shall be deemed a peer recovery specialist in Virginia. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

This is the first periodic review since the regulation became effective. Technology, economic conditions, and other factors have not changed in the area affected by the regulation. The board's decision, consistent with applicable law, will minimize the economic impact of this regulation on small businesses in Virginia. Retaining the regulation as established on March 6, 2019, will ensure continuity for providers. Any change to the current regulation could result in an economic impact as providers would be responsible for ensuring that peer recovery specialists meet the qualifications established in the regulation. Therefore, the decision to retain the regulation as currently written minimizes costs to small businesses.

Contact Information: Ruth Anne Walker, Director of Regulatory Affairs, Department of Behavioral Health and Developmental Services, Jefferson Building, 1220 Bank Street, 4th Floor, Richmond, VA 23219, telephone (804) 225-2252.

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TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-400, Funding Limitations for the Refugee Resettlement Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether 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 June 5, 2023, and ends June 26, 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: Seyoum Berhe, State Refugee Coordinator, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7927.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF WILDLIFE RESOURCES

Proposed Regulation

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

Title of Regulation: **4VAC15-20. 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed amendments removes the requirement for a permit to use a department-owned boat access site. Additional proposed 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 Tri-colored 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. 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.
		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	Little to no direct lethal taking expected.

			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.	

DOCUMENTS INCORPORATED BY REFERENCE

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 May 15, 2023, 10:34 a.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-40. Game: In General (amending 4VAC15-40-195, 4VAC15-40-276, 4VAC15-40-285).**

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

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 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 May 4, 2023, 4:00 p.m.

Proposed Regulation

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

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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 4, 2023, 3:58 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-50. Game: Bear (amending 4VAC15-50-11).**

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

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 4, 2023, 4:00 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-90. 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 (CWD) in certain localities; (ii) expand department 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.

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
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 May 4, 2023, 4:01 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-110. 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 15, 2023, 10:34 a.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-230. Game: Squirrel (amending 4VAC15-230-60).**

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

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 4, 2023, 4:02 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-240. 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed amendments (i) 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; and (ii) remove the one bird per weekend bag limit for the spring and fall turkey youth and apprentice hunter weekends.

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 May 4, 2023, 4:03 p.m.

Proposed Regulation

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

Title of Regulation: **4VAC15-260. Game: Waterfowl and Waterfowl Blinds (amending 4VAC15-260-120; adding 4VAC15-260-85, 4VAC15-260-86; repealing 4VAC15-260-60 through 4VAC15-260-80).**

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

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed amendments (i) prohibit licensing of non-riparian, stationary waterfowl blinds in public waters adjacent to wildlife management areas and wildlife conservation sites as well as the James River, Plum Tree Island, Occoquan Bay, and Featherstone National Wildlife Refuges; and (ii) clarify the boundaries of the special sea duck area to enhance understanding by hunters and law-enforcement officers as to when hunters are allowed to chase and retrieve injured sea ducks.

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 May 4, 2023, 4:04 p.m.

Proposed 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 4, 2023, 4:04 p.m.

Proposed 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.

Public Hearing Information:

May 25, 2023 - 9 a.m. - Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, Virginia 23228.

Public Comment Deadline: May 24, 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 proposed 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 May 4, 2023, 4:05 p.m.

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TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Emergency Regulation

Title of Regulation: **8VAC20-23. Licensure Regulations for School Personnel (adding 8VAC20-23-51).**

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

Effective Dates: May 19, 2023, through November 18, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, or email jim.chapman@doe.virginia.gov.

Preamble:

Section 2.2-4011 A of the Code of Virginia states that regulations that an agency finds are necessitated by an emergency situation may be adopted upon consultation with the Attorney General, which approval shall be granted only after the agency has submitted a request stating in writing the nature of the emergency, and the necessity for such action shall be at the sole discretion of the Governor.

The Commonwealth is facing a crisis of 15,500 teachers and school personnel whose licenses are set to expire on June 30, 2023. Due to license processing delays with Teacher Education and Licensure (TEAL), these applications may not be processed in a timely manner. This leaves thousands of teachers and school personnel who may not be able to practice their professions; school divisions across the Commonwealth without adequate staffing; and ultimately children who could be left without adequate instruction or guidance for the 2023–2024 school year. The primary issue is that TEAL is currently unable to process the current number of renewals, which jeopardizes the licenses of teachers and school personnel across the Commonwealth. Student scores on the Standards of Learning and other national assessments, such as the National Assessment of Educational Progress (NAEP), show that student academic progress has suffered significantly over the past few years. Students cannot be subjected to further hindrances or interruptions to their education.

On May 11, 2023, at an emergency meeting, the State Board of Education adopted the emergency action, which extends until June 30, 2024, any renewable license identified in 8VAC20-23-50 that is held by a person as of May 11, 2023, and set to expire on June 30, 2023.

8VAC20-23-51. Extension of renewable licenses until June 30, 2024.

A. Every renewable license identified in 8VAC20-23-50 that is (i) held by any person as of May 11, 2023, and (ii) set to

expire on June 30, 2023, shall continue in effect until June 30, 2024, or until final administrative action is taken by the State Board of Education (board), or the State Superintendent of Public Instruction (superintendent) acting under authorization from the board, whichever first occurs. Any such final administrative action to grant the renewal shall be deemed to take effect on July 1, 2023.

B. Before final administrative action on an application, the superintendent shall be permitted to offer applicants covered under this section until June 30, 2024, the opportunity to complete any educational or training elements necessary for the license being sought.

C. This extension shall not prolong any license beyond any maximum period authorized by statute.

D. Nothing in this section shall affect the authority of the board to deny, revoke, cancel, or suspend such license in accordance with this chapter or other provision of law.

VA.R. Doc. No. R23-7566; Filed May 17, 2023, 8:00 a.m.

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TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC25-800. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges Resulting from the Application of Pesticides to Surface Waters.**

Agency Contact: Peter Sherman, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-2666, or email peter.sherman@deq.virginia.gov.

FORMS (9VAC25-800)

~~Pesticide Discharge Management Plan (PDMP) - VAG-87 (rev. 2019)~~

Pesticide Discharge Management Plan (PDMP) - VAG-87 (rev. 4/2023)

VA.R. Doc. No. R23-7565; Filed May 12, 2023, 3:28 p.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Final Regulation

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

Titles of Regulations: **18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-140, 18VAC50-22-170).**

18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-120, 18VAC50-30-130).

Statutory Authority: §§ 54.1-201, 54.1-1102, and 54.1-1146 of the Code of Virginia.

Effective Date: September 1, 2023.

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

Summary:

The amendments extend a temporary reduction in renewal and reinstatement fees for certain board licenses and certifications renewed or reinstated on or before August 31, 2025.

