



# VIRGINIA

## REGISTER OF REGULATIONS

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# VIRGINIA REGISTER INFORMATION PAGE

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

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

An agency wishing to adopt, amend, or repeal regulations must first publish 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 proposal 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 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 (JCAR) 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 changes made to the proposed regulation 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*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, 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 exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. 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. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

*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 M. LeMunyon**, Vice Chair; **Gregory D. Habeeb**; **Ryan T. McDougle**; **Pamela S. Baskerville**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Mark J. Vucci**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **Karen Perrine**, Assistant Registrar; **Anne Bloomsburg**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

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## PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

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### May 2016 through April 2017

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
32:19	April 27, 2016	May 16, 2016
32:20	May 11, 2016	May 30, 2016
32:21	May 25, 2016	June 13, 2016
32:22	June 8, 2016	June 27, 2016
32:23	June 22, 2016	July 11, 2016
32:24	July 6, 2016	July 25, 2016
32:25	July 20, 2016	August 8, 2016
32:26	August 3, 2016	August 22, 2016
33:1	August 17, 2016	September 5, 2016
33:2	August 31, 2016	September 19, 2016
33:3	September 14, 2016	October 3, 2016
33:4	September 28, 2016	October 17, 2016
33:5	October 12, 2016	October 31, 2016
33:6	October 26, 2016	November 14, 2016
33:7	November 9, 2016	November 28, 2016
33:8	November 22, 2016 ( <b>Tuesday</b> )	December 12, 2016
33:9	December 7, 2016	December 26, 2016
33:10	December 19, 2016 ( <b>Monday</b> )	January 9, 2017
33:11	January 4, 2017	January 23, 2017
33:12	January 18, 2017	February 6, 2017
33:13	February 1, 2017	February 20, 2017
33:14	February 15, 2017	March 6, 2017
33:15	March 1, 2017	March 20, 2017
33:16	March 15, 2017	April 3, 2017

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 3. ALCOHOLIC BEVERAGES

### ALCOHOLIC BEVERAGE CONTROL BOARD

#### Initial Agency Notice

Title of Regulation: 3VAC5-30. Tied-House.

Statutory Authority: § 4.1-111 of the Code of Virginia.

Name of Petitioner: Terri Bierne, Esq. - Eastern Counsel to the Wine Institute.

Nature of Petitioner's Request: A request has been submitted by the Wine Institute requesting that 3VAC5-30 be amended to prohibit wine wholesale licensees from charging an additional fee or upcharge on split or mixed cases of wine sold to retail licensees.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition has been filed with the Registrar of Regulations and posted on the Virginia Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). Comment on the petition will be requested until June 6, 2016, and may be posted on the Town Hall or sent to the board. Following receipt of comments on the petition to amend regulations, the matter will be considered by the full board to determine if there is sufficient need or interest to pursue formal amendment to the current rule.

Public Comment Deadline: June 6, 2016.

Agency Contact: Shawn Walker, Director of Law Enforcement, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4569, or email [shawn.walker@abc.virginia.gov](mailto:shawn.walker@abc.virginia.gov).

VA.R. Doc. No. R16-23; Filed April 20, 2016, 11:00 a.m.

#### Initial Agency Notice

Title of Regulation: 3VAC5-30. Tied-House.

Statutory Authority: § 4.1-111 of the Code of Virginia.

Name of Petitioner: Walter Marston, Esq. representing the Virginia Wine Wholesalers Association.

Nature of Petitioner's Request: A request has been received from the Virginia Wine Wholesalers Association requesting that 3VAC5-30 be amended to permit wine wholesalers to differentiate between on-premises and off-premises licensees in prices charged.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition has been filed with the Registrar of Regulations and posted on the Virginia Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). Comment on the petition will be requested until June 6, 2016, and may be posted on the Town Hall or sent to the board. Following receipt of comments on the petition to amend regulations, the matter will be considered by the full board to determine if there is

sufficient need or interest to pursue formal amendment to the current rule.

Public Comment Deadline: June 6, 2016.

Agency Contact: Shawn Walker, Director of Law Enforcement, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4569, or email [shawn.walker@abc.virginia.gov](mailto:shawn.walker@abc.virginia.gov).

VA.R. Doc. No. R16-24; Filed April 20, 2016, 11:01 a.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to consider promulgating **2VAC5-425, Vapor Pressure Requirements for Gasoline Ethanol Blends**. The purpose of the proposed action is to adopt regulations regarding vapor pressure requirements and exceptions for gasoline ethanol blends using the ASTM International Standards and the National Institute of Standards and Technology Handbook 130.

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

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Public Comment Deadline: June 15, 2016.

Agency Contact: Laura Hare, Policy Analyst, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1908, FAX (804) 255-2666, or email [laura.hare@vdacs.virginia.gov](mailto:laura.hare@vdacs.virginia.gov).

VA.R. Doc. No. R16-4644; Filed April 19, 2016, 4:51 p.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Emergency Regulation

Title of Regulation: **2VAC5-425. Vapor Pressure Requirements for Gasoline Ethanol Blends (adding 2VAC5-425-10, 2VAC5-425-20).**

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Effective Dates: April 19, 2016, through October 18, 2017.

Agency Contact: Laura Hare, Policy Analyst, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1908, FAX (804) 255-2666, or email [laura.hare@vdacs.virginia.gov](mailto:laura.hare@vdacs.virginia.gov).

