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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

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. **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; **Gregory D. Habeeb**, Vice Chair; **Jay Leftwich**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Rita Davis**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Charles S. Sharp**; **Samuel T. Towell**; **Mark J. Vucci**.

Staff of the Virginia Register: **Karen Perrine**, Acting Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Alexandra Stewart-Jonte**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

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

May 2018 through April 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:20	May 9, 2018	May 28, 2018
34:21	May 23, 2018	June 11, 2018
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 (Tuesday)	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 (Monday)	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 (Friday)	January 7, 2019
35:11	January 2, 2019	January 21, 2019
35:12	January 16, 2019	February 4, 2019
35:13	January 30, 2019	February 18, 2019
35:14	February 13, 2019	March 4, 2019
35:15	February 27, 2019	March 18, 2019
35:16	March 13, 2019	April 1, 2019
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Agency Decision

Title of Regulation: 3VAC5-70. Other Provisions.

Statutory Authority: § 4.1-103 of the Code of Virginia.

Name of Petitioner: Trevor Shand.

Nature of Petitioner's Request: I am a married 43-year-old father of two. I live in central Virginia, which has a great microbrew scene. A few months ago, I picked up an old fridge and converted it to a kegerator so I could enjoy local brews on tap. But, I quickly realized, because of the keg laws in Virginia, buying kegs is a pain. When I go into the grocery store, I have to go to customer service, wait in line, fill out a tag, pay a deposit, and have them bring up the keg and tag it. I live in Charlottesville, a college town, and while I am waiting in line, I routinely watch a couple of college students check out with double-digit numbers of 30-packs, with no more hassle than showing an ID. I guess I understand the original idea around the keg tagging laws, but it seems to be more bureaucracy and paperwork than actually accomplishing what it is supposed to. Can I simply purchase a keg as I do cases or six-packs? I may be a voice of one, but I for one would support repealing the keg laws, that is 3VAC5-70-180, Regulation of the sale of alcoholic beverages in kegs and other containers; permit and registration; other requirements. Here is a link to an article about Michigan repealing its similar law: http://www.mlive.com/news/index.ssf/2017/11/michigan_keg_tag_law_repealed.html.

Agency Decision: Request denied.

Statement of Reason for Decision: The Virginia Alcoholic Beverage Control Authority held a public comment period concerning the petition that requested an amendment or repeal of the existing regulation governing the sale of alcoholic beverages in kegs and other containers, permit and registration, and other requirements. The petitioner requested an amendment or repeal of the regulation's requirements for completing the keg declaration and receipt form prior to purchase. The board took public comment at the meeting. The petitioner was not present. The board declined to take action in regards to the petition, citing that the public safety concerns the regulation helps to mitigate outweigh the inconveniences the petitioner cited in his request.

Agency Contact: LaTonya D. Hucks, Regulatory Coordinator, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, or email latonya.hucks@abc.virginia.gov.

VA.R. Doc. No. R18-25; Filed May 7, 2018, 10:14 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Initial Agency Notice

Title of Regulation: 24VAC35-60. Ignition Interlock Program Regulations.

Statutory Authority: § 18.2-270.2 of the Code of Virginia.

Name of Petitioner: Cynthia Hites.

Nature of Petitioner's Request: Petition to amend Virginia Administrative Code pursuant to § 2.2-4007.

"I, Cynthia Ellen Hites, as a citizen of the Commonwealth of Virginia, pursuant to Virginia Code § 2.2-4007, do humbly submit this petition for the following amendment to Virginia Administrative Code 24VAC35-60-70, to have the VASAP Breath Alcohol Ignition Interlock Device (BAIID) required breath sample size reduced from 1.5 liters to 1.0 liter. Due to generally smaller lung capacity compared to men, it has been shown women have 16 times the failed breath sample attempts (aborts) when using the BAIID."⁽¹⁾ Failed breath sample attempts can be caused by "not providing enough air or providing too much air, humming at the incorrect tone or volume, breaks in the hum, or too much humidity or saliva in the breath sample." This means women have 16 times the interaction with the machine upon startup, and, during rolling retests while on Virginia's roadways. I personally struggled mightily with the basic functionality of the device and experienced hyperventilation on numerous occasions due to sequential invalid samples during use of the ignition interlock device. Incidentally, an overlooked cause of the exponentially higher number of breath sample aborts for women, is simply tone of voice. The BAIID anti-circumvention feature requires the driver provide sufficient reverberation for the device's handset to detect human presence. Of course, women naturally tend to have higher pitched voices that produce less reverb, and can, and do, force a difficult and uncomfortable alteration in vocal method to achieve a passing breath sample. Paramount in my opinion, however, is the fact the maneuver required for the BAIID breath sample involves not tidal breath, but execution of the vital capacity maneuver to obtain the breath sample. The vital capacity maneuver obtains the greatest volume of air that can be expelled from the lungs after taking the deepest possible breath. Even then, the subject is required to actually force breath out of the lungs into the BAIID far beyond what's natural, and in my case, experience disorientation via hypoxia and actual physical lung pain frequently. "In order to fulfill the minimum 1.5 liter volume requirement...the sixty year old woman must exhale at least 60% of her vital capacity. Whereas the twenty year old man would only have to exhale about 25% of his vital capacity. At the same blood alcohol concentration (BAC), the smaller lung