18VAC50-22-140. Renewal fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable.

In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department:

Fee Type	When Due	Amount Due
Class C renewal	with renewal application	$195
Class B renewal	with renewal application	$225

Class A renewal	with renewal application	$240
Residential Building Energy Analyst Firm renewal	with renewal application	$195

The date on which the renewal fee is received by the Department of Professional and Occupational Regulation or its agent shall determine whether the licensee is eligible for renewal or must apply for reinstatement.

For renewal fees received on or before August 31, ~~2023~~ 2025, the fees shall be ~~$130~~ $150 for a Class C renewal, ~~$160~~ $175 for a Class B renewal, ~~$175~~ $200 for a Class A renewal and ~~$130~~ $150 for a Residential Building Energy Analyst Firm renewal.

18VAC50-22-170. Reinstatement fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department:

Fee Type	When Due	Amount Due
Class C reinstatement	with reinstatement application	$405*
Class B reinstatement	with reinstatement application	$460*
Class A reinstatement	with reinstatement application	$490*
Residential Building Energy Analyst Firm reinstatement	with reinstatement application	$405*
*Includes renewal fee listed in 18VAC50-22-140.		

The date on which the reinstatement fee is received by the Department of Professional and Occupational Regulation or its agent shall determine whether the licensee is eligible for reinstatement or must apply for a new license and meet the entry requirements in place at the time of that application. In order to ensure that licensees are qualified to practice as contractors, no reinstatement will be permitted once two years from the expiration date of the license have passed.

For reinstatement fees received on or before August 31, ~~2023~~ 2025, the fees shall be ~~$330~~ $360 for Class C reinstatement, ~~$390~~ $410 for Class B reinstatement, ~~and $420~~ $450 for Class A reinstatement, and $360 for a Residential Building Energy Analyst Firm. These fees include the renewal fee listed in 18VAC50-22-140.

18VAC50-30-120. Renewal.

A. Licenses issued under this chapter to electricians, gas fitters, HVAC tradesmen, or plumbers shall expire three years from the last day of the month in which they were issued as indicated on the license.

B. All other licenses and certification cards issued under this chapter shall expire two years from the last day of the month in which they were issued as indicated on the license or certification card.

C. Effective with all licenses issued or renewed after December 31, 2007, as a condition of renewal or reinstatement and pursuant to § 54.1-1133 of the Code of Virginia, all individuals holding tradesman licenses with the trade designations of plumbing, electrical, and heating ventilation and cooling shall be required to satisfactorily complete three hours of continuing education for each designation, and individuals holding licenses as liquefied petroleum gas fitters and natural gas fitter providers, one hour of continuing education, relating to the applicable building code, from a provider approved by the board in accordance with the provisions of this chapter. An inactive tradesman is not required to meet the continuing education requirements as a condition of renewal.

D. Certified elevator mechanics and certified accessibility mechanics, as a condition of renewal or reinstatement and pursuant to § 54.1-1143 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to the provisions of the Virginia Uniform Statewide Building Code pertaining to elevators, escalators, and related conveyances. This continuing education will be from a provider approved by the board in accordance with the provisions of this chapter.

E. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129.1 B of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction from a provider approved by the board in accordance with the provisions of this chapter.

F. Certified automatic fire sprinkler inspectors, as a condition of renewal and pursuant to § 54.1-1148 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to changes and knowledge of the Virginia Statewide Fire Prevention Code (13VAC5-51). No renewal will be permitted once 30 days from the expiration date have passed. After that date, the applicant must apply for a new certification and meet the current entry requirements.

G. Renewal fees are as follows:

Tradesman license	$135
Liquefied petroleum gas fitter license	$90
Natural gas fitter provider license	$90
Backflow prevention device worker certification	$90
Elevator mechanic certification	$90
Certified accessibility mechanic Certified automatic fire sprinkler inspector	$90 $90
Water well systems provider certification	$90
Residential building energy analyst license	$90

All fees are nonrefundable and shall not be prorated.

Tradesman license renewal fees received on or before August 31, ~~2023~~ 2025, shall be ~~$90~~ $100. For all other renewal fees received on or before August 31, ~~2023~~ 2025, the fee shall be ~~$65~~ $70.

H. The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a photocopy of the tradesman license or backflow prevention device worker certification card may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

I. The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

J. The board may deny renewal of a tradesman license or a backflow prevention device worker certification card for the same reasons as it may refuse initial issuance or discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

K. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

L. Residential building energy analysts, as a condition of renewal or reinstatement, shall provide documentation of continued membership, in good standing, of a certifying organization approved by the board and proof of insurance as required in 18VAC50-30-40 I 4.

18VAC50-30-130. Reinstatement.

A. Should the Department of Professional and Occupational Regulation fail to receive the renewal application or fees within 30 days of the expiration date, the regulant will be required to apply for reinstatement of the license or certification card.

B. Reinstatement fees are as follows:

Tradesman license	$185*
Liquefied petroleum gas fitter license	$140*
Natural gas fitter provider license	$140*
Backflow prevention device worker certification	$140*
Elevator mechanic certification	$140*
Certified accessibility mechanic	$140*
Water well systems provider certification	$140*
Residential building energy analyst license	$140*
*Includes renewal fee listed in 18VAC50-30-120.	

All fees required by the board are nonrefundable and shall not be prorated.

Tradesman license reinstatement fees received on or before August 31, ~~2023~~ 2025, shall be ~~$140~~ $150. For all other reinstatement fees received on or before August 31, ~~2023~~ 2025, the fee shall be ~~$115~~ $120. This fee includes the renewal fee listed in 18VAC50-30-120.

C. Applicants for reinstatement shall meet the requirements of 18VAC50-30-30.

D. The date on which the reinstatement fee is received by the department or its agent will determine whether the license or certification card is reinstated or a new application is required.

E. In order to ensure that license or certification card holders are qualified to practice as tradesmen, gas fitters, liquefied petroleum gas fitters, natural gas fitter providers, backflow prevention device workers, elevator mechanics, water well systems providers, or residential building energy analysts, no reinstatement will be permitted once two years from the expiration date has passed. After that date the applicant must apply for a new license or certification card and meet the then current entry requirements.

F. Any tradesman, liquefied petroleum gas fitter, or natural gas fitter provider activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Further, any person who holds himself out as a certified backflow prevention device worker, as defined in § 54.1-1128 of the Code of Virginia, or as a certified elevator mechanic or certified accessibility mechanic, as defined in § 54.1-1140 of the Code of Virginia, or as a water well systems provider as defined in § 54.1-1129.1 of the Code of Virginia, without the appropriate certification, may be subject to prosecution under Title 54.1 of the Code of Virginia. Any activity related to the operating integrity of an elevator,

escalator, or related conveyance, conducted subsequent to the expiration of an elevator mechanic certification may constitute illegal activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Any individual who completes a residential building energy analysis, as defined in § 54.1-1144 of the Code of Virginia, subsequent to the expiration of a residential building energy analyst license may have engaged in illegal activity and may be subject to prosecution under Title 54.1 of the Code of Virginia.