#### Preamble:

*Section 2.2-4011 A of the Code of Virginia states that "[r]egulations 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." This emergency regulation pertains to gasoline ethanol blends and allowable exceptions to vapor pressure standards described in the current standards adopted by ASTM International. The vapor pressure of ethanol blended gasoline is a measure of the fuel's volatility or evaporation characteristics. This pressure is regulated and manipulated by refineries to comply with federal and ASTM standards.*

*Currently, § 59.1-153 of the Motor Fuels and Lubricating Oils Law (Chapter 12 (§ 59.1-149 et seq.) of Title 59.1 of the Code of Virginia) incorporates National Institute of Standards and Technology (NIST) Handbook 130, which utilizes ASTM standards, into the law. The vapor pressure limit for ethanol blended gasoline is established for specified periods of the year in ASTM Standard D4814. The NIST Handbook 130, Section 2.1.2 authorizes a 1.0 psi exception to the ASTM standard; however, this exception expires May 1, 2016. The 1.0 psi exception was previously allowed under 2VAC5-420, but the Board of Agriculture and Consumer Services repealed 2VAC5-420 in 2012 following the incorporation of the NIST handbook and ASTM standards into the Virginia's Motor Fuels and Lubricating Oils Law. The NIST Handbook 130 and ASTM*

*standards were incorporated into the law in advance of the repeal of 2VAC5-420.*

*Virginia utilizes the Colonial Pipeline, a gasoline pipeline that originates in Texas and ends in New Jersey. Virginia is the only state in the Colonial Pipeline that will not have a 1.0 psi exception after May 1, 2016, as the other states have either granted a waiver for or adopted a regulation with the exception. In order to ensure that the gasoline in the pipeline can continue to flow into and through Virginia after May 1, 2016, a regulation granting a 1.0 psi exception must be in place before that date, which can only be accomplished through the emergency regulatory process.*

*This emergency action addresses the vapor pressure requirements for ethanol blended gasoline in Virginia. Specifically, it provides a 1.0 psi exception to the maximum vapor pressure set by ASTM International as currently outlined in NIST Handbook 130, Section 2.1.2.*

#### CHAPTER 425

#### VAPOR PRESSURE REQUIREMENTS FOR GASOLINE ETHANOL BLENDS

#### 2VAC5-425-10. Definitions.

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

"ASTM D4806-16a" means the Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel published by ASTM International in February 2016.

"ASTM D4814-16a" means the Standard Specification for Automotive Spark-Ignition Engine Fuel published by ASTM International in February 2016.

"psi" means pounds per square inch.

"Volatility class A" means fuel with a vapor pressure and distillation designation of "A" set forth in Table 1 Vapor Pressure and Distillation Class Requirements of ASTM D4814-16a.

"Volatility class B" means fuel with a vapor pressure and distillation designation of "B" set forth in Table 1 Vapor Pressure and Distillation Class Requirements of ASTM D4814-16a.

"Volatility class C" means fuel with a vapor pressure and distillation designation of "C" set forth in Table 1 Vapor Pressure and Distillation Class Requirements of ASTM D4814-16a.

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"Volatility class D" means fuel with a vapor pressure and distillation designation of "D" set forth in Table 1 Vapor Pressure and Distillation Class Requirements of ASTM D4814-16a.

"Volatility class E" means fuel with a vapor pressure and distillation designation of "E" set forth in Table 1 Vapor Pressure and Distillation Class Requirements of ASTM D4814-16a.

## **2VAC5-425-20. Vapor pressure requirements; exceptions.**

When gasoline is blended with ethanol, the ethanol shall meet the requirements of ASTM D4806-16a and the blend shall meet the requirements of ASTM D4814-16a, with following permissible exceptions:

1. For blends containing nine to 10 volume percent ethanol, the maximum vapor pressure shall not exceed the ASTM D4814-16a limits by more than 1.0 psi during the period of June 1 through September 15.
2. For blends containing one or more volume percent ethanol for volatility class A, B, C, or D, the maximum vapor pressure shall not exceed ASTM D4814-16a limits by more than 1.0 psi during the period of September 16 through May 31.
3. For blends containing one or more volume percent ethanol for volatility class E, the maximum vapor pressure shall not exceed ASTM D4814-16a limits by more than 0.5 psi during the period of September 16 through May 31.

DOCUMENTS INCORPORATED BY REFERENCE (2VAC5-425)

[Standard Specification for Automotive Spark-Ignition Engine Fuel, ASTM D4814-16a, February 2016, ASTM International, P.O. Box C700, West Conshohocken, PA 19428, www.astm.org](#)

[Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, ASTM D4806-16a, February 2016, ASTM International, P.O. Box C700, West Conshohocken, PA 19428, www.astm.org](#)

VA.R. Doc. No. R16-4644; Filed April 19, 2016, 4:51 p.m.



## **TITLE 4. CONSERVATION AND NATURAL RESOURCES**

### **BOARD OF GAME AND INLAND FISHERIES**

#### **Proposed Regulation**

**REGISTRAR'S NOTICE:** The Board of Game and Inland Fisheries 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 (adding 4VAC15-20-230; repealing 4VAC15-20-80).**

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

**Public Hearing Information:**

June 16, 2016 - 9 a.m. - Department of Game and Inland Fisheries - 7870 Villa Park Drive, Suite 400, Henrico, VA 23228

**Public Comment Deadline:** June 4, 2016.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341 or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed action (i) repeals requirements regarding execution of a certificate for a resident license by the licensee and (ii) prescribes aluminum or purple as the color of paint to be used for posting land to prohibit hunting, fishing, or trapping without the written permission of the landowner.*

**4VAC15-20-80. Certificate on hunting, trapping and fishing license to be executed by licensee. (Repealed.)**

No state or county resident license to hunt, trap or fish in or on the lands or inland waters of this Commonwealth shall be deemed to be issued until the certificate printed on the reverse side of that license shall have been executed by the named licensee. For those licenses issued by telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia, the license shall be deemed issued when the license authorization number is put on paper and the paper is signed by the designated licensee and shall remain effective only until the permanent license, for which the number was issued, is received by the licensee.

**4VAC15-20-230. Color of paint prescribed for posting land.**

The color of paint prescribed for posting land in accordance with § 18.2-134.1 of the Code of Virginia shall be aluminum or purple.

VA.R. Doc. No. R16-4689; Filed April 27, 2016, 11:00 a.m.