Petitions for Rulemaking

volume would yield a greater breath alcohol reading."⁽²⁾ So, in addition to being 16 times more difficult for women to simply achieve to a valid breath sample, the requirement alone can skew the test results to reflect an erroneously high BAC. To mitigate these existing human factors that inherently punish women, and others with similar known, or unknown conditions, to a greater degree; and to initiate a decrease in the potential for vehicle collision due to distracted driving, lowering the breath sample requirement to 1.0 liter will be a step closer to closing the disparity gap of punishment between sexes, and detrimental judicial imbalance currently existing due simply to physiological differences among offenders. States the statute 24VAC-35-60-70 F, 4: "The ignition interlock device shall indicate when a 1.5 L breath sample has been collected and shall indicate this by audible or visual means. The commission may authorize service providers to adjust the breath volume requirement to as low as 1.0 L upon receipt of documentation from a licensed physician verifying the existence of an applicable medical condition. The physician's documentation shall be submitted in a format approved by the commission." The one-liter volume breath sample requirement is legally permissible, and I implore the commission to take under advisement this petition to permanently lower the requirement, in order to strengthen the integrity of the program, so as to not unwittingly punish women, and incidentally; asthmatics, COPD sufferers, congestive heart failure survivors, and undiagnosed pulmonary patients to a greater degree. Please, dear Commissioners, weigh this petition and begin to create a more judiciously solid system. Humbly Yours, Cynthia E. Hites"

⁽¹⁾An Evaluation of Drivers Using an Ignition Interlock Device: Breath Tests While Driving. By Ben D. Sawyer and P. A. Hancock

⁽²⁾Breathing Related Limitations to the Alcohol Breath Test. By Dr. Michael P. Hlastala, Ph.D.

Agency Plan for Disposition of Request: The petition will be considered by the Commission on VASAP at its quarterly meeting on September 14, 2018.

Public Comment Deadline: July 1, 2018.

Agency Contact: Richard Foy, Field Service Specialist, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, or email rfoy@vasap.virginia.gov.

VA.R. Doc. No. R18-32; Filed May 3, 2018, 2:59 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider amending **8VAC20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia**. The purpose of the proposed action is to allow students who entered the ninth grade prior to the 2018-2019 school year to receive locally awarded verified credits in English and mathematics when certain Board of Education-established criteria are met. Currently, these students may receive locally awarded verified credits in only science and history and social science. The proposed changes amend the Standards of Accreditation as they are effective for the current school year and as they will be effective for the 2018-2019 school year. Changes to the Regulations Establishing Standards for Accrediting Public Schools in Virginia that will be effective beginning with the 2018-2019 school year will allow students who enter the ninth grade in 2018-2019 and thereafter to receive locally awarded verified credits in English, mathematics, science, and history and social science. The proposed amendments will provide access to locally awarded verified credits in English, mathematics, science, and history and social science for existing and future students.

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

Statutory Authority: §§ 22.1-16 and 22.1-253.13 of the Code of Virginia.

Public Comment Deadline: July 11, 2018.

Agency Contact: Dr. Cynthia Cave, Assistant Superintendent, Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, FAX (804) 225-2524, or email cynthia.cave@doe.virginia.gov.

VA.R. Doc. No. R18-5440; Filed May 9, 2018, 4:54 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF 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 (amending 4VAC15-20-50).**

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries,
7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendment updates the "List of Native and Naturalized Fauna of Virginia" offered by the department to the 2018 version.

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

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

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's ~~2014~~ 2018 "List of Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia that have established wild, self-sustaining populations, as included in the department's ~~2014~~ 2018 "List of Native and Naturalized

Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

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

The following animals are defined as domestic animals:

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

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

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

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

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

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

Domestic goat (*Capra hircus*).

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

Llama (*Lama glama*).

Alpaca (*Lama pacos*).

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

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

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

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

Domesticated races of gerbils (*Meriones unguiculatus*).

Domesticated races of chinchillas (*Chinchilla laniger*).

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

Domesticated races of mice (*Mus musculus*).

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

Domesticated races of chickens (*Gallus*).

Domesticated races of turkeys (*Meleagris gallopavo*).

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

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

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

Domesticated races of peafowl (*Pavo cristatus*).

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

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

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

~~List of Native and Naturalized Fauna of Virginia, March 2012, Virginia Department of Game and Inland Fisheries~~

[List of Native and Naturalized Fauna of Virginia, 2018, Virginia Department of Game and Inland Fisheries](#)

[Federal Endangered and Threatened Animal Species as of August 4, 2016](#)

VA.R. Doc. No. R18-5495; Filed May 4, 2018, 1:57 p.m.

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 (amending 4VAC15-20-190).

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments (i) add waters with the special trout fishing provisions described in 4VAC14-330-160 to the category "designated stocked trout waters" so that a trout license is required to fish in such waters and (ii) correct cross references for fee fishing waters and urban fishing waters.

4VAC15-20-190. Definitions; "designated stocked trout waters."

When used in regulations of the board, "designated stocked trout waters" will include those waters that are stocked with harvestable-sized trout and are listed by the director in the annual Trout Stocking Plan. These waters will only be considered designated stocked trout waters from October 1 through June 15, both dates inclusive, except for fee fishing waters covered by ~~4VAC15-320-10 et seq.~~ 4VAC15-320-120, waters covered by 4VAC15-330-160, and urban fishing waters covered by ~~4VAC15-330-20 et seq.~~ 4VAC15-330-200. Designated stocked trout waters are either posted by the department with appropriate "stocked trout waters" signs or are posted as fee fishing areas under ~~4VAC15-320-10 et seq.~~ 4VAC15-320-120 or waters under 4VAC15-330-160.