G. The board may deny reinstatement of a license or certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

H. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

VA.R. Doc. No. R23-7500; Filed May 12, 2023, 9:27 a.m.

BOARD OF MEDICINE

Proposed Regulation

Title of Regulation: **18VAC85-80. Regulations Governing the Practice of Occupational Therapy (amending 18VAC85-80-10, 18VAC85-80-26, 18VAC85-80-70, 18VAC85-80-71).**

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

Public Hearing Information:

June 22, 2023 - 8:35 a.m. - Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233-1463

Public Comment Deadline: August 4, 2023.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, FAX (804) 527-4429, or email william.harp@dhp.virginia.gov.

Basis: Regulations are promulgated under the general authority of § 54.1-2400 of the Code of Virginia, which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system. Section 54.1-2956.7:1 of the Code of Virginia creates the Occupational Therapy Interjurisdictional Compact.

Purpose: The proposed regulation, which is almost identical to the emergency regulation, is necessary to comply with Chapter 242 of the 2021 Acts of Assembly, Special Session I, that requires Virginia to participate in the Occupational Therapy Interjurisdictional Compact. Additionally, the amendment to define "practitioner" to include occupational therapists and occupational therapy assistants practicing in Virginia pursuant to a compact privilege is essential to ensure that those who are clinically practicing on patients or clients in Virginia are accountable to the same standards of care as any occupational therapist or occupational therapy assistant holding a Virginia license. Otherwise, occupational therapy services for Virginia citizens provided by persons practicing through the Occupational Therapy Interjurisdictional Compact would potentially be harmful to public health, safety, or welfare.

Substance: Amendments to the regulation include (i) adding definitions consistent with the Occupational Therapy Interjurisdictional Compact; (ii) setting the fee for a compact privilege to practice in Virginia; and (iii) specifying that renewal of the compact privilege is based on adherence to the compact rules for continued competency.

Issues: The advantage to the public is guarantee that occupational therapists and occupational therapy assistants practicing Virginia through the Occupational Therapy Interjurisdictional Compact will be held to the same standards of conduct as Virginia licensees. There are no disadvantages to the public. There are no specific advantages or disadvantages to the agency.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented represents DPB's best estimate of these economic impacts.[1]

Summary of the Proposed Amendments to Regulation. As the result of a 2021 legislative mandate, the Board of Medicine (Board) proposes to make permanent an emergency regulation that facilitates the state's membership in the Occupational Therapy Interjurisdictional Licensure Compact (Compact). The emergency regulation is scheduled to expire on June 30, 2023.[2]

Background. Chapter 242 of the 2021 Acts of Assembly, Special Session I,[3] entered the Commonwealth into the Compact. Under the Compact, Occupational Therapists (OTs) and Occupational Therapy Assistants (OTAs) who are licensed in good standing in a Compact member state may practice in other Compact member states via a "compact privilege." The Occupational Therapy Compact Commission (Commission), which is comprised of representatives from the member states, creates rules concerning the Compact that affect member states. Chapter 242 defines "rule" as a regulation promulgated by the Commission that has the force of law.

The Commission held their inaugural meeting on August 3 and 4 and has yet to create any rules. The Department of Health Professions (DHP) states that the Compact does not anticipate that member states will be able to issue compact privileges until late 2023 at the earliest.

The Board's proposed amendments to the regulation are as follows: (i) Adding definitions for compact,[4] compact privilege[5], and practitioner; (ii) Specifying that "The fee for issuance of a compact privilege or the biennial renewal of such privilege shall be $75 for an occupational therapist and $40 for an occupational therapy assistant"; (iii) Stating that: "In order to renew a compact privilege to practice in Virginia, the holder shall comply with the rules adopted by the Occupational Therapy Compact Commission in effect at the time of the renewal"; and (iv) Changing "practitioner" to "licensee" in the section on continued competency requirements.

"Practitioner" is defined as "an occupational therapist or occupational therapy assistant licensed in Virginia or an occupational therapist or occupational therapy assistant practicing in Virginia with a compact privilege." The Board is proposing to change "practitioner" to "licensee" in the continued competency requirements section since Virginia's continued competency requirements would not apply to OTs and OTAs practicing in Virginia with a compact privilege. Those individuals would need to follow the continued competency requirements in the state where they are licensed.

The following states are current participants in the Compact: Alabama, Arizona, Colorado, Delaware, Georgia, Iowa, Kentucky, Maine, Maryland, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, South Carolina, Utah, Tennessee, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Estimated Benefits and Costs. Currently, OTs and OTAs must be licensed in each state in which they practice. As stated above, the Compact rules have yet to be issued. Chapter 242 does state the following: "The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services." So presumably the rules will make it easier or less expensive to gain compact privilege in a non-home state than to gain or renew licensure in that non-home state. The Board's proposed fees for compact privileges are lower than the fees charged by the Board for initial licensure and license renewal (see table).

	OTs	OTAs
Initial Licensure	$130	$70
Biennial License Renewal	$135	$70
Initial Compact Privilege	$75	$40
Biennial Compact Privilege Renewal	$75	$40

To the extent that the rules and fees are set so that it is substantially easier or less expensive to gain compact privilege in Virginia than licensure, more OTs and OTAs who are licensed in other states may begin to offer their services in the Commonwealth. This would be beneficial for Virginia consumers of occupational therapy services and employers looking to hire OTs or OTAs. Some Virginia-based OTs and OTAs and their employers may also benefit if it is easier or less expensive to gain compact privilege than licensure in other Compact states, so that clients can be served in those other states. This would be particularly true for those that are near the border with one of the Commonwealth's neighboring states, all of which are Compact states.[6]

More OTs and OTAs offering their services in Virginia would create greater competition for jobs. According to survey data from two Virginia Healthcare Workforce Data Center reports (workforce reports) published in March 2021, 9.0% of OTs and 12% of OTAs in the Commonwealth experienced involuntary unemployment in the previous year.[7] Thus, some OTs and OTAs may be worse off if membership in the Compact increases the supply of occupational therapy services in Virginia without a commensurate increase in demand.