## **MARINE RESOURCES COMMISSION**

### **Final Regulation**

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

**Title of Regulation:** **4VAC20-490. Pertaining to Sharks (amending 4VAC20-490-42).**

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

**Effective Date:** May 1, 2016.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

**Summary:**

*The amendment changes the spiny dogfish commercial quota for May 1, 2016, through April 30, 2017, from 5,463,565 to 4,356,944 pounds.*

**4VAC20-490-42. Spiny dogfish commercial quota and catch limitations.**

A. For the 12-month period of May 1, ~~2015~~ 2016, through April 30, ~~2016~~ 2017, the spiny dogfish commercial landings quota shall be limited to ~~5,463,565~~ 4,356,944 pounds.

B. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia any spiny dogfish harvested from federal waters for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

C. It shall be unlawful for any person to take, harvest, or possess aboard any vessel or to land in Virginia more than 5,000 pounds of spiny dogfish per day for commercial purposes.

D. It shall be unlawful for any person to harvest or to land in Virginia any spiny dogfish for commercial purposes after the quota specified in subsection A of this section has been landed and announced as such.

E. Any spiny dogfish harvested from state waters or federal waters, for commercial purposes, shall only be sold to a federally permitted dealer.

F. It shall be unlawful for any buyer of seafood to receive any spiny dogfish after any commercial harvest or landing quota described in this section has been attained and announced as such.

VA.R. Doc. No. R16-4687; Filed April 28, 2016, 4:39 p.m.

**Emergency Regulation**

**Title of Regulation:** 4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-40).

**Statutory Authority:** §§ 28.2-201 and 28.2-210 of the Code of Virginia.

**Effective Dates:** May 1, 2016, through May 31, 2016.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

**Preamble:**

*The amendments (i) change the end date of the Summer Flounder season beginning in March from May 7 to June 6 for any person harvesting outside of Virginia waters; (ii) remove the 30-day limit to the time periods within that season; and (ii) change the second period of the season from 30 days to 60 days, beginning April 8 instead of April*

*7, within which a total of 5,000 pounds of Summer Flounder may be harvested by any person harvesting outside of Virginia waters.*

**4VAC20-620-40. Commercial vessel possession and landing limitations.**

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, D, and E of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.

2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.

3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. Nothing in this chapter shall preclude a vessel from possessing any North Carolina vessel possession limit of ~~summer flounder~~ Summer Flounder in Virginia; however, no vessel that possesses the North Carolina vessel possession limit of ~~summer flounder~~ Summer Flounder shall offload any amount of that possession limit, except as described in subsection J of this section.

C. From the second Wednesday in March through ~~May 7~~ June 6, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivisions 3 and 4 of this subsection and the amount of the legal North Carolina landing limit or trip limit.

2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive ~~30-day~~ period, with the first ~~30-day~~ period beginning on the second Wednesday in March.

3. Land in Virginia more than a total of 7,500 pounds of Summer Flounder during the first 30-day period, with the first 30-day period beginning on the second Wednesday in March.

4. Land in Virginia more than a total of 5,000 pounds of ~~summer flounder~~ Summer Flounder during the ~~second 30-day period with the second 30-day~~ 60-day period beginning on April 7 8.

5. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From November 1 through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for

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any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivisions 3 and 4 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 30-day period, with the first 30-day period beginning on November 1.
3. Land in Virginia more than a total of 10,000 pounds of Summer Flounder during the first 30-day period, with the first 30-day period beginning on November 1.
4. Land in Virginia more than a total of 5,000 pounds of Summer Flounder during the second 30-day period with the second 30-day period beginning on December 1.
5. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

E. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4VAC20-620-30 F.

F. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

G. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection J of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection J of this section.

H. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the

confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

I. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 9 p.m. to 7 a.m.

J. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

K. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

L. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30 A has been taken.

VA.R. Doc. No. R16-4688; Filed April 28, 2016, 4:39 p.m.

## Final Regulation

<p><b>REGISTRAR'S NOTICE:</b> The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.</p>
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**Title of Regulation:** 4VAC20-900. Pertaining to Horseshoe Crab (amending 4VAC20-900-25).

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

**Effective Date:** May 1, 2016.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

**Summary:**

*The amendment adds an exception for pound net licensees so that they may harvest horseshoe crabs beyond 500 feet seaward of mean low water from May 1 through June 7.*

**4VAC20-900-25. Commercial fisheries management measures.**

A. It shall be unlawful for any individual to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet in any direction of the mean low water line from May 1 through June 7, except that pound net licensees permitted for horseshoe crab harvest may harvest horseshoe crabs beyond 500 feet seaward of mean low water during this period. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.

B. From January 1 through June 7 of each year, it shall be unlawful for any individual to land, in Virginia, any horseshoe crab harvested from federal waters.

C. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.

D. The annual commercial quota of horseshoe crab shall be 172,828 horseshoe crabs. Additional quantities of horseshoe crab may be transferred to Virginia by other jurisdictions, in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the commercial quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs. It shall be unlawful for any individual to harvest from Virginia waters, or to land in Virginia, any horseshoe crab for commercial purposes after any calendar-year commercial quota of horseshoe crab has been attained and announced as such.

1. The horseshoe crab commercial trawl gear quota is equal to 12.488% of the commercial quota of horseshoe crabs described in this subsection or 21,583 horseshoe crabs.
2. The horseshoe crab commercial dredge gear quota is equal to 40.348% of the commercial quota of horseshoe crabs described in this subsection or 69,733 horseshoe crabs.
3. The horseshoe crab commercial hand harvest quota is equal to 22.095% of the commercial quota of horseshoe crabs described in this subsection or 38,186 horseshoe crabs.
4. The horseshoe crab commercial pound net quota is equal to 18.142% of the commercial quota of horseshoe crabs described in this subsection or 31,354 horseshoe crabs.