VA.R. Doc. No. R18-5496; Filed May 4, 2018, 2:01 p.m.

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: 4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25).

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Regulations

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments (i) remove the size limit on spotted and largemouth bass and increase the size limit for smallmouth bass for Claytor Lake; (ii) impose a 20-inch minimum size limit for smallmouth bass and a one fish per day creel limit for trophy smallmouth bass in the Levisa Fork River in Buchanan County; (iii) change the minimum length limit from October 1 to May 31 for striped bass for Buggs Island (Kerr) Reservoir, Staunton River to Leesville Dam, and Dan River to Union Street Dam to 20 inches; (iv) for September 16 through June 30, set the minimum size limit at 20 inches and the creel limit as two fish per day and for July 1 through September 15 remove the size limit and set the creel limit to four fish per day for striped bass for Claytor Lake and its tributaries; (v) set a 14-inch minimum length limit and a 10 fish per day creel limit for white bass for Buggs Island (Kerr) Reservoir, Staunton River to Leesville Dam, and Dan River to Union Street Dam; (vi) establish a nine-inch minimum length limit for

crappie for Buggs Island (Kerr), Briery Creek, and Sandy River Reservoirs; (vii) revise the current creel limit for rock bass to be 25 per day in aggregate with Roanoke bass, revise the current creel limit for Roanoke bass to be 25 per day in aggregate with rock bass, and add the Blackwater River in Franklin County, Falling River, and Smith River to the rivers and tributaries where the daily limit is five rock bass and Roanoke bass in aggregate and the minimum length limit is eight inches; (viii) limit blue catfish greater than 32 inches harvested from Lake Gaston to one per day; and (ix) modify American shad creel and length limits to adhere to The Atlantic State Marine Fisheries Commission Interstate Fishery Management Plan for American Shad, which prohibits harvest of American shad in states where there is currently no sustainable management plan implemented.

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

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

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

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			Quantico Marine Base waters	No bass 12 to 15 inches
			Smith Mt. <u>Mountain</u> Lake and its tributaries below Niagara Dam	Only 2 of 5 bass less than 14 inches
			Rivers	
			Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell counties <u>Counties</u>	No bass less than 20 inches; only 1 bass per day longer than 20 inches
			<u>Levisa Fork River – within the boundaries Buchanan County</u>	<u>No bass less than 20 inches; only 1 bass per day longer than 20 inches</u>
			Dan River and tributaries downstream from the Union Street Dam, Danville	Only 2 of 5 bass less than 14 inches
			James River – Confluence of the Jackson and Cowpasture rivers (Botetourt County) downstream to the 14th Street Bridge in Richmond	No bass 14 to 22 inches; only 1 per day longer than 22 inches

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			<p>New River – Fields Dam (Grayson County) downstream to the VA - WV state line and its tributaries Little River downstream from Little River Dam in Montgomery County, Big Walker Creek from the Norfolk Southern Railroad Bridge downstream to the New River, and Wolf Creek from the Narrows dam <u>Dam</u> downstream to the New River in Giles County (This does not include Claytor Lake, which is delineated as: The upper end of the island at Allisonia downstream to the dam)</p>	<p>No bass 14 to 22 inches; only 1 per day longer than 22 inches</p>
			<p>North Fork Holston River - Rt. 91 bridge upstream of Saltville, VA downstream to the VA - TN state line</p>	<p>No bass less than 20 inches; only 1 per day longer than 20 inches</p>
			<p>North Fork Shenandoah River – Rt. 42 bridge, Rockingham Co. downstream to the confluence with S. Fork Shenandoah at Front Royal</p>	<p>No bass 11 to 14 inches</p>
			<p>Potomac River - Virginia tidal tributaries above Rt. 301 bridge</p>	<p>No bass less than 15 inches from March 1 through June 15</p>
			<p>Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte Co. <u>County</u></p>	<p>Only 2 of 5 bass less than 14 inches</p>

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			<p>Shenandoah River – Confluence of South Fork and North Fork rivers, Front Royal, downstream, to the Warren Dam, near Front Royal</p> <p>Base of Warren Dam, near Front Royal downstream to Rt. 17/50 bridge</p> <p>Rt. 17/50 bridge downstream to VA – WV state line</p>	<p>No bass 11 to 14 inches</p> <p>No bass 14 to 20 inches; only 1 per day longer than 20 inches</p> <p>No bass 11 to 14 inches</p>
			<p>South Fork Shenandoah River - Confluence of North and South rivers, below Port Republic, downstream to Shenandoah Dam, near Town of Shenandoah</p> <p>Base of Shenandoah Dam, near Town of Shenandoah, downstream to Luray Dam, near Luray</p> <p>Base of Luray Dam, near Luray, downstream to the confluence with North Fork of Shenandoah, Front Royal</p>	<p>No bass 11 to 14 inches</p> <p>No bass 14 to 20 inches; only 1 per day longer than 20 inches</p> <p>No bass 11 to 14 inches</p>
			<p>Staunton River – Leesville Dam (Campbell County) downstream to the mouth of Difficult Creek, Charlotte County</p>	<p>No smallmouth bass less than 20 inches; only 1 per day longer than 20 inches</p>