According to DHP, there are 1,050 OTs and 221 OTAs who are licensed in Virginia but who have out-of-state addresses. The agency does not have data on how many of these individuals are licensed in other states. For those that are licensed in other Compact states, obtaining the compact privilege in the Commonwealth rather than renewing their Virginia license would save the OTs $60 and the OTAs $30. If all 1,050 OTs and 221 OTAs were licensed in other Compact states, and chose to obtain the compact privilege rather than renew their Virginia license, revenue for the Board would decrease by $69,630. The Board's expenses may decrease as well though, since continued competency requirements would no longer need to be checked for these individuals. Additionally, as of July 31 the Board had a cash balance of over $10 million; consequently, this potential loss of revenue could be absorbed in the current budget for the foreseeable future.

Businesses and Other Entities Affected. There are a total of 4,919 OTs and 1,797 OTAs licensed in Virginia.[7] According to survey data from the workforce report on OTs, the primary type of employers of OTs in the Commonwealth are distributed as follows:

Establishment Type	Percentage
General Hospital, Inpatient Department	15%
Skilled Nursing Facility	14%
K-12 School System	13%
Home Health Care	13%
Rehabilitation Facility, Outpatient Clinic	9%
Private Practice, Group	7%
Rehabilitation Facility, Residential/Inpatient	7%

General Hospital, Outpatient Department	5%
Assisted Living or Continuing Care Facility	4%
Academic Institution	3%
Private Practice, Solo	3%
Mental Health, Inpatient	1%
Other	7%

According to survey data from the workforce report on OTAs, the primary type of employers of OTAs in the Commonwealth are distributed as follows:

Establishment Type	Percentage
Skilled Nursing Facility	40%
Home Health Care	15%
Assisted Living or Continuing Care Facility	9%
K-12 School System	8%
Rehabilitation Facility, Residential/Inpatient	8%
General Hospital, Inpatient Department	5%
Rehabilitation Facility, Outpatient Clinic	4%
Private Practice, Group	3%
Private Practice, Solo	1%
Academic Institution	1%
General Hospital, Outpatient Department	1%
Mental Health, Inpatient	1%
Other	4%

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[9] 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. Participation in the Compact enables OTs and OTAs licensed in Virginia to practice in other states. It also may increase the supply of OTs and OTAs who can practice in the Commonwealth, which brings more competition for jobs within Virginia. The increased competition resulting from the Compact may make it more difficult for some OTs and OTAs to find employment or preferred employment within the state. As stated, the workforce surveys found that 9.0% of OTs and 12% of OTAs experienced involuntary unemployment in the previous year. So some OTs and OTAs may be worse off. Participation in the Compact results from the legislation, and not the proposed amendments to the regulation. Thus, no adverse impact is indicated for the proposed amendments to the regulation.

Small Businesses[10] Affected.[11] Types and Estimated Number of Small Businesses Affected. The Board regulates individual practitioners, but not their employers. Thus, data on the number of small businesses affected is not available. The types of businesses that are potentially affected and may qualify as small are described in the tables.

Costs and Other Effects. Some small providers of occupational therapy services may be worse off through increased competition from firms based out of state. Others may be better off through increased access to out-of-state clients.

Alternative Method that Minimizes Adverse Impact. As the Compact is required by statute, there is no alternative method that reduces adverse impact.

Localities[12] Affected.[13] Virginia's decision to join the Compact may particularly affect localities bordering or otherwise near neighboring states, all of which are Compact members. Costs are not introduced for local governments.

Projected Impact on Employment. Joining the Compact may increase the supply of OTs and OTAs that could practice in the Commonwealth. This may lead to more OTs and OTAs working in Virginia.

Effects on the Use and Value of Private Property. To the extent that the supply of OTs and OTAs increases in the Commonwealth, hiring costs for employers may decrease. This would commensurately increase the value of the employing firms. The proposed amendments do not affect real estate development costs.

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

[2]See https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9367

[3]See https://lis.virginia.gov/cgi-bin/legp604.exe?212%2Bful%2BCHAP0242

[4]"Compact" is defined as "the Occupational Therapy Interjurisdictional Licensure Compact."

[5]"Compact privilege" is defined as "the definition of the term in § 54.1-2956.7:1 of the Code of Virginia." There it is defined as "the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter."

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

Summary:

Pursuant to Chapter 242 of the 2021 Acts of the Assembly, Special Session I, which mandates membership of the Commonwealth of Virginia in the Occupational Therapy Interjurisdictional Compact, the proposed amendments (i) add definitions consistent with the compact; (ii) set the fee for a compact privilege to practice in Virginia; and (iii) specify that renewal of the privilege is based on adherence to compact rules for continued competency.

18VAC85-80-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia:

"Board"

"Occupational therapy assistant"

"Practice of occupational therapy"

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

"ACOTE" means the Accreditation Council for Occupational Therapy Education.

"Active practice" means a minimum of 160 hours of professional practice as an occupational therapist or an occupational therapy assistant within the 24-month period immediately preceding renewal or application for licensure, if previously licensed or certified in another jurisdiction. The active practice of occupational therapy may include supervisory, administrative, educational, or consultative activities or responsibilities for the delivery of such services.

"Advisory board" means the Advisory Board of Occupational Therapy.

"Compact" means the Occupational Therapy Interjurisdictional Licensure Compact.

"Compact privilege" means the same as the definition of the term in § 54.1-2956.7:1 of the Code of Virginia.

"Contact hour" means 60 minutes of time spent in continued learning activity.

"NBCOT" means the National Board for Certification in Occupational Therapy, under which the national examination for certification is developed and implemented.

"National examination" means the examination prescribed by NBCOT for certification as an occupational therapist or an occupational therapy assistant and approved for licensure in Virginia.

"Occupational therapy personnel" means appropriately trained individuals who provide occupational therapy services under the supervision of a licensed occupational therapist.

"Practitioner" means an occupational therapist or occupational therapy assistant licensed in Virginia or an occupational therapist or occupational therapy assistant practicing in Virginia with a compact privilege.

18VAC85-80-26. Fees.

A. The following fees have been established by the board:

1. The initial fee for the occupational therapist license shall be $130; for the occupational therapy assistant, it shall be $70.

2. The fee for reinstatement of the occupational therapist license that has been lapsed for two years or more shall be $180; for the occupational therapy assistant, it shall be $90.

3. The fee for active license renewal for an occupational therapist shall be $135; for an occupational therapy assistant, it shall be $70. The fees for inactive license renewal shall be $70 for an occupational therapist and $35 for an occupational therapy assistant. Renewals shall be due in the birth month of the licensee in each even-numbered year. For 2020, the fee for renewal of an active license as an occupational therapist shall be $108; for an occupational therapy assistant, it shall be $54. For renewal of an inactive license in 2020, the fees shall be $54 for an occupational therapist and $28 for an occupational therapy assistant.