5. The horseshoe crab commercial general category quota is equal to 6.927% of the commercial quota of horseshoe crabs described in this subsection or 11,972 horseshoe crabs.

E. It shall be unlawful for any individual to harvest or land horseshoe crabs during any calendar year from waters east of the COLREGS Line by any gear after 81,331 male horseshoe crabs have been landed and announced as such, and the following provisions shall also apply:

1. It shall be unlawful for any individual to harvest or land any female horseshoe crabs from waters east of the COLREGS Line.
2. It shall be unlawful for any individual to harvest or land any amount of horseshoe crabs from waters east of the COLREGS Line by any gear, except for trawl or dredge gear.
3. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee or Horseshoe Crab Class A Dredge Permittee to take, catch, possess, or land more than 1,250 male horseshoe crabs from waters east of the COLREGS Line when it is projected and announced that 65,065 male horseshoe crabs have been landed from waters east of the COLREGS Line.
4. It shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to take, catch, possess, or land more than 500 male horseshoe crabs from waters east of the COLREGS Line when it is projected and announced that 65,065 male horseshoe crabs have been landed from waters east of the COLREGS Line.

F. For the purposes of this regulation, no horseshoe crab shall be considered a male horseshoe crab unless it possesses at least one modified, hook-like appendage as its first pair of walking legs.

G. Limitations on the daily harvest and possession of horseshoe crabs for any vessel described below are as follows:

1. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee, as described in 4VAC20-900-21 C, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500 per day. When it is projected and announced that 80% of the horseshoe crab commercial trawl gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Trawl Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,250 per day. When it is projected and announced that 100% of the horseshoe crab commercial trawl quota is taken, it shall be unlawful for any valid Horseshoe Crab Trawl Permittee to possess or land any horseshoe crab taken by trawl gear.
2. It shall be unlawful for any valid Horseshoe Crab Class A Dredge Permittee, as described in 4VAC20-900-21 D, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500 per day. When it is

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# Regulations

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projected and announced that 80% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class A Dredge Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,250 per day. When it is projected and announced that 100% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class A Dredge Permittee to possess or land any horseshoe crab taken by dredge gear.

3. It shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee, as described in 4VAC20-900-21 D, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,000 per day. When it is projected and announced that 80% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per day. When it is projected and announced that 100% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to possess or land any horseshoe crab taken by dredge gear.

4. It shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee, as described in 4VAC20-900-21 E, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 80% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 100% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee to possess or land any horseshoe crab taken by hand.

5. It shall be unlawful for any valid Horseshoe Crab Pound Net Permittee, as described in 4VAC20-900-21 F, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per day. When it is projected and announced that 80% of the horseshoe crab commercial pound net quota has been taken, it shall be unlawful for any valid Horseshoe Crab Pound Net Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per day. When it is projected and announced that 100% of the horseshoe crab commercial pound net quota has been taken, it shall be unlawful for any valid Horseshoe Crab Pound Net Permittee to possess or land any horseshoe crab taken by pound net.

6. It shall be unlawful for any valid Horseshoe Crab General Category Permittee, as described in 4VAC20-900-21 G, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per day. When it is projected and announced that 80% of the horseshoe crab commercial general category quota has been taken, it shall be unlawful for any valid Horseshoe Crab General Category Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 125 per day. When it is projected and announced that 100% of the horseshoe crab commercial general category quota has been taken, it shall be unlawful for any valid Horseshoe Crab General Category Permittee to possess or land any horseshoe crab taken by gear other than trawl, dredge, pound net, or by hand.

7. It shall be unlawful for any two valid Horseshoe Crab Hand Harvest Permittees when fishing from the same boat or vessel to possess or land more than 1,000 horseshoe crabs per 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 80% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any two valid Horseshoe Crab Hand Harvest Permittees fishing from the same boat or vessel to possess or land more than 500 horseshoe crabs per 24-hour period, as described in subdivision 9 of this subsection.

8. It shall be unlawful for any valid Horseshoe Crab General Category Permittee to harvest horseshoe crabs by gill net, except as described in this subdivision.

a. Horseshoe crabs shall only be harvested from a gill net, daily, after sunrise and before sunset.

b. It shall be unlawful for any individual to harvest or possess horseshoe crabs taken by any gill net that has a stretched mesh measure equal to or greater than six inches, unless the twine size of that gill net is equal to or greater than 0.81 millimeters in diameter (0.031 inches), and that individual possesses his own valid commercial striped bass permit or his own black drum harvesting and selling permit, as well as a Horseshoe Crab General Category Permit.

9. It shall be unlawful for any person permitted for hand harvest of horseshoe crabs to possess or land any horseshoe crabs, except during a 24-hour period that extends from 12 noon on one day to 12 noon the following day.

H. From April 1 through June 30, in the Toms Cove Area, it shall be unlawful for any individual to place, set, or fish any gill net, except as described in this subsection.

1. From April 1 through May 31, any gill net licensed as over 600 feet and up to 1,200 feet in length shall have at least one anchored end 800 feet from the mean low water line.

2. From June 1 through June 30, it shall be unlawful to place, set, or fish any gill net after sunset or before sunrise.

I. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee, Horseshoe Crab Class A Dredge Permittee, or Horseshoe Crab Class B Dredge Permittee to offload any horseshoe crabs between the hours of 10 p.m. and 7 a.m.

VA.R. Doc. No. R16-4685; Filed April 28, 2016, 4:41 p.m.

**Final Regulation**

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

**Title of Regulation:** 4VAC20-910. Pertaining to Scup (Porgy) (amending 4VAC20-910-45).

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

**Effective Date:** May 1, 2016.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

**Summary:**

*The amendment changes the commercial harvest and landing of scup for May 1 through October 31 from 13,646 pounds to 13,154 pounds.*

**4VAC20-910-45. Possession limits and harvest quotas.**

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 50,000 pounds of scup.
2. Land in Virginia more than a total of 50,000 pounds of scup during each consecutive seven-day landing period, with the first seven-day period beginning on January 1.

