



# VIRGINIA

## REGISTER OF REGULATIONS

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

## FAST-TRACK RULEMAKING PROCESS

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

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 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; Marcus B. Simon, Vice Chair; Ward L. Armstrong; Nicole Cheuk; Rita Davis; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Don L. Scott, Jr.; Charles S. Sharp; Samuel T. Towell; Malfourd W. Trumbo.

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

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## July 2021 through July 2022

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
37:23	June 16, 2021	July 5, 2021
37:24	June 30, 2021	July 19, 2021
37:25	July 14, 2021	August 2, 2021
37:26	July 28, 2021	August 16, 2021
38:1	August 11, 2021	August 30, 2021
38:2	August 25, 2021	September 13, 2021
38:3	September 8, 2021	September 27, 2021
38:4	September 22, 2021	October 11, 2021
38:5	October 6, 2021	October 25, 2021
38:6	October 20, 2021	November 8, 2021
38:7	November 3, 2021	November 22, 2021
38:8	November 15, 2021 ( <b>Monday</b> )	December 6, 2021
38:9	December 1, 2021	December 20, 2021
38:10	December 17, 2021	January 3, 2022
38:11	December 31, 2021	January 17, 2022
38:12	January 14, 2022	January 31, 2022
38:13	January 26, 2022	February 14, 2022
38:14	February 9, 2022	February 28, 2022
38:15	February 23, 2022	March 14, 2022
38:16	March 9, 2022	March 28, 2022
38:17	March 23, 2022	April 11, 2022
38:18	April 6, 2022	April 25, 2022
38:19	April 20, 2022	May 9, 2022
38:20	May 4, 2022	May 23, 2022
38:21	May 18, 2022	June 6, 2022
38:22	June 1, 2022	June 20, 2022
38:23	June 15, 2022	July 4, 2022
38:24	June 29, 2022	July 18, 2022

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### FORENSIC SCIENCE BOARD

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Forensic Science conducted a periodic review and a small business impact review of **6VAC40-20, Regulations for Breath Alcohol Testing**, and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated May 24, 2021, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare, as it provides the mechanisms for a breath test to be utilized in prosecutions for driving under the influence, boating under the influence, and operating a commercial motor vehicle under the influence. The regulation fulfills a mandate imposed on the department by the Code of Virginia. It is clearly written, and no stakeholders have indicated difficulty in understanding its requirements.

Having reviewed 6VAC40-20 and received no public comment objecting to the regulation, the regulation will be retained as is without making changes.

This regulation does not have an economic impact on small businesses. Small businesses are eligible to submit their preliminary breath test devices for evaluation by the Department of Forensic Science. The criteria for approval of preliminary breath devices are set forth in 6VAC40-20-170. No fees are solicited by the department for this approval process, and devices that are approved are periodically published in the Virginia Register of Regulations. Because it is implementing requirements imposed by the Code of Virginia on the department, there is a continued need for the regulation. No comments or complaints have been received concerning this regulation. The regulation does not overlap, duplicate, or conflict with any other federal or state law or regulation. This regulation was last reviewed in 2017, and no technology, economic conditions, or other factors have changed in this area since that time. It currently meets Code of Virginia requirements and the needs of agencies that use it.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Forensic Science conducted a periodic review and a small business impact review of **6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs**, and determined that this regulation

should be amended. The department is publishing its report of findings dated May 24, 2021, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare. As required by the Code of Virginia, the regulation specifies the methods for the department's approval of field tests under § 19.2-188.1 A of the Code of Virginia. The regulation is clearly written. No stakeholders have indicated difficulty in understanding the requirements of the regulation.

Having reviewed 6VAC40-30 and having received no public comment objecting to the regulation, the intent of the Forensic Science Board was to retain the regulation as is. However, upon further review of the legislative changes made by Chapters 550 and 551 of the 2021 Acts of Assembly, Special Session I, the statutory citation contained in 6VAC40-30-20 will need to be amended. The Forensic Science Board will consider this amendment as a legislative mandate at its July 2021 meeting.