4. The additional fee for processing a late renewal application within one renewal cycle shall be $50 for an occupational therapist and $30 for an occupational therapy assistant.

5. The fee for a letter of good standing or verification to another jurisdiction for a license shall be $10.

6. The fee for reinstatement of licensure pursuant to § 54.1-2408.2 of the Code of Virginia shall be $2,000.

7. The handling fee for a returned check or a dishonored credit card or debit card shall be $50.

8. The fee for a duplicate license shall be $5.00, and the fee for a duplicate wall certificate shall be $15.

9. The fee for an application or for the biennial renewal of a restricted volunteer license shall be $35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be $15 for each renewal cycle.

10. The fee for issuance of a compact privilege or the biennial renewal of such privilege shall be $75 for an occupational therapist and $40 for an occupational therapy assistant.

B. Unless otherwise provided, fees established by the board shall not be refundable.

18VAC85-80-70. Biennial renewal of licensure.

A. An occupational therapist or an occupational therapy assistant shall renew his license biennially during his birth month in each even-numbered year by:

1. Paying to the board the renewal fee prescribed in 18VAC85-80-26;

2. Indicating that he has been engaged in the active practice of occupational therapy as defined in 18VAC85-80-10; and

3. Attesting to completion of continued competency requirements as prescribed in 18VAC85-80-71.

B. An occupational therapist or an occupational therapy assistant whose license has not been renewed by the first day of the month following the month in which renewal is required shall pay an additional fee as prescribed in 18VAC85-80-26.

C. In order to renew a compact privilege to practice in Virginia, the holder shall comply with the rules adopted by the Occupational Therapy Compact Commission in effect at the time of the renewal.

18VAC85-80-71. Continued competency requirements for renewal of an active license.

A. In order to renew an active license biennially, a ~~practitioner~~ licensee shall complete at least 20 contact hours of continuing learning activities as follows:

1. A minimum of 10 of the 20 hours shall be in Type 1 activities, which shall consist of an organized program of study, classroom experience, or similar educational experience that is related to a licensee's current or anticipated roles and responsibilities in occupational therapy and approved or provided by one of the following organizations or any of its components:

a. Virginia Occupational Therapy Association;

b. American Occupational Therapy Association;

c. National Board for Certification in Occupational Therapy;

d. Local, state, or federal government agency;

e. Regionally accredited college or university;

f. Health care organization accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation; or

g. An American Medical Association Category 1 Continuing Medical Education program.

2. No more than 10 of the 20 hours may be Type 2 activities, which may include consultation with another therapist, independent reading or research, preparation for a presentation, or other such experiences that promote continued learning. Up to two of the Type 2 continuing education hours may be satisfied through delivery of occupational therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services as documented by the health department or free clinic.

B. A ~~practitioner~~ licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The ~~practitioner~~ licensee shall retain in ~~his~~ the licensee's records all supporting documentation for a period of six years following the renewal of an active license.

D. The board shall periodically conduct a representative random audit of its active licensees to determine compliance. The ~~practitioners~~ licensees selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

VA.R. Doc. No. R22-6878; Filed May 15, 2023, 9:23 a.m.

BOARD OF PHARMACY

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Titles of Regulations: **18VAC110-21. Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians.**

18VAC110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.

18VAC110-60. Regulations Governing Pharmaceutical Processors.

Agency Contact: Erin Barrett, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA

23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC110-21)

~~Application for Licensure as a Pharmacist by Examination (rev. 6/2021)~~

~~Application for Licensure as a Pharmacist by Endorsement (rev. 6/2021)~~

~~Instructions for Reinstating or Reactivating a Pharmacist License (rev. 4/2023)~~

Application for Licensure as a Pharmacist by Examination (rev. 3/2023)

Application for Licensure as a Pharmacist by Endorsement (rev. 3/2023)

Instructions for Reinstating or Reactivating a Pharmacist License (rev. 3/2023)

Instructions for Reinstating a Pharmacy Technician Registration (rev. 4/2023)

Application for Registration as a Pharmacy Technician (eff. 6/2021)

~~Application for Registration as a Limited Use Pharmacy Technician (for use exclusively in a free clinic) (rev. 6/2021)~~

Application for Registration as a Limited-Use Pharmacy Technician for use exclusively in a free clinic (rev. 3/2023)

Affidavit for Limited-use Pharmacy Technician (rev. 5/2018)

Application for Approval of Pharmacy Technician Training Program (rev. 10/2020)

~~Application for Registration as a Pharmacy Technician Trainee (rev. 6/2021)~~

~~Application for Registration as a Pharmacy Intern (eff. 6/2021)~~

~~Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 6/2021)~~

Application for Registration as a Pharmacy Technician Trainee (rev. 3/2023)

Application for Registration as a Pharmacy Intern (rev. 3/2023)

Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 3/2023)

Affidavit of Practical Experience as a Pharmacy Intern (rev. 3/2019)

Name Change Form for Individuals (rev. 3/2018)

Application for Approval of a Continuing Education Program (rev. 10/2020)

Application for Approval of an Innovative (PILOT) Program (rev. 6/2021)

Application for Approval of a Repackaging Training Program (rev. 10/2020)

Continuing Education (CE) Credit Form for Preceptors (rev. 7/2020)

Application for Approval of ACPE Accredited Pharmacy School Course(s) for Continuing Education Credit (rev. 6/2020)

Sponsor Certification for Volunteer Registration (rev. 4/2018)

Application for Volunteer Practice by a Pharmacist (rev. 4/2018)

Continuing Education (CE) Credit Form for Volunteer Practice (rev. 4/2018)

FORMS (18VAC110-30)

Application for a Controlled Substances Registration Certificate (rev. 10/2020)

Controlled Substances Registration Inspection Report (rev. 1/2020)

~~Application for a License to Sell Controlled Substances by a Practitioner of the Healing Arts (eff. 6/2021)~~

Application for a License to Sell Controlled Substances by a Practitioner of the Healing Arts (rev. 3/2023)

Application for Limited Use Facility Dispensing Permit for Nonprofit (rev. 1/2021)

Limited Use Practitioner Dispensing License for Nonprofit (rev. 1/2021)

FORMS (18VAC110-60)

Registration of Cannabis Products (rev. 9/2021)

Application for Registration as a Practitioner for Medical Cannabis (rev. 5/2023)

Application for Registration as a Patient for Cannabis Oil (rev. 3/2021)

Application for Registration as a Parent/Guardian for Cannabis Oil (rev. 3/2021)

Application for Registration as a Registered Agent for Cannabis Oil (rev. 3/2021)

How to Register with the Board as a Patient, Parent or Legal Guardian (rev. 7/2020)

Application for a Pharmaceutical Processor Permit (rev. 9/2021)

Practitioner Reporting Requirements (eff. 6/2019)

Registration of CBD or THC-A Oil Products (eff. 6/2019)

Pharmaceutical Processor & Dispensing Facility Inspection Report (rev. 3/2021)

Application for Registration as a Registered Agent (eff. 12/2019)

Request for Visitor Approval (eff. 5/2020)

VA.R. Doc. No. R23-7307; Filed May 8, 2023, 3:25 p.m.