B. When it is projected and announced that 80% of the coastwide quota for this period has been attained, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than a total of 1,000 pounds of scup.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 18,000 pounds of scup.

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to ~~13,646~~ 13,154 pounds.

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer

period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 30 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 30. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

VA.R. Doc. No. R16-4686; Filed April 28, 2016, 4:40 p.m.



**TITLE 12. HEALTH**

**STATE BOARD OF HEALTH**

**Forms**

**REGISTRAR'S NOTICE:** Forms used in administering the following regulation have been filed by the Department of Health. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form to access it. The form is also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

**Title of Regulation:** 12VAC5-31. Virginia Emergency Medical Services Regulations.

**Contact Information:** Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 1041 Technology Park Drive, Glen Allen, VA 23059-4500, email [michael.berg@vdh.virginia.gov](mailto:michael.berg@vdh.virginia.gov).

**FORMS (12VAC5-31)**

[EMT Clinical Training Summary Record, EMS.TR.05 \(rev. 8/2012\)](#)

[Training Program Complaint Form, EMS.TR.30 \(rev. 1/2011\)](#)

~~[Course Approval Request, EMS.TR.01 \(rev. 6/2011\)](#)~~

[Course Approval Request, EMS.TR.01 \(rev. 4/2016\)](#)

[CTS Payment Request Form, EMS.TR.CTS.001 \(rev. 6/2012\)](#)

[EMS Variance/Exemption Application for Providers, EMS 6036 \(rev. 6/2011\)](#)

[EMS Variance/Exemption Application for Agencies, EMS 6037 \(rev. 6/2011\)](#)

[Course Summary Form, EMS.TR.03 \(rev. 6/2011\)](#)

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[EMS Certification Application, Form A \(undated\)](#)  
[EMS Training Program Enrollment Form, Form E \(undated\)](#)  
[EMS Continuing Education Registration Card \(undated\)](#)  
[Application for EMS Agency License \(rev. 8/2012\)](#)  
[Application for EMS Vehicle Permit and Instructions \(rev. 8/2012\)](#)  
[Complaint Report Form \(rev. 11/2010\)](#)  
[Operational Medical Director Agreement \(rev. 8/2012\)](#)  
[ALS-Coordinator Application, EMS.TR.31 \(rev. 11/2011\)](#)  
[Emergency Medical Services Medical Record \(rev. 6/2010\)](#)  
[BLS Course Student Information Package, EMS.TR.09 \(rev. 5/2012\)](#)  
[ALS Course Student Information Package, EMS.TR.10 \(rev. 5/2012\)](#)  
[BLS Individual Age, Clinical and Skill Performance Verification, EMS.TR.33 \(rev. 1/2011\)](#)  
[Student Permission Form for BLS Students Less than 18 Years Old, EMS.TR.07 \(rev. 7/2011\)](#)  
[Physician Assistant & Nurse Practitioner Paramedic Challenge Competency Summary, EMS.TR.37 \(rev. 2/2012\)](#)  
[Program Accreditation Application, Instructions and Self Study - Paramedic \(rev. 7/2012\)](#)  
[Program Accreditation Application, Instructions and Self Study - Intermediate \(rev. 7/2012\)](#)  
[Alternative Site Application for EMS Programs in Virginia \(rev. 7/2012\)](#)  
[Rescue Squad Assistance Fund Grant Application, Office of Emergency Services \(<http://www.vdh.virginia.gov/OEMS/Agency/Grants/index.htm>\)](#)  
[EMS System Initiative Award Application, Office of Emergency Services \(<http://www.vdh.virginia.gov/OEMS/Agency/Grants/index.htm>\)](#)  
[OEMS Grant Program Memorandum of Agreement \(rev. 1/2012\)](#)

VA.R. Doc. No. R16-4684; Filed April 26, 2016, 3:25 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Extension of Emergency Regulation

**Title of Regulation:** 12VAC30-120. Waivered Services (amending 12VAC30-120-1000; adding 12VAC30-120-1012, 12VAC30-120-1062, 12VAC30-120-1072, 12VAC30-120-1082).

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396.

**Expiration Date Extended Through:** October 30, 2016.

The Governor has approved the request by the Department of Medical Assistance Services to extend the expiration date of the above-referenced emergency regulation for six months as

provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through October 30, 2016. The emergency action conforms the regulation to Item 301 III of Chapter 2 of the 2014 Acts of the Assembly, Special Session I, which authorizes the Department of Medical Assistance Services to establish a 25% higher reimbursement rate, within the intellectual disability waiver program, for congregate residential services for individuals with complex medical or behavioral needs currently residing in an institution and unable to transition to integrated settings in the community due to the need for services that cannot be provided within the maximum allowable rate or for individuals whose needs present imminent risk of institutionalization, and enhanced waiver services are needed beyond those available with the maximum allowable rate. The emergency regulation was published in [31:5 VA.R. 303-311 November 3, 2014](#) and an erratum correcting the original expiration date was published in [31:9 VA.R. 748 December 29, 2014](#).

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, Policy Division, DMAS, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmass.virginia.gov](mailto:emily.mcclellan@dmass.virginia.gov).

VA.R. Doc. No. R15-3839; Filed April 28, 2016, 11:54 a.m.

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 14VAC5-10. Accident Airtrip Insurance (repealing 14VAC5-10-10).

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

**Effective Date:** June 1, 2016.

**Agency Contact:** Katie Johnson, Policy Advisor, Policy and Compliance Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9688, FAX (804) 371-9873, or email [katie.johnson@scc.virginia.gov](mailto:katie.johnson@scc.virginia.gov).