This regulation has no significant economic impact on small businesses. Small businesses are eligible to submit their product for evaluation and approval by the Department of Forensic Science. Current fees for approval are \$50 for each presumptive chemical test and \$2,500 for each presumptive mobile instrument for which individual evaluation is requested, in addition to the costs of any street drug preparation required for the approval process. These fees are reflective of the staff time required for the evaluation and approval of these field tests. Field tests that are approved are periodically published in the Virginia Register of Regulations. Because it is still mandated by the Code of Virginia, there is a continued need for the regulation. No complaints have been received concerning this regulation. No comments or complaints were received concerning this regulation. The regulation provides necessary guidelines for the approval process of any field test. It does not overlap, duplicate, or conflict with any other federal or state law or regulation. The regulation meets Code of Virginia requirements and the needs of agencies and manufacturers that use it. This regulation was amended in October 2020 to reflect new technological advances for presumptive mobile instruments and to permit the approval of any new instruments that may become available for law enforcement use. No other factors have change in this area since October 2020.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Forensic Science conducted a periodic review and a small business impact review of **6VAC40-40, Regulations for the Implementation of the Law Permitting DNA Analysis Upon Arrest for All Violent Felonies and Certain Burglaries**, and determined that this

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## Periodic Reviews and Small Business Impact Reviews

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regulation should be retained in its current form. The department is publishing its report of findings dated May 24, 2021, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare. As required by the enacting legislation, the regulation provides the procedures for DNA sampling of those arrested for violent felonies and certain burglaries. The regulation is clearly written. No stakeholders have indicated difficulty in understanding the requirements of the regulation. The department provides education for law-enforcement entities on an ongoing basis on the required DNA sampling for certain arrestees.

Having reviewed 6VAC40-40 and having received no public comment objecting to the regulation, the regulation will be retained as is without making any changes.

This regulation has no significant economic impact on small businesses. Because it is mandated by statute, there is a continued need for the regulation. No comments or complaints have been received concerning this regulation. The regulation meets Code of Virginia requirements and the needs of user agencies. The regulation provides necessary guidance for required DNA sampling of certain arrestees. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulation. The regulation was last reviewed in 2017, and there have been no changes in technology, economic conditions, or other factors in the area affecting the regulation. Changes in technology may eventually require amendment of this regulation, but those technological advancements have not been deployed at the time of this review.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Forensic Science conducted a periodic review and a small business impact review of **6VAC40-50, Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material**, and determined that this regulation should be amended. The department is publishing its report of findings dated May 24, 2021, to support this decision.

In 2019, changes in federal and state law regarding marijuana and industrial hemp required that department to notify its customers and stakeholders of the impact of those changes on the use of marijuana field tests. Marijuana and industrial hemp are different strains of the Cannabis sativa plant. The only mechanism to distinguish hemp plant material from marijuana plant material is to conduct a quantitative analysis to determine the tetrahydrocannabinol (THC) concentration of the plant material.

As a result, the department notified its customers and stakeholders on May 23, 2019, that the Duquenois-Levine field tests approved by department under 6VAC40-50 could only presumptively identify Cannabis sativa plant material. These tests could not distinguish marijuana from industrial hemp. The department subsequently validated and purchased 4-AP (Cannabis Typification) Field Tests for use by law-enforcement agencies. The 4-AP test could not be approved because (i) it was not a Duquenois-Levine field test, and (ii) when used alone, it cannot presumptively identify Cannabis sativa plant material accurately and reliably as is required by the statute. Law-enforcement agencies were instructed to utilize the Duquenois-Levine and 4-AP tests in tandem. The Duquenois-Levine field test was used to determine whether plant material was cannabis, and the 4-AP test determined whether the plant material was more likely to be marijuana and therefore should be submitted to the laboratory for analysis.