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striped bass	landlocked striped bass and landlocked striped bass * - white bass hybrids	4 per day in the aggregate; No fish less than 20 inches	Buggs Island (Kerr) reservoir <u>Reservoir</u> , including the Staunton River to Leesville Dam and the Dan River to Union Street Dam (Danville)	October 1 - May 31: 2 per day in the aggregate; No <u>no</u> striped bass or hybrid striped bass less than 24 <u>20</u> inches; June 1 - September 30: 4 per day in the aggregate; No <u>no</u> length limit
			<u>Claytor Lake and its tributaries</u>	<u>September 16 – June 30: 2 per day in the aggregate; no striped bass or hybrid bass less than 20 inches</u> <u>July 1 – September 15: 4 per day in the aggregate; no length limit</u>
			Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam	2 per day in the aggregate; November 1 - May 31: No striped bass 30 to 40 inches; June 1 - October 31: No length limit
			Lake Gaston	4 per day in the aggregate October 1 - May 31: No striped bass or hybrid striped bass less than 20 inches June 1 - September 30: No length limit

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

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

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

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

	Meherrin River, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest rivers Rivers, and their tributaries plus Back Bay	No possession		
red drum	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	1 per day; No drum less than 18 inches or greater than 27 inches		
spotted sea trout (speckled trout)	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	4 per day; No sea trout less than 14 inches		
grey trout (weakfish)	Back Bay and tributaries including Lake Tecumseh and North Landing River and its tributaries	1 per day; No grey trout less than 12 inches		
southern flounder	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	6 per day; No flounder less than 15 inches		
northern snakehead		Anglers may possess snakeheads taken from Virginia waters if they immediately kill the fish and notify the headquarters or a regional office of the department; notification may be made by telephoning (804) 367-2925 No statewide daily limit No statewide length limits		
longnose gar		5 per day; No statewide length limits		

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bowfin		5 per day; No statewide length limits		
American eel		25 per day; No eel less than 9 inches	Back Bay and North Landing River	No possession limit for those individuals possessing a permit obtained under 4VAC15-340-80
other native or naturalized nongame fish	See 4VAC15-360-10. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.			
endangered or threatened fish	See 4VAC15-20-130. Definitions and Miscellaneous: In General. Endangered and threatened species; adoption of federal list; additional species enumerated.			
nonnative (exotic) fish	See 4VAC15-30-40. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals. Importation requirements, possession and sale of nonnative (exotic) animals.			

VA.R. Doc. No. R18-5497; Filed May 4, 2018, 2:04 p.m.

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: **4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-50).**

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments prohibit the use of any species of fish as bait in Virginia's candy darter streams of the New River drainage, including Big Stony Creek in Giles County, Dismal Creek in Bland and Giles Counties, Laurel Creek in Bland County, and Cripple Creek in Smyth and Wythe Counties, to prevent the introduction of nonnative fish species in those streams.

4VAC15-320-50. Fish used as bait prohibited in certain waters.

It shall be unlawful to use any species of fish as bait in the waters and tributaries of Lick Creek in Smyth and Bland counties, Bear Creek in Smyth County, and Laurel Creek in Tazewell and Bland counties, Big Stony Creek in Giles County, Dismal Creek in Bland and Giles Counties, Laurel Creek in Bland County, and Cripple Creek in Smyth and Wythe Counties.

VA.R. Doc. No. R18-5500; Filed May 4, 2018, 2:06 p.m.

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: **4VAC15-320. Fish: Fishing Generally (repealing 4VAC15-320-140).**

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments repeal the requirement for a permit to conduct a striped bass tournament to relieve an administrative burden from both the public and the department since tournament frequency is low enough that concerns of overfishing fisheries or of overcrowding public ramps are not an issue and data from these tournaments are no longer being collected by the department.

4VAC15-320-140. ~~Permits required for striped bass fishing rodeos; etc. (Repealed.)~~

~~No person shall organize, conduct, supervise, or solicit entries for striped bass fishing tournaments, rodeos, or other striped bass fishing events on the inland waters of this Commonwealth, for which prizes are offered, awarded, or accepted, either in money or other valuable considerations, without having applied for and obtained a permit from the department to do so. Exercising a due regard for the distribution, local abundance, economic value, breeding habits, and natural growth potential of striped bass in the affected public water, the director is authorized on behalf of the board to issue or deny permits pursuant to this section, and to establish such special rules for each tournament as may be deemed necessary, after consulting with the state fish biologist and with the approval of the board's fish committee as designated from time to time by the chairman. Failure to comply with all special rules and other provisions of any permit issued pursuant to this section may be deemed grounds for denying the permittee a permit for a similar event to be held within three years from the date of such failure of compliance.~~

VA.R. Doc. No. R18-5501; Filed May 4, 2018, 2:10 p.m.

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: **4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-10).**

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments provide for closures to designated stocked trout waters to adult anglers for youth trout fishing events sponsored by the department, including (i) how a closure shall be posted, (ii) when a closure will begin the day preceding an event, and (iii) that a closure will last until the conclusion of an event.

4VAC15-330-10. Season; general open season.

Except as otherwise specifically provided in the sections appearing in this chapter, there shall be a year-round season for taking trout. However, angling in designated stocked trout waters shall only be permitted from 5 a.m. until one hour after sunset, except for waters designated by the director as Trout Heritage Waters and listed in the annual trout stocking plan (as referenced in 4VAC15-20-190). Trout Heritage Waters will be closed to fishing on the Friday prior to the first Saturday in April and will reopen to fishing at 9 a.m. on the first Saturday in April. Youth fishing events that are sponsored by the department and held on designated stocked trout waters shall be posted on site with a closure to adults (anglers older than 15 years of age) from noon the day before the event until the conclusion of the youth event. Any person older than 15 years of age and accompanying a youth who is incapable of hooking and landing a fish unassisted shall be properly licensed to fish in designated stocked trout waters.