#### Summary:

*This action repeals 14VAC5-10, which is unnecessary because the use of mechanical vending machines in public*

*airports for the solicitation of applications for and the issuance of accident airtrip insurance policies is obsolete.*

AT RICHMOND, APRIL 22, 2016

COMMONWEALTH OF VIRGINIA, ex rel.

CASE NO. INS-2016-00045

STATE CORPORATION COMMISSION

Ex Parte: In the matter of Repealing the

Rules Governing Accident Airtrip Insurance

ORDER REPEALING RULES

By Order to Take Notice ("Order") entered March 1, 2016, all interested persons were ordered to take notice that subsequent to April 15, 2016, the State Corporation Commission ("Commission") would consider the entry of an order repealing the rules entitled "Accident Airtrip Insurance," 14 VAC 5-10-10 ("Rules"), as proposed by the Bureau of Insurance ("Bureau").

The Order required that on or before April 15, 2016, any person objecting to the repeal of the Rules file a request for a hearing with the Clerk of the Commission ("Clerk"). No request for a hearing was filed with the Clerk.

The Order also required all interested persons to file their comments in support of or in opposition to the repeal of the Rules on or before April 15, 2016. No comments on the proposed repeal of the Rules were filed with the Clerk.

The Virginia General Assembly enacted § 38.2-1807 of the Code of Virginia ("Code") in 1958. This Code section allows insurers that are qualified to transact business in the Commonwealth of Virginia and to write accident airtrip insurance to solicit applications for and issue accident airtrip insurance policies by means of mechanical vending machines in public airports. In addition, this Code section requires that such mechanical vending machines be under the supervision of an appointed agent and that the insurer comply with all requirements prescribed by the Commission for conduct of this business. Chapter 10 was promulgated as a result. The repeal of Chapter 10 is necessary because the use of mechanical vending machines in public airports for the solicitation of applications for and the issuance of accident airtrip insurance policies is now obsolete.

NOW THE COMMISSION, having considered the recommendation of the Bureau to repeal Chapter 10 of Title 14 of the Virginia Administrative Code, is of the opinion that the Rules should be repealed.

Accordingly, IT IS ORDERED THAT:

(1) The Rules Governing Accident Airtrip Insurance at 14 VAC 5-10-10, which are attached hereto and made a part hereof, should be, and are hereby, REPEALED to be effective June 1, 2016.

(2) AN ATTESTED COPY hereof, together with a copy of the repealed Rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Althelia P. Battle, who forthwith shall give further notice of

the repeal of the Rules by mailing a copy of this Order, together with a copy of the repealed rules, to all insurers qualified to transact business in the Commonwealth and to write accident airtrip insurance, as well as to all interested persons.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the attached repealed Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) The Commission's Division of Information Resources shall make available this Order and the repealed Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (2) above.

(6) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

VA.R. Doc. No. R16-4639; Filed April 27, 2016, 4:10 p.m.

**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**BOARD OF PHARMACY**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443 of the Code of Virginia. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322).

**Statutory Authority:** §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

**Effective Date:** June 15, 2016.

**Agency Contact:** Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4416, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

**Summary:**

*The amendments place six compounds into Schedule I of the Drug Control Act. The added compounds will remain in effect for 18 months or until the compounds are placed in Schedule I by action of the General Assembly.*

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# Regulations

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## 18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to § 54.1-3443 D of the Code of Virginia, the Board of Pharmacy places the following substances in Schedule I of the Drug Control Act:

1. Cannabimimetic agents:
  - a. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);
  - b. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);
  - c. 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201); and
  - d. 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144).
2. Substituted cathinones:
  - a. 4-bromomethcathinone (other name: 4-BMC); and
  - b. 4-chloromethcathinone (other name: 4-CMC).

The placement of drugs in this subsection shall remain in effect until February 11, 2017, unless enacted into law in the Drug Control Act.

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Acetyl fentanyl (other name: desmethyl fentanyl).
2. Etizolam.
3. 4-Iodo-2, 5-dimethoxy-N-[(2-hydroxyphenyl) methyl]-benzeneethanamine (other name: 25I-NBOH).
4. Cannabimimetic agent:  
1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl) indole (MAM-2201).
5. Substituted cathinones:
  - a. Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP); and
  - b. Alpha-Pyrrolidinoheptiophenone (other name: PV8).

The placement of drugs listed in this subsection shall remain in effect until June 1, 2017, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl).
2. Flubromazolam.
3. 5-methoxy-N,N-methylisopropyltryptamine (Other name: 5-MeO-MIPT).

## 4. Cannabimimetic agents:

- a. N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);
- b. Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA); and
- c. Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA).

The placement of drugs listed in this subsection shall remain in effect until December 14, 2017, unless enacted into law in the Drug Control Act.

VA.R. Doc. No. R16-4651; Filed April 13, 2016, 4:21 p.m.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 54 (2016)

### **Directing the Department of General Services' Division of Consolidated Laboratory Services to Extend the Storage Period for Physical Evidence Recovery Kits Received From Health Care Providers**

#### Importance of the Issue

In 2009, then-Governor Timothy M. Kaine noted that there was a lack of clarity regarding the steps to be taken following a forensic medical examination in an instance where evidence is collected from an alleged victim of sexual assault, but the victim is not prepared at the time to release personal identifying information to law enforcement. Governor Kaine noted Virginia Code § 19.2-165.1(B), which addresses these instances: "Victims complaining of sexual assault shall not be required to participate in the criminal justice system or cooperate with law-enforcement authorities in order to be provided with such forensic medical exams."

To assist in clarifying the steps to be taken in such situations, Governor Kaine issued Executive Order 92, directing the Department of General Services' Division of Consolidated Laboratory Services (DCLS) to accept and store for 120 days, evidence from physical evidence recovery kits (PERKs) received from health care providers from victims of sexual assault who elected to not report the offense to law enforcement ("anonymous PERKs"). During the 120-day period, if the victim elected to report the offense to law enforcement, the kit would be transferred to the investigating agency for forensic testing. If DCLS did not receive notification from law enforcement and/or an Attorney for the Commonwealth within the 120-day period, DCLS was directed under Executive Order 92 to destroy the PERK.