Simple possession of marijuana was then decriminalized by the 2020 General Assembly. In 2021, the General Assembly enacted legislation legalizing the simple possession of marijuana and creating a new statutory framework for offenses related to the possession of over a pound of marijuana or possession by a person younger than 21 years of age. As a result of these changes and because the Duquenois-Levine field test cannot distinguish between marijuana and hemp, the regulation will need to be amended.

While the department is still required under the new law to approved marijuana field tests for use at trial by law-enforcement officers for the prosecution of some marijuana offenses, there are currently no marijuana field tests that are able to independently distinguish industrial hemp from marijuana. The department will need to amend the regulation to allow for the approval of field tests that are not Duquenois-Levine field tests and for the possibility of presumptive mobile instruments or other technology that may become available with the ability to identify Cannabis sativa plant material and also distinguish marijuana from industrial hemp.

The regulation is still necessary for the protection of public health, safety, and welfare, as the department is still required to approve field tests for the identification of marijuana under § 19.2-188.1 B of the Code of Virginia. It provides necessary guidelines for the approval of marijuana field tests. Stakeholders have not indicated any issues with understanding the requirements of the regulation.

Noting these issues and amendments required for the new law effective July 1, 2021, the Forensic Science Board has recommended to amend this regulation.

This regulation has no significant economic impact on small businesses. Small businesses are eligible to submit their product for evaluation and approval by the Department of Forensic Science. Current fees for approval are de minimis, that is, \$50 for each marijuana field test for which individual evaluation is requested. The board will consider the impact on

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# Periodic Reviews and Small Business Impact Reviews

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small business of any fees that will be assessed for other types of field tests or technology that may be approved under an amended regulation. Marijuana field tests that are approved are periodically published in the Virginia Register of Regulations. Because it is still mandated by the Code of Virginia, even with the legalization of simple possession of marijuana, there is a continued need for the regulation. No comments or complaints have been received concerning this regulation. The regulation meets Code of Virginia requirements and the needs of user agencies and manufacturers. The regulation does conflict with the legislative changes made by Chapters 550 and 551 of the 2021 Acts of Assembly, Special Session I and will need to be amended as noted. Amendments should also reflect the changes in technology that may occur by creating mechanisms for the approval of other types of field tests or technology that may be developed with the ability to distinguish marijuana and industrial hemp.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

## Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Forensic Science conducted a periodic review and a small business impact review of **6VAC40-60, DNA Data Bank Regulations**, and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated May 24, 2021, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare. As required by the Code of Virginia, the regulation specifies the methods for obtaining information from the DNA Data Bank. The regulation is clearly written. No stakeholders have indicated difficulty in understanding the requirements of the regulation. The department provides education for law-enforcement entities on an ongoing basis on the required DNA sampling for convicted offenders.

Having reviewed 6VAC40-60 and having received no public comment objecting to the regulation, the regulation will be retained as is without making any changes.

This regulation has no significant economic impact on small businesses. Because it is mandated by statute, there is a continued need for the regulation. No comments or complaints have been received concerning this regulation. The regulation provides necessary guidance regarding the DNA Data Bank, and no stakeholders have indicated difficulty in understanding the regulation. The regulation meets Code of Virginia requirements and the needs of agencies that use it. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation was last evaluated in 2017, and there have been no changes in technology, economic conditions, or other factors in the area affected by the regulation.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC5-5, Public Participation Guidelines**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC15-11, Public Participation Guidelines**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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,

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# Periodic Reviews and Small Business Impact Reviews

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safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

## VIRGINIA WASTE MANAGEMENT BOARD

### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC20-11, Public Participation Guidelines**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

## STATE WATER CONTROL BOARD

### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **9VAC25-11, Public Participation Guidelines**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **12VAC5-80, Regulations for Administration of the Virginia Hearing Impairment Identification and Monitoring System**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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

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# Periodic Reviews and Small Business Impact Reviews

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manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Robin Buskey, Policy Analyst, Office of Family Health Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 863-7253.

## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-705, Child Protective Services**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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.

Public comment period begins June 21, 2021, and ends July 12, 2021.

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

Contact Information: Shannon Hartung, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7554, FAX (804) 726-7499.

# REGULATIONS

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

## Symbol Key

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

## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### BOARD OF WILDLIFE RESOURCES

#### Final Regulation

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

**Title of Regulation:** **4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-10, 4VAC15-20-65, 4VAC15-20-100, 4VAC15-20-130, 4VAC15-20-150, 4VAC15-20-240; adding 4VAC15-20-151, 4VAC15-20-152).**

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

#### Summary:

*The amendments (i) add a resident and nonresident elk hunting license, (ii) lower the price of a nonresident license to freshwater fish in designated stocked trout waters, (iii) clarify that class one and class two electric power-assist bicycles may be used on Wildlife Management Areas where bicycles are allowed, (iv) update the List of the Federal Endangered and Threatened Species, (v) add the Clinch dace and red-cockaded woodpecker and remove the barking treefrog from the state Threatened and Endangered Species List, (vi) set calendar restrictions on leaving treestands on department-owned lands, (vii) add parameters on habitat manipulation on department-owned lands, (viii) add a prohibition on target shooting on department-owned lands that are not designated sighting in ranges, (ix) prohibit use of drones to assist in a hunt on the same calendar day, and (x) define the Counties of Buchanan, Dickenson, and Wise as the newly-established Elk Management Zone.*

#### 4VAC15-20-10. Definitions; generally.

A. Words and phrases used in any regulations made by the board shall have the same meaning, ~~unless the context clearly indicates otherwise,~~ as is given for such words and phrases in

Title 29.1 (§ 29.1-100 et seq.) of the Code of Virginia unless the context clearly indicates otherwise.

B. The following word or term when used in this chapter shall have the following meaning unless the context indicates otherwise:

"Elk Management Zone" means the Counties of (i) Buchanan, (ii) Dickenson, and (iii) Wise, and the cities and towns therein.

#### 4VAC15-20-65. Hunting, trapping, and fishing license and permit fees.

In accordance with the authority of the board under subdivision 16 of § 29.1-103 of the Code of Virginia, the following fees are established for hunting, trapping, and fishing licenses and permits:

Virginia Resident Licenses to Hunt	
Type license	Fee
One-year Resident License to Hunt, for licensees 16 years of age or older	\$22.00
Two-year Resident License to Hunt, for licensees 16 years of age or older	\$43.00
Three-year Resident License to Hunt, for licensees 16 years of age or older	\$64.00
Four-year Resident License to Hunt, for licensees 16 years of age or older	\$85.00
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	\$15.00
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	\$8.00
Resident Junior License to Hunt, for licensees 12 through 15 years of age, optional for licensees younger than 12 years of age	\$7.50
Resident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	\$15.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with archery equipment	\$99.00

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during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)	
Resident Hunting License for Partially Disabled Veterans	\$11.00
Resident Infant Lifetime License to Hunt	\$130.00
Resident Junior Lifetime License to Hunt, for licensees younger than 12 years of age at the time of purchase	\$260.00
Resident Lifetime License to Hunt, for licensees at the time of purchase:	
through 44 years of age	\$265.00
45 through 50 years of age	\$215.00
51 through 55 years of age	\$165.00
56 through 60 years of age	\$115.00
61 through 64 years of age	\$65.00
65 years of age and older	\$25.00
Totally and Permanently Disabled Resident Special Lifetime License to Hunt	\$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt or Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	no fee
<b>Virginia Resident Licenses for Additional Hunting Privileges</b>	
Type license or permit	Fee
Resident Deer and Turkey Hunting License, for licensees 16 years of age or older	\$22.00
Resident Junior Deer and Turkey Hunting License, for licensees younger than 16 years of age	\$7.50
Resident Archery License to Hunt with archery equipment during archery hunting season	\$17.00
Resident Bear Hunting License	\$20.00
Resident Muzzleloading License to Hunt during muzzleloading hunting season	\$17.00
Resident Bonus Deer Permit	\$17.00
Resident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	\$22.00