VA.R. Doc. No. R18-5502; Filed May 4, 2018, 2:12 p.m.

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: **4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-150).**

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments require that trout fishing in Wolf Creek, within the Abingdon Muster Grounds in the Town of Abingdon from Colonial Road downstream to

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Stone Mill Road, and Beaver Creek, within the boundaries of Sugar Hollow Park in the City of Bristol, be catch and release using single hook artificial lures only.

~~4VAC15-330-150. Special provision applicable to Stewarts Creek Trout Management Area; certain portions of the Dan, Rapidan, South Fork Holston and Staunton rivers, the Brumley Creek, East Fork of Chestnut Creek, Little Stony Creek, Little Tumbling Creek, Big Tumbling Creek, North Creek, Roaring Fork, Spring Run, Stony Creek, Venrick Run, South River, and their tributaries trout fishing using artificial lures with single hook.~~

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

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

12. Little Stony Creek and its tributaries within the Jefferson National Forest in Scott County from the Falls of Little Stony Creek downstream to a posted sign at the Hanging Rock Recreation Area.

13. Little Tumbling Creek and its tributaries within the Clinch Mountain Wildlife Management Area in Smyth and Tazewell Counties downstream to the concrete bridge.

14. ~~Effective January 1, 2018,~~ Big Tumbling Creek and its tributaries within the Clinch Mountain Wildlife Management Area in Smyth County from a sign starting at the foot of the mountain and extending upstream seasonally from October 1 until five days prior to the first Saturday in April.

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

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

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

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

VA.R. Doc. No. R18-5503; Filed May 4, 2018, 2:14 p.m.

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: 4VAC15-340. Fish: Seines and Nets (amending 4VAC15-340-60).

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments clarify that the use of cast nets for taking bait fish in the Roanoke and Dan Rivers in

Campbell, Charlotte, Halifax, and Pittsylvania Counties and in the City of Danville is not prohibited.

4VAC15-340-60. Seines, traps, and nets prohibited in certain areas.

A. It shall be unlawful to use seines and nets of any kind for the taking of fish from the public waters of the Roanoke (Staunton) and Dan Rivers in Campbell, Charlotte, Halifax, and Pittsylvania Counties, and in the City of Danville; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked or the taking of fish from these waters pursuant to the provisions of 4VAC15-360. In addition, this section shall not be construed to prohibit the use of cast nets, also known as throw nets, for the taking of bait fish.

B. In Lick Creek and tributaries in Smyth and Bland Counties, in Bear Creek and Hungry Mother Creek above Hungry Mother Lake in Smyth County, and in Laurel Creek and tributaries upstream of Highway 16 bridge in Tazewell and Bland Counties, in Susong Branch and Mumpower Creek in Washington County and the City of Bristol, and in Timbertree Branch in Scott County, it shall be unlawful to use seines, nets, or traps; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked.

VA.R. Doc. No. R18-5504; Filed May 4, 2018, 2:16 p.m.

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: 4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, etc. (amending 4VAC15-350-70).

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

Public Hearing Information:

August 22, 2018 - 9 a.m. - Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Richmond, VA 23228

Public Comment Deadline: July 28, 2018.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email aaron.proctor@dgif.virginia.gov.

Summary:

The proposed amendments add goldfish to the list of fish that can be taken using bow and arrow or crossbow.

4VAC15-350-70. Taking ~~common carp, grass carp, northern snakehead, bowfin, catfish, and gar~~ of fish with bow and arrow or crossbow.

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

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

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

D. Creel limits. ~~Common~~ The creel limits for common carp, grass carp, northern snakehead, goldfish, and catfish – shall be unlimited, provided that any angler taking northern snakehead immediately kill such fish and notify the department, as soon as practicable, of such actions and provided that any angler taking grass carp ensure that harvested fish are dead. The creel limit for bowfin and longnose gar shall be five fish per day.

VA.R. Doc. No. R18-5505; Filed May 4, 2018, 2:18 p.m.



TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Emergency Regulation

Title of Regulation: 8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-110, 8VAC20-131-430).

Statutory Authority: §§ 22.1-16 and 22.1-253.13 of the Code of Virginia.

Effective Dates: May 9, 2018, through November 8, 2019.

Agency Contact: Dr. Cynthia Cave, Assistant Superintendent, Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, FAX (804) 225-2524, or email cynthia.cave@doe.virginia.gov.

Regulations

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 emergency action amends graduation requirements, specifically the availability of locally awarded verified credits in English and mathematics. Under the current requirements in place for students entering ninth grade on or after 2018-2019, locally awarded verified credits provide students the opportunity to receive a verified credit in a course that they have passed but failed the related end-of-course Standards of Learning test twice within a narrow margin. To receive a locally awarded verified credit, the student must take the test twice, score between 375 and 399 on one of the attempts, and demonstrate achievement and mastery in the academic content through a local appeal process.

The emergency action proposes amendments to allow students who entered the ninth grade prior to the 2018-2019 school year to be eligible for locally awarded verified credits in English and mathematics as well as students entering the ninth grade on or after the 2018-2019 school year. Currently, these students may receive locally awarded verified credits in only science and history and social science.

The emergency action amends the Standards of Accreditation as they are currently effective for the current school year and as they will be effective starting the 2018-2019 school year, providing parity among these high school cohorts.