In 2015, I convened a PERK Work Group to evaluate criteria for PERK evidence testing in the Commonwealth and to make recommendations related to the handling and storage of anonymous PERKs. The Work Group was chaired by the Secretary of Public Safety and Homeland Security, and included First Lady Dorothy McAuliffe and representatives of various stakeholder groups, including law enforcement, Commonwealth's Attorneys, the criminal defense bar, victim advocates, forensic nurses, and the Department of Forensic Science. The Work Group determined that 120 days was not enough time for victims of sexual assault to make the determination about whether to report the offense to law enforcement. Therefore, the Work Group recommended that the time for storing anonymous PERKs should be extended to a minimum of two years, in order to provide victims sufficient time to fully consider their options. During the 2016 General Assembly, this recommendation, and others from the Work Group, were introduced in Senate Bill 291 and House Bill 1160 as the "Comprehensive PERK Act." The Comprehensive PERK Act was passed by the General Assembly and signed by me, and will become law on July 1,

2016. When enacted, the Comprehensive PERK Act will include the requirement that DCLS store all anonymous PERKs for a minimum of two years.

#### Direction to the DGS Division of Consolidated Laboratory Services

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution and the laws of the Commonwealth and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the Department of General Services' Division of Consolidated Laboratory Services begin to immediately accept and store Physical Evidence Recovery Kits (PERKs) in a manner consistent with the requirements set forth in the Comprehensive PERK Act, including the requirement that the PERKs be retained for a minimum of two years. This Executive Order is in the best interest of the individual victims and the overall pursuit of justice in sexual assault cases.

This Executive Order shall be effective when signed and shall remain in full force and effect until the Comprehensive PERK Act becomes law on July 1, 2016, at which time DCLS shall comply with the Act.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th Day of April, 2016.

/s/ Terence R. McAuliffe  
Governor

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-70, Health Requirements Governing the Control of Equine Infectious Anemia in Virginia**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated March 25, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation in order to protect the equine industry in Virginia. This regulation decreases the potential for the spread of disease amongst equine populations. There have been no comments or complaints received from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2000 and was amended in 2011. In the period since this regulation was last amended, there have been no significant changes in technology, economic conditions, or other factors. The regulation has minimal impact on small business.

Contact Information: Charles Broaddus, DVM, Program Manager, Veterinary Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, or email [charles.broaddus@vdacs.virginia.gov](mailto:charles.broaddus@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-280, Virginia Grade Standards for Slaughter and Feeder Lambs**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 22, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation in order to provide a fair and equitable grading standard for evaluation of slaughter and feeder lambs. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. The standards established in this regulation are applied on a voluntary basis and do not create a burden to small business.

Contact Information: Michael Carpenter, Program Manager, Livestock Marketing Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-0577, FAX (804) 371-0247, or email address: [mike.carpenter@vdacs.virginia.gov](mailto:mike.carpenter@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-290, Breeder Sheep Grade Standards**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 22, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation in order to provide a fair and equitable grading standard for evaluation of breeder sheep. Many farms that have breeder sheep are small businesses, and this regulation assists these entities in evaluating their stock to determine quality. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. The standards established in this regulation are applied on a voluntary basis and do not create a burden to small businesses.

Contact Information: Michael Carpenter, Program Manager, Livestock Marketing Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-0577, FAX (804) 371-0247, or email address: [mike.carpenter@vdacs.virginia.gov](mailto:mike.carpenter@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-330, Rules and Regulations for Enforcement of the Virginia Pest Law-Virginia Gypsy Moth Quarantine**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 15, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation. This regulation requires that nurseries and timber operations located in infested areas obtain inspections and certifications for regulated articles before these articles may be moved from regulated to nonregulated areas. If this regulation were not in place, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service would issue a federal, statewide quarantine, which would place restrictions on businesses in noninfested areas of Virginia. Many nurseries and timber operations in Virginia

are small businesses, and this regulation ensures that businesses in noninfested areas are not subject to the quarantine. The regulation was last amended in 2012. In the period since this regulation was last amended, there have been no significant changes to technology, economic conditions, or other factors that would necessitate modifications to the regulation. There have been no comments or complaints received from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The agency recommends that the regulations stay in effect without change.

**Contact Information:** Debra Martin, Program Manager, Office of Plant Industry Service, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email [debra.martin@vdacs.virginia.gov](mailto:debra.martin@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-400, Rules and Regulations for the Enforcement of the Virginia Fertilizer Law**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 15, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation to assist in ensuring the proper oversight of fertilizer sale in the Commonwealth. The agency has not received any complaints or comments from the public concerning this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. This regulation was last amended in 2009. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors that necessitate amendments to this regulation.

**Contact Information:** Debra Martin, Program Manager, Office of Plant Industry Service, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email [debra.martin@vdacs.virginia.gov](mailto:debra.martin@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-480, Regulation Governing the Oxygenation of Gasoline**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated April 15, 2016, to

support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that this regulation, in its current form, remains necessary, as it is currently used by the Department of Environmental Quality as a part of a federally required air quality management plan for the control of carbon monoxide in Northern Virginia. This regulation does not place unnecessary burdens on industry. The regulation was last evaluated by periodic review in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. In its review, the agency has determined that this regulation was developed in accordance with the laws relating to the impact of regulations on small businesses and with the goal of minimizing the economic impact on small businesses. The agency recommends that this regulation stay in effect without change.

**Contact Information:** Joel Maddux, Program Manager, Office of Weights and Measures, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1274, FAX (804) 786-1571, or email [joel.maddux@vdacs.virginia.gov](mailto:joel.maddux@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-550, Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated March 25, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation. The agency has received no comments or complaints from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by a periodic review conducted in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. The regulation has minimal impact on small business.