EXECUTIVE ORDER NUMBER 26 (2023)

Crushing the Fentanyl Epidemic: Strengthening Virginia's Interdiction and Enforcement Response to Fentanyl Crisis

Importance of the Initiative

Fentanyl poisoning has devastated families and communities across the nation and in Virginia. The Commonwealth must do more to combat this deadly fentanyl poisoning crisis.

Fentanyl is a synthetic opioid that is approximately fifty times more potent than heroin and one hundred times stronger than morphine. The number of fentanyl overdose deaths in the Commonwealth has grown over 20-fold since 2013, with 1,951 Virginians killed by fentanyl in 2022. Since 2020, more Virginians have died from fatal drug overdoses than motor vehicle and gun-related deaths combined. Drug overdose is the leading cause of unnatural death in Virginia.

The scope of the problem has not only grown over the past decade, but the communities hit hardest have also changed. Historically, white males regularly had the highest rates of fatal opioid overdoses in Virginia. In 2019, however, black males had the highest rate of fatal opioid overdoses in the Commonwealth. From the latest available data, in 2022 black males fatally overdosed on fentanyl 1.9 times as often as white males (rate of 60.4 and 31.4 per 100,000, respectively). More must be done to reach these communities and connect them to a pathway to recovery and renewal.

To combat this scourge on Virginia's families and communities, I am directing executive branch agencies to enact a first-of-its-kind comprehensive fentanyl strategy as part of the Right Help, Right Now behavioral health transformation to (1) enhance public safety measures to counteract activity by illicit drug manufacturers and distributors; (2) invest in and enhance prevention and recovery efforts (3) educate our communities for action to address fentanyl and opioid abuse and overdoses; (4) expand access to evidence-based treatments; and (5) comprehensively organize our government to transform and strengthen Virginia's response to the fentanyl opioid crisis.

The fentanyl epidemic is a national security concern, a public safety issue, and a serious public health emergency. According to the United States Drug Enforcement Administration, the highest amounts of fentanyl come into the United States from China, through Mexico and Canada. That is why Virginia should raise penalties for manufacturers and dealers who work with Chinese and Mexican drug cartels.

Overdoses are not limited to adults. Illicit drug manufacturers and dealers target children with "rainbow fentanyl," which are bright-colored pills resembling candy. We must protect our children from the deadly dangers of fentanyl. Enhancing our public safety capabilities will enable local law enforcement to put resources in the right places for more effective interdiction. We must also expand access to naloxone—the opioid reversal treatment—in schools, re-evaluate how we care for children who have lost a family member from a drug overdose, and educate our communities about the dangers of fentanyl as well as how to respond to an overdose.

Fentanyl overdoses and deaths have become far too familiar in Virginia and throughout the country. The measures in this Executive Order are significant steps to reduce the occurrence of fentanyl overdoses and deaths in the Commonwealth. Through this comprehensive strategy, together we will overcome the poison that has taken too many lives.

Directive

Accordingly, pursuant to the authority vested in me as the Chief Executive Officer of the Commonwealth, and pursuant to Article V of the Constitution and the laws of Virginia, I hereby order the following:

Prevention and Treatment

1. I direct the Secretary of Health and Human Resources to assign a Special Advisor to the Governor on Opioid Response within 90 days of the date of this order to assist in the Commonwealth's coordinated efforts. Such efforts include collecting data across the Commonwealth and researching effective and proven methods to combat the fentanyl crisis in Virginia.

2. I direct the Department of General Services, in coordination with Virginia Department of Health, to issue a Request for Proposals for naloxone hydrochloride nasal spray kits, and other items as needed, within 60 days of the date of this order, to secure a steady, affordable supply across Virginia. I further direct that other government entities (e.g., counties) can use any such contract to purchase a steady supply of naloxone and enhance our economies of scale as a purchasing collective in our region.

3. I direct the Department of Health to develop a cost-effective plan to utilize and fund wastewater surveillance to detect the frequency, potency, and occurrences of fentanyl use in specific locations. This plan shall include a response strategy that includes increased naloxone distribution, targeted public awareness campaigns, and other cost effective strategies to reduce fentanyl's prevalence in those communities where surveillance warrants increased response. The plan shall be sent to the Secretary of Health and Human Resources within 120 days of the date of this order.

4. I direct the Department of Social Services to develop a plan to offer wrap-around services and treatments to those taking care of children whose parents have passed away from a drug overdose to reduce the trauma of losing a parent to an overdose within 120 days of the date of this order.

Public Safety and Drug Interdiction

5. I direct the Secretary of Public Safety and Homeland Security to assign a Special Advisor to the Governor on Opioid Interdiction within 90 days of the date of this order.

6. I direct the Secretary of Public Safety and Homeland Security, in coordination with the Virginia State Police, to develop a strategic plan for law enforcement agencies across the Commonwealth serving jurisdictions with high numbers of overdose deaths to combat illicit trafficking and the sale of fentanyl in the Commonwealth within 120 days of the date of this order. These efforts should include interdiction technologies and strategies, as well as investigative equipment and activities needed to support the apprehension of illicit fentanyl, and any additional strategies needed for jurisdictions with high numbers of overdose deaths.

7. I direct the Secretary of Public Safety and Homeland Security and the Secretary of Transportation to work collaboratively together to apply for and secure grants from the Federal government and elsewhere to support efforts to detect illicit fentanyl at Virginia's borders to prevent its entry into the Commonwealth.

8. I direct the Secretary of Public Safety and Homeland Security within 90 days of the date of this order to establish a workgroup to improve pathways for incarcerated individuals with substance use disorders to remain drug-free when they are released from incarceration.

Organization of Government and Data Collection

9. I direct the agencies listed below to send a plan to me to report, in accordance with federal and state law, their data to and work with the Virginia State Police's fusion center and to participate in the Framework for Addiction Analysis and Community Transformation (FAACT), a secure data-sharing project led by the Department of Criminal Justice Services (DCJS) in collaboration with the Office of Data Governance and Analytics (ODGA), within 120 days of the date of this order. This effort will create the most cohesive and timely data on fatal and non-fatal overdoses in the Commonwealth to allow for immediate interdiction, education, and abatement efforts in the neighborhoods where spikes in overdoses are observed.