EDITOR'S NOTE: 8VAC20-131-110 is set out twice to reflect the provisions effective until the beginning of the 2018-2019 academic year and the provisions effective on and after the beginning of the 2018-2019 academic year.

8VAC20-131-110. Standard and verified units of credit. (effective until the beginning of the 2018-2019 academic year)

A. The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the Board of Education with satisfactory proof, based

on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division shall develop a written policy approved by the superintendent and school board that ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and
2. That upon completion, the student will have met the aims and objectives of the course.

B. A verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction, successful completion of the requirements of the course, and the achievement by the student of a passing score on the end-of-course SOL test for that course or additional tests as described in this subsection. A student may also earn a verified unit of credit by the following methods:

1. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic SOL course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the Board of Education.
2. Upon waiver of the 140-clock-hour requirement according to Board of Education guidelines, qualified students who have received a standard unit of credit will be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.
3. Students who do not pass Standards of Learning tests in English, mathematics, science or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the Board of Education.

C. The Board of Education may from time to time approve additional tests for the purpose of awarding verified credit. Such additional tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;
2. The test must be knowledge based;
3. The test must be administered on a multistate or international basis, or administered as part of another state's accountability assessment program; and
4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the SOL content in the course for which verified credit is given.

The Board of Education will set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the Board of Education will provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

8VAC20-131-110. Standard and verified units of credit. (effective on and after the beginning of the 2018-2019 academic year)

A. A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. A school division may waive the requirement that a student receive 140 clock hours of instruction to earn a standard credit, effective with students enrolled in the 2015-2016 school year, as prescribed in the Standards of Quality and board guidelines. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the board with satisfactory proof, based on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division shall develop a written policy approved by the superintendent and school board that ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and
2. That upon completion, the aims and objectives of the course have been met.

B. A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and completes one of the following:

1. Achieves a passing score on a corresponding end-of-course SOL test. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic Standards of Learning course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the board.

Upon waiver of the 140-clock-hour requirement according to board guidelines, qualified students who have received a standard unit of credit shall be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.

2. Achieves a passing score on an additional test, as defined in 8VAC20-131-5, as a part of the Virginia Assessment Program.

3. Meets the criteria for the receipt of a locally awarded verified credit when the student has not passed a corresponding SOL test.

- a. Students who enter the ninth grade for the first time prior to the 2018-2019 school year and do not pass SOL tests in English, mathematics, science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. Credit accommodations for students with disabilities may be used to confer locally awarded verified credits as provided in 8VAC20-131-50 B 3.

- b. Students who enter the ninth grade for the first time in the 2018-2019 school year or thereafter and do not pass SOL tests in English, mathematics, laboratory science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. No more than one locally awarded verified credit may be used to satisfy graduation requirements, except as provided in 8VAC20-131-51 B 3 for students with disabilities seeking a standard diploma.

4. Meets the criteria for the receipt of a verified credit in history and social science by demonstrating mastery of the content of the associated course on an authentic performance assessment that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in history and social science.

5. Meets the criteria for the receipt of a verified credit in English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in English (writing).

C. The board may from time to time approve additional tests for the purpose of awarding verified credit. Such additional tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;
2. The test must be knowledge based;
3. The test must be administered on a statewide, multistate, or international basis, or administered as part of another state's accountability assessment program; and
4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the Standards

Regulations

of Learning content in the course for which verified credit is given.

The board shall set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the board shall provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

8VAC20-131-430. Effective dates.

A. Graduation requirements.

1. The graduation requirements for students entering the ninth grade for the first time in the 2013–2014 school year and prior to the 2018–2019 school year shall be those provided in 8VAC20-131-50.

2. The graduation requirements for students entering the ninth grade for the first time in the 2018-2019 school year and beyond shall be those provided in 8VAC20-131-51.

3. The graduation requirements applicable to students transferring into a Virginia high school for the first time shall be as determined by 8VAC20-131-60 G.

B. Locally awarded verified credits.

1. Locally awarded verified credits conferred for English, mathematics, laboratory science, and history and social science for students entering the ninth grade for the first time prior to the 2018–2019 school year shall be as provided in 8VAC20-131-110 B 3 a.

2. Locally awarded verified credits conferred for English, mathematics, laboratory science, and history and social science for students entering the ninth grade for the first time in 2018–2019 or thereafter shall be as provided in 8VAC20-131-110 B 3 b.

C. Academic and career planning.

1. The requirements for academic and career planning prescribed in 8VAC20-131-140 B shall be effective beginning with the 2013–2014 academic year and through the 2017–2018 academic year.

2. The requirements for Academic and Career Plans prescribed in 8VAC20-131-140 C shall be effective beginning with the 2018–2019 academic year.

D. The application of the college, career, and civic readiness index as a school quality indicator used for accreditation shall be made no later than the 2021–2022 school year.

E. Unless otherwise specified, the remainder of this chapter shall become effective beginning with the 2018–2019 academic year.

VA.R. Doc. No. R18-5440; Filed May 9, 2018, 4:54 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the State Water Control Board. 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 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: **9VAC25-110. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons per Day.**

Contact Information: Elleanore Daub, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, email elleanore.daub@deq.virginia.gov.