**Contact Information:** Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-560, Rules and**

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## General Notices/Errata

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**Regulations Pertaining to Labeling and Sale of Infant Formula**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated March 25, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation in order to ensure that infant formula offered for sale in Virginia is accurately represented to the consumer and is fresh and capable of providing infants with appropriate nutrition. There have been no comments or complaints received from the public for this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors. The regulation has minimal impact on small business.

**Contact Information:** Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-570, Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs**, and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated March 25, 2016, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency has determined that there is a continued need for this regulation. Many farms that engage in egg production are small businesses, and this regulation ensures that Virginia-produced eggs can be sold outside the state. There have been no comments or complaints received from the public regarding this regulation. The regulation is not complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated by periodic review in 2000 and was amended in 2011. In the period since this regulation was last evaluated, there have been no significant changes in technology, economic conditions, or other factors.

**Contact Information:** Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

## STATE CORPORATION COMMISSION

### Bureau of Insurance

April 15, 2016

Administrative Letter 2016-03

To: All Insurers and Rate Service Organizations Licensed to Write Property and Casualty Insurance in Virginia

Re: Compliance with Statutory Rate Standards in File-and-Use Lines of Insurance

The purpose of this Administrative Letter is to remind insurers to review the rate standards outlined in Virginia Code § 38.2-1904 for filings subject to the provisions of Chapter 19 of Title 38.2 of the Code of Virginia.

In recent years, Virginia has received rates and supplementary rating information in filings that utilize increasingly complex pricing mechanisms, such as predictive models. Some filings have included pricing mechanisms that are inconsistent with the rate standards outlined in § 38.2-1904, particularly subsection A 3. In order to comply with the rate standards, any rate differentials for the same coverage must be based on differences between expected losses and/or expenses. Examples of practices that have been determined to be inconsistent with the provisions of § 38.2-1904 A 3 include, but are not limited to, the use of:

- Characteristics specific to a particular policyholder to predict and assign pricing components unrelated to losses or expenses incurred during the policy period.
- Pricing components related to an insured's predicted long-term profitability over time, based on an insured's likelihood to renew.
- Price optimization techniques intended to maximize overall retention, profitability, written premium or market share based on how much of a premium increase an individual policyholder is likely to tolerate before seeking coverage with other carriers.

Questions pertaining to Administrative Letter 2016-03 can be directed to the Property and Casualty Division, Rates and Forms Sections at (804) 371-9965 or [boirrf@scc.virginia.gov](mailto:boirrf@scc.virginia.gov).

/s/ Jacqueline K. Cunningham  
Commissioner of Insurance

## VIRGINIA LOTTERY

### Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on April 27, 2016. The orders may be viewed at the Virginia Lottery, 900 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, Virginia.

Director's Order Number Sixty-Two (16)

Virginia Lottery's Scratch Game 1655 "5X the Money" Final Rules for Game Operation (effective April 24, 2016)

Director's Order Number Sixty-Three (16)

Virginia Lottery's Scratch Game 1656 "Fast \$50's" Final Rules for Game Operation (effective April 25, 2016)

Director's Order Number Sixty-Four (16)

Virginia Lottery's Scratch Game 1689 "20X the Money" Final Rules for Game Operation (effective April 25, 2016)

Director's Order Number Sixty-Six (16)

Virginia Lottery's Scratch Game 1696 "In the Money" Final Rules for Game Operation (effective April 25, 2016)

Director's Order Number Sixty-Seven (16)

Virginia Lottery's Scratch Game 1690 "Double Payout!" Final Rules for Game Operation (effective April 25, 2016)

Director's Order Number Sixty-Eight (16)

Virginia Lottery's Scratch Game 1664 "\$1,000,000 Instant Cashout" Final Rules for Game Operation (effective April 25, 2016)

Director's Order Number Sixty-Nine (16)

Virginia Lottery's "Mega Gift Card Giveaway Promotion" Final Rules for Operation (effective June 1, 2016)

Director's Order Number Sixty-Five (16)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on April 29, 2016:

Game 1639	Lucky 7 Crossword
Game 1627	Chocolate
Game 1619	Crossword Tripler
Game 1608	Whole Lotta \$100's
Game 1592	\$40,000 Payday
Game 1590	Grocery Bag Bucks
Game 1588	Redskins Champions Club
Game 1583	Cloud 9
Game 1578	Wild Time Gold
Game 1569	Triple Your Luck
Game 1556	Aces High
Game 1545	20X the Money

Game 1540	Money Maker
Game 1481	Extreme 13
Game 1390	Silver & Gold

The last day for lottery retailers to return for credit unsold tickets from any of these games will be June 13, 2016. The last day to redeem winning tickets for any of these games will be October 26, 2016, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of October 26, 2016, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia, and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on April 29, 2016 and shall remain in full force and effect unless amended or rescinded by further Director's Order.

**SAFETY AND HEALTH CODES BOARD**

**Notice of Periodic Review and Small Business Impact Review**

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Safety and Health Codes Board is currently reviewing each of the regulations listed below to determine whether the regulation should be repealed, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 17 (2014). Public comment is sought on the review of any issue relating to each 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.

**16VAC25-11, Public Participation Guidelines**

**16VAC25-50, Boiler and Pressure Vessel Regulations**

**16VAC25-160, Construction Industry Standard for Sanitation**

**16VAC25-180, Virginia Field Sanitation Standard, Agriculture**

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## General Notices/Errata

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The comment period begins May 23, 2016, and ends June 14, 2016.

**Agency Contact:** Regina P. Cobb, Senior Management Analyst, Department of Labor and Industry, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or email [cobb.regina@dol.gov](mailto:cobb.regina@dol.gov).

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 a report of the small business impact review will be published in the Virginia Register of Regulations.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; *Email:* [varegs@dls.virginia.gov](mailto: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 <http://www.virginia.gov/connect/commonwealth-calendar>.

**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.