- Department of Health
- Department of Health Professions
- Department of Social Services
- Department of Medical Assistance Services
- Department of Behavioral Health and Developmental Services
- Department of Corrections
- Department of Criminal Justice Services
- Department of Juvenile Justice

10. I direct the Department of Health to work with local health departments to assist localities in establishing Overdose Fatality Review teams in accordance with Virginia Code § 32.1283.7 within 180 days of this order. The teams will work with local law enforcement and the Department of Behavioral Health and Developmental Services to follow up on fentanyl overdose deaths to identify the source of the drug and recommend immediate actions to prevent further overdoses.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall be in effect unless amended or rescinded by further executive order or directive. Given under my hand and under the Seal of the Commonwealth of Virginia, this 9th day of May 2023.

/s/ Glenn Youngkin, Governor

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

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

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (http://www.townhall.virginia.gov) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

BOARD OF ACCOUNTANCY

Title of Document: Guidelines for Disposition of Cases Involving the Unlicensed Use of the Certified Public Accountant Title by a Former Licensee.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

Agency Contact: Vasa Clarke, Regulatory Coordinator, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, email vasa.clarke@boa.virginia.gov.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Title of Document: Virginia Industrial Hemp Extract Intended for Human Consumption Law Civil Penalty Matrix, Guidelines for Enforcement.

Public Comment Deadline: July 5, 2023.

Effective Date: July 10, 2023.

Agency Contact: Pamela Miles, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8899, or email pamela.miles@vdacs.virginia.gov.

STATE BOARD OF HEALTH

Title of Document: Project Review and Permit Procedures Manual.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

Agency Contact: Grant Kronenberg, Director of Division of Compliance, Enforcement, and Policy, Office of Drinking Water, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 629-0989, or email grant.kronenberg@vdh.virginia.gov.

* * *

Title of Document: Acceptable Evidence of Immunity to Varicella Virus for the Purposes of Meeting Virginia School Enrollment Requirements.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

Agency Contact: Rachel Ellick, Policy Analyst, Office of Epidemiology, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 346-6712, or email rachel.ellick@vdh.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: In Home Support Services Guidance Document.

Virginia Medicaid Preferred Drug List and Common Core Formulary Changes, 90-Day Supply List Changes, U.S. Food and Drug Administration Approval of Over-the-Counter Naloxone, and Drug Utilization Review Board Approved Drug Service Authorizations.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 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.

DEPARTMENT OF MOTOR VEHICLES

Titles of Documents: Department of Motor Vehicles Seizure and Blackout Policy.

Department of Motor Vehicles Visual Field Policy.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

Agency Contact: Nicholas Megibow, Senior Policy Analyst, Department of Motor Vehicles, 2300 West Broad Street,

Richmond, VA 23220, telephone (804) 367-6701, or email nicholas.megibow@dmv.virginia.gov.

BOARD OF PHARMACY

Title of Document: Pharmacy Inspection Deficiency Monetary Penalty Guide.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

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

BOARD OF PHYSICAL THERAPY

Title of Document: Requirement for License for Instructors in Physical Therapy Program; Guidance on Use of Professional Degree in Conjunction with Licensure Designation; Functional Capacity Evaluations by Physical Therapy Assistants.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

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

STATE BOARD OF SOCIAL SERVICES

Title of Document: Supportive Housing Broadcast.

Public Comment Deadline: July 5, 2023.

Effective Date: July 6, 2023.

Agency Contact: Karin Clark, Regulatory Coordinator, Department of Social Services, 801 East Main Street, Room 1507, Richmond, VA 23219, telephone (804) 726-7017, or email karin.clark@dss.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

Proposed Revision to the State Air Quality Plan (Rev. D22)

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed plan to attain and maintain the national ambient air quality standards (NAAQS). The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order 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) under the Act.

Purpose of notice: DEQ is seeking comment on the issue of whether certain regulation amendments that implement requirements for transfer of authority and requests for certain public hearings (Regulation Revision D22) should be submitted as a revision to the SIP.

Public comment period: June 5, 2023, to July 5, 2023.

Public hearing: A public hearing will be conducted if a request is made in writing to the contact listed at the end of this notice. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: The regulation amendments that are necessary to conform to Virginia statutory law are exempt from the standard regulatory adoption process by the provisions of § 2.2-4006 A 4 a of the Administrative Process Act (APA). The regulation amendments that are technical corrections are exempt by the provisions of § 2.2-4006 A 3 of the APA. The amendments have already been adopted and are exempt from administrative procedures for the adoption of regulations; therefore, DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: Chapter 356 of the 2022 Acts of Assembly limits the authority of the State Air Pollution Control Board to the issuance of regulations and transfers the board's existing authority to issue permits, orders, and variances to DEQ. The regulations were amended accordingly under Regulation Revision D22; additional information is available from the Virginia Regulatory Town Hall at https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9789.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposal 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. Certain provisions not germane to the SIP and not being submitted as part of the SIP revision are identified.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ on the last day of the comment period. All faxes must have a cover page that lists the intended recipient. All materials received are part of the public record.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices website at https://www.deq.virginia.gov/permits-regulations/public-notices/air. The documents may also be obtained by contacting the DEQ representative listed at the end of this notice. The public may schedule an appointment to 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:

1) Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, telephone (804) 698-4000;

2) Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA, telephone (540) 676-4800;

3) Blue Ridge Regional Office, 3901 Russell Drive, Salem, VA, telephone (540) 562-6700;

4) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800;

5) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020;

6) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800; and

7) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

See the agency contact for public comments, document requests, and additional information.

Contact Information: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond VA 23218, telephone (804) 659-1973, FAX (804) 698-4178, or email karen.sabasteanski@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Bluestone Farms Solar LLC

An enforcement action has been proposed for Bluestone Farm Solar LLC for violations of State Water Control Law and regulations at the Bluestone Farm Solar LLC facility located in Mecklenburg County, Virginia. The proposed order is

available from the Department of Environmental Quality contact or at https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders. The staff contact will accept written comments from June 5, 2023, to July 6, 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 Edgehill Condominium Association

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to Edgehill Condominium Association for alleged violation of the State Water Control Law at 10430 Iron Mill Road, North Chesterfield, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The agency contact will accept comments by email or postal mail from June 5, 2023, through July 5, 2023.

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

Proposed Enforcement Action for Empire Services Inc.

An enforcement action has been proposed for Empire Services Inc. regarding violations of the Virginia State Water Control Law and regulations in Suffolk, Virginia. The proposed order is available from the Department of Environmental Quality (DEQ) contact or at https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders. The DEQ contact will accept written comments from June 5, 2023, through July 5, 2023.

Contact Information: John Brandt, Enforcement Manager, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, FAX (804) 698-4178, or email john.brandt@deq.virginia.gov.