FORMS (9VAC25-110)

[VPDES Change of Ownership Agreement Form \(eff. 7/2010\)](#)

~~Combined Application—Virginia Department of Health Discharging System Application for Single Family Dwellings Discharging Sewage Less Than or Equal to 1,000 Gallons per Day and State Water Control Board Virginia Pollutant Discharge Elimination System General Permit Registration Statement for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day (eff. 9/2011)~~

[Combined Application - Virginia Department of Health Discharging System Application for Single Family Dwellings Discharging Sewage Less Than or Equal to 1,000 Gallons per Day and State Water Control Board Virginia Pollutant Discharge Elimination System General Permit Registration Statement for Domestic Sewage Discharges Less Than or Equal to 1,000 Gallons per Day \(eff. 4/2014\)](#)

VA.R. Doc. No. R18-5491; Filed May 2, 2018, 2:13 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER NINE (2018)

Directing the Commissioner of the Department of Motor Vehicles to Extend the Validity of Expiring Driver's Licenses and Identification Cards

Importance of the Issue

On Thursday, April 26, 2018, an information technology equipment failure temporarily interrupted the electronic services provided by the American Association of Motor Vehicle Administrators. This disruption greatly impacted the ability of many Virginians to renew their driver's licenses and identification cards. On April 27, 2018, I verbally directed the Commissioner of the Department of Motor Vehicles to extend the validity period for expiring licenses and identification cards for a period of one week. This unforeseen disruption of services places citizens at risk of suffering fines and other costs resulting from their inability to renew their driver's licenses and identification cards in a timely manner.

Therefore, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, I hereby confirm, ratify, and memorialize in writing that verbal directive issued on April 27, 2018, whereby, it was determined that the Department of Motor Vehicles suffered a disruption in service that prevented the Department from processing applications for renewal of driver's licenses and identification cards.

In order to prevent any further hardship to the citizens of Virginia, and in accordance with my authority contained in §§ 46.2-330(A) and 46.2-345 of the Code of Virginia, I hereby order the following measures:

- I hereby direct the Commissioner of the Department of Motor Vehicles, and the directors of such other executive branch agencies as deem appropriate in their discretion, to extend the validity period of Virginia driver's licenses, learner's permits, commercial driver's licenses, and identification cards issued by the Commonwealth that expire April 26, 2018, through April 30, 2018, until May 4, 2018, 11:59:59 PM EST.

Effective Date of this Executive Order

This Executive Order shall be effective retroactively from April 26, 2018, and shall remain in full force and effect until May 4, 2018, 11:59:59 PM EST.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 27th day of April, 2018.

/s/ Ralph S. Northam
Governor

GENERAL NOTICES/ERRATA

STATE AIR POLLUTION CONTROL 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 Department of Environmental Quality (DEQ) on behalf of the State Air Pollution Control Board is conducting a periodic review and small business impact review of **9VAC5-70, Air Pollution Episode Prevention**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this 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.

The regulations may be viewed on the DEQ air regulation webpage at <http://www.deq.virginia.gov/Programs/Air/Laws,Regulations,Guidance.aspx>.

The comment period begins May 28, 2018, and ends June 18, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4319, or email gary.graham@deq.virginia.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 Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF GENERAL SERVICES

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 Department of General Services, Division of Consolidated Laboratory Services (DCLS) is conducting a periodic review and small business impact review of **1VAC30-41, Regulation for the Certification of Laboratories Analyzing Drinking Water**.

The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this 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.

The regulations may be viewed on the DCLS drinking water webpage at <https://dgs.virginia.gov/division-of-consolidated-laboratory-services/laboratory-services/drinking-water-labs>.

The comment period begins May 28, 2018, and ends June 18, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Rhonda Bishton, Director's Executive Administrative Assistant, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305, or email rhonda.bishton@dgs.virginia.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 Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE BOARD OF HEALTH

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Board of Health conducted a small business impact review of **12VAC5-20, Regulations for the Conduct of Human Research**, and determined that this regulation should be retained in its current form. The State Board of Health is publishing its report of findings dated March 16, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

There is a continued need for the regulations as the conduct of human research is still occurring in the Commonwealth. One public comment was received. The commenter recommended that the regulations be retained in current form. The regulations are clearly written and easily understandable. The regulations do not overlap, duplicate, or conflict with any known federal or state law or regulation. Regulations are evaluated on an ongoing basis, and these regulations were last

amended in January 2016. Retaining the regulations in their current form does not appear to cause an adverse economic impact on small businesses in the Commonwealth of Virginia.

Contact Information: Janice Hicks, Policy Planning Specialist, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7686, FAX (804) 864-7652, or email janice.hicks@vdh.virginia.gov.

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Board of Health conducted a small business impact review of **12VAC5-80, Regulations for Administration of the Virginia Hearing Impairment Identification and Monitoring System**, and determined that this regulation should be retained in its current form. The State Board of Health is publishing its report of findings dated February 27, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

There is a continued need for the regulations as they are mandated by law. No public comments were received. The regulations are clearly written and easily understandable. The regulations do not overlap, duplicate, or conflict with any known federal or state law or regulation. Regulations are evaluated on an ongoing basis, and these regulations were last amended in December 2013. Retaining the regulations in their current form does not appear to cause an adverse economic impact on small businesses in the Commonwealth of Virginia.

Contact Information: Janice Hicks, Policy Planning Specialist, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7686, FAX (804) 864-7652, or email janice.hicks@vdh.virginia.gov.

BOARD OF MEDICINE

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 Board of Medicine 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.

18VAC85-15, Regulations Governing Delegation to an Agency Subordinate

18VAC85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic

18VAC85-40, Regulations Governing the Practice of Respiratory Therapists

18VAC85-50, Regulations Governing the Practice of Physician Assistants

18VAC85-80, Regulations Governing the Practice of Occupational Therapy

18VAC85-101, Regulations Governing the Practice of Radiologic Technology

18VAC85-110, Regulations Governing the Practice of Licensed Acupuncturists

18VAC85-120, Regulations Governing the Licensure of Athletic Trainers

18VAC85-130, Regulations Governing the Practice of Licensed Midwives

18VAC85-150, Regulations Governing the Practice of Behavior Analysis

Contact Information: Elaine Yeatts, Senior Policy Analyst, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-4688, FAX (804) 527-4434, or email elaine.yeatts@dhp.virginia.gov.

The comment period begins May 28, 2018, and ends June 27, 2018.

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.

STATE WATER CONTROL BOARD

Proposed Consent Order for Cambria 2014 LLC

An enforcement action has been proposed for Cambria 2014 LLC for the Cambria Cove Subdivision located at the intersection of Route 604 (Genito Road) and Route 667 (Otterdale Road) in Chesterfield County, Virginia. The State Water Control Board proposes to issue a consent order to address noncompliance with State Water Control Law and regulations. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Frank Lupini will accept comments from May 28, 2018, to June 28, 2018, by email at frank.lupini@deq.virginia.gov, FAX at (804) 698-4277, or

General Notices/Errata

postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218.

Notice of Public Meeting and Public Comment on Total Maximum Daily Load Implementation Plan for the Birch Creek and Dan River Watersheds

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the draft total maximum daily load (TMDL) implementation plan (IP) for the Birch Creek and Dan River watersheds in Halifax and Pittsylvania Counties and the City of Danville. These streams were listed as impaired on the Virginia's § 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for bacteria. The following are the names of the bacteria "impaired" streams and the length of the impaired segments: Cascade Creek, 11.79 miles; Tanyard Creek, 2.85 miles; Sugartree Creek, 6.96; Stewart Creek, 7.34 miles; Pumpkin Creek, 4.28 miles; Cane Creek, 12.25 miles; Lawless Creek, 4.71 miles; Big Toby Creek, 7.56 miles; Powells Creek, 4.63 miles; Sandy Creek, 9.41 miles; unnamed tributary Birch Creek, 5.35 miles; Germy Creek, 5.36 miles; Lawsons Creek, 8.26 and 7.27 miles; Miry Creek, 1.11 miles; Stokes Creek, 6.35 miles; Sandy River, 7.22 miles; Sandy Creek, 9.48 miles; Dan River, 35.06 miles; Fall Creek, 11.97 miles; Double Creek, 8.88 miles; and Byrds Branch, 3.76 miles.

The Birch Creek TMDL study was approved by EPA in 2004 and by the State Water Control Board in 2005 and can be found in the Bacteria TMDL for Birch Creek Watershed, Virginia report available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/birchfc.pdf>.

The Dan River TMDL was approved by EPA in 2008 and approved by the State Water Control Board in 2009 and can be found in the Bacteria TMDL Development for the Dan River, Blackberry Creek, Byrds Branch, Double Creek, Fall Creek, Leatherwood Creek, Marrowbone Creek, North Fork Mayo River, South Fork Mayo River, Smith River, Sandy Creek, and Sandy River Watersheds report available at <http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/roankrvr/danec.pdf>.

The Henry County and Patrick County portions of the Dan River TMDL Watershed were included in the South Mayo River, North Mayo River, Blackberry Creek, Marrowbone Creek, Leatherwood Creek and Smith River Watershed Implementation Plan (2013) available at http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/ImplementationPlans/Smith-Mayo_Technical_Report_FINAL.pdf.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated

costs, benefits, and environmental impacts. The draft TMDL implementation plan and meeting documents are available at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationProgress.aspx>.

A public meeting will be held to discuss the draft implementation plan for the Birch Creek and Dan River watersheds. At this meeting, the process by which the implementation plan was developed to restore water quality in the watersheds will be discussed, and citizens will learn how they can be part of the water quality improvement process.

The public meeting will be held from 6 p.m. until 8 p.m. on June 5, 2018, at the Danville Regional Airport, East Conference Room, 424 Airport Drive, Danville, VA 24540. In the event of severe weather, the public meeting will occur on June 7, 2018, at the same time and location.

DEQ accepts written comments by email, fax, or postal mail. The 30-day public comment period on the information presented at the meeting will begin on June 5, 2018, and end on July 5, 2018. Questions or information requests should be addressed to James Moneymaker with the Virginia Department of Environmental Quality. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to James Moneymaker, Virginia Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6738, FAX (540) 562-6725, or email james.moneymaker@deq.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.

ERRATA

STATE CORPORATION COMMISSION

Title of Regulation: 20VAC5-425. Rules Governing Enhanced 911 (E-911) Service.

Publication: 34:19 VA.R. 2036-2039 May 14, 2018.

Correction to Proposed Regulation:

Page 2038, column 1, line 1, in 20VAC5-425-10 in the definition of "Automatic location identification" after "safety" replace "awareness" with "answering"

Page 2038, in the definition of "Database error" line 2, after "by" unstrike "a" and before "LEC" delete "an"

Page 2039, in 20VAC5-425-45:

Subsection A, lines 1 and 4, before "LEC" replace "An" with "A"

Subsection B, line 1, before "LEC" replace "an" with "a"

Subsection C, line 1, before "LEC" replace "An" with "A" and line 5, before "LEC" replace "an" with "a"

VA.R. Doc. No. R18-5466; Filed May 15, 2018.