Proposed Enforcement Action for Ike Yoder, Buckingham County, Virginia

The Virginia Department of Environmental Quality (DEQ) proposes to issue a consent special order to Ike Yoder for alleged violation of the State Water Control Law at the property located at 7041 Crumptown Road, Buckingham County, Virginia (Latitude 37.3961, Longitude -78.5687). A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. DEQ will accept comments by email at cara.witte@deq.virginia.gov or postal mail at DEQ, Piedmont Regional Office (Enforcement), 4949-A Cox Road, Glen Allen, VA 23060 from June 5, 2023, through July 5, 2023.

Contact Information: Cara Witte, Enforcement Specialist, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 712-4192, or email cara.witte@deq.virginia.gov.

Springfield Farm Solar Project Notice of Intent for Small Renewable Energy Project (Solar) - Hanover County

Springfield Farm Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Hanover County. Springfield Farm Solar Project will be located within the Town of Ashland, Virginia. Latitude and longitude coordinates are 37.727792, -77.515257.

The proposed project is an 80-megawatt alternating current photovoltaic ground-mounted solar facility. The facility will be constructed on approximately 938 acres of land zoned agricultural, of which only approximately 326 acres will consist of panels and fenced area. The site is located approximately at 12384 Cedar Lane Ashland, Virginia. This project will be a ground-mounted solar photovoltaic facility utilizing single-axis tracking system. There will be a six-foot security fence with a one-foot barbed wire fence that will encompass the entire solar facility. Additionally, there will be 40-foot wide security access gates to allow access to the site.

Contact Information: Susan Tripp, Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 664-3470, FAX (804) 698-4178, or email susan.tripp@deq.virginia.gov.

Sun Ridge Solar Project New Notice of Intent for Small Renewable Energy Project (Solar) - Rockingham County

Sun Ridge Solar LLC via Energix Renewables, under new ownership, has provided the Department of Environmental Quality a new notice of intent to submit the necessary documentation for a permit by rule (PBR) for a small renewable energy project (solar) in Rockingham County. The proposed Sun Ridge Solar Project will be located on two adjoining parcels totaling approximately 564 acres on the southern side of East Side Highway (Route 340) and east of Ore Bank Road near the community of Lynnwood. Centroid latitude and longitude coordinates are 38.306979, -78.751153. The project will have up to a rated capacity of 50 megawatts alternating current and contain approximately 380,000 photovoltaic solar panels.

Contact Information: Amber Foster, Small Renewable Energy Permit by Rule Coordinator, Department of Environmental

Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

VA Sinai LLC Project Notice of Intent for Small Renewable Energy Project (Solar and Storage) - Halifax County

VA Sinai LLC, a subsidiary of Cenergy, has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a hybrid renewable energy and storage facility in Halifax County. The applicant intends to develop, design, construct, and operate a 9.9-megawatt alternating current solar photovoltaic generation and five-megawatt storage facility on up to 100 acres of the project site. The VA Sinai Project will utilize approximately 24,720 units of solar photovoltaic modules and will sell the power to Dominion Energy. The project is located at 2101 River Road, directly east of the intersection of River Road and Old Grubby Road in South Boston, Virginia.

Contact Information: Amber Foster, Small Renewable Energy Permit by Rule Coordinator, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 774-8474, or email amber.foster@deq.virginia.gov.

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for portions of the South Fork Holston River watershed

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup plan for impaired waters, also known as an implementation plan (IP), for the South Fork Holston River watershed in Washington and Smyth Counties. These streams are listed as impaired since monitoring data indicates that the waters do not meet Virginia's water quality standards for bacteria for E. coli. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law require DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. Once a cleanup study is developed, § 62.1-44.19:7 of the State Water Control Law outlines the requirements needed in a cleanup plan to address the pollutants contained in the study.

A cleanup plan has been completed for the South Fork Holston River watershed that identifies corrective actions needed to improve water quality and discusses the associated costs and environmental benefits of the actions. A summary of the plan will be presented at the meeting. Citizens are invited to provide comment on the plan and will learn how they can be part of implementing the plan to improve water quality in the watershed. Community engagement meetings to assist in development of this cleanup plan were convened on January 25, 2023, and April 26, 2023.

Cleanup plan location: The cleanup plan addresses the following impaired stream segments: Slemp Creek in Smyth County downstream to its confluence with the South Fork Holston River (3.85 miles); Cressy Creek, south of Sugar Grove to the South Fork Holston confluence (1.63 miles); Bishop Branch from south of Riverside to the South Fork Holston River confluence (0.48 stream miles); Saint Clair Creek south of St. Clair Bottom to the South Fork Holston confluence (3.68 miles); Grosses Creek, southeast of Loves Mill from its headwaters downstream to its confluence with the South Fork Holston River (4.01 miles); South Fork Holston River from the headwaters downstream to Rush Creek confluence (42.24 miles); Whitetop Laurel Creek from Little Laurel Creek confluence to the Green Cove confluence (3.8 miles); Whitetop Laurel Creek from Straight Branch confluence to Laurel Creek confluence (3.19 miles); Laurel Creek from South Fork Holston River confluence upstream to state line near Iron Mountain (6.09 miles); and Beaverdam Creek mainstem from the Tennessee state line, upstream to its confluence with South Fork Holston River in Damascus (2.01 miles).

Public Meeting: Damascus Public Library, 310 Water Street, Damascus, VA 24236 on June 22, 2023, at 6 p.m. In the event of inclement weather, the meeting will be held on June 23, 2023, at 4 p.m. at the DEQ Southwest Regional Office, 355-A Deadmore Street, Abingdon, Virginia.

Public comment period: June 22, 2023, to July 24, 2023.

How to comment: DEQ accepts comments orally at the public meeting, by email, fax, or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Contact the agency contact for public comments, document requests, and additional information. The public may review the cleanup plan at https://www.deq.virginia.gov/water/water-quality/implementation/implementation-plans-under-development.

Contact Information: Stephanie Kreps, Department of Environmental Quality, Southwest Regional Office, 355A Deadmore Street, Abingdon, VA 24210, telephone (276) 608-8811, FAX (804) 698-4178, or email stephanie.kreps@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Mental Health Services Provider Manual Chapters IV and VI and Appendix H Available for Review and Comment

The draft Mental Health Services Provider Manual Chapters IV and VI and Appendix H 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 June 10, 2023.

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

Draft Provider Manual Supplement "Brain Injury Services Case Management" Available for Review and Comment

The draft provider manual supplement "Brain Injury Services Case Management" is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until June 16, 2023.

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

Draft Residential Treatment Services Provider Manual Chapter VI Available for Review and Comment

The draft Residential Treatment Services Provider Manual Chapter VI is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until June 11, 2023.

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