<u>Resident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a department elk license program)</u>	<u>\$40.00</u>
<b>Virginia Nonresident Licenses to Hunt</b>	
Type license	Fee
Nonresident License to Hunt, for licensees 16 years of age or older	\$110.00
Nonresident Three-Day Trip License to Hunt	\$59.00
Nonresident Youth License to Hunt, for licensees:	
younger than 12 years of age	\$12.00
12 through 15 years of age	\$15.00
Nonresident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	\$30.00
Nonresident Annual Hunting License for Partially Disabled Veterans	\$55.00
Nonresident Annual Hunting License for Totally and Permanently Disabled Veterans	\$27.50
Nonresident Infant Lifetime License to Hunt	\$275.00
Nonresident Lifetime License to Hunt	\$580.00
<b>Virginia Nonresident Licenses for Additional Hunting Privileges</b>	
Type license or permit	Fee
Nonresident Deer and Turkey Hunting License, for licensees:	
16 years of age or older	\$85.00
12 through 15 years of age	\$15.00
younger than 12 years of age	\$12.00
Nonresident Bear Hunting License	\$150.00
Nonresident Archery License to Hunt with archery equipment during archery hunting season	\$30.00
Nonresident Muzzleloading License to Hunt during muzzleloading hunting season	\$30.00
Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve	\$22.00

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Nonresident Bonus Deer Permit	\$30.00
Nonresident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	\$110.00
<u>Nonresident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a department elk license program)</u>	<u>\$400.00</u>
Miscellaneous Licenses or Permits to Hunt	
Type license or permit	Fee
Waterfowl Hunting Stationary Blind in Public Waters License	\$22.50
Waterfowl Hunting Floating Blind in Public Waters License	\$40.00
Foxhound Training Preserve License	\$17.00
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Fish)	\$17.00
Virginia Resident and Nonresident Licenses to Trap	
Type license	Fee
One-year Resident License to Trap, for licensees 16 years of age or older	\$45.00
Two-year Resident License to Trap, for licensees 16 years of age or older	\$89.00
Three-year Resident License to Trap, for licensees 16 years of age or older	\$133.00
Four-year Resident License to Trap, for licensees 16 years of age or older	\$177.00
County or City Resident License to Trap in County or City of Residence Only	\$20.00
Resident Junior License to Trap, for licensees younger than 16 years of age	\$10.00
Resident Senior Citizen License to Trap, for licensees 65 years of age or older	\$8.00
Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older	\$25.00
Totally and Permanently Disabled Resident Special Lifetime License to Trap	\$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap	\$15.00

Nonresident License to Trap	\$205.00
Virginia Resident Licenses to Fish	
Type license	Fee
One-year Resident License to Freshwater Fish	\$22.00
Two-year Resident License to Freshwater Fish	\$43.00
Three-year Resident License to Freshwater Fish	\$64.00
Four-year Resident License to Freshwater Fish	\$85.00
County or City Resident License to Freshwater Fish in County or City of Residence Only	\$15.00
Resident License to Freshwater Fish, for licensees 65 years of age or older	\$8.00
Resident License to Fish in Designated Stocked Trout Waters	\$22.00
Resident License to Freshwater and Saltwater Fish	\$38.50
Resident License to Freshwater Fish for Five Consecutive Days	\$13.00
Resident License to Freshwater and Saltwater Fish for Five Consecutive Days	\$23.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Hunt)	\$99.00
Resident Fishing License for Partially Disabled Veterans	\$11.00
Resident Infant Lifetime License to Fish	\$130.00
Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:	
through 44 years of age	\$265.00
45 through 50 years of age	\$215.00
51 through 55 years of age	\$165.00
56 through 60 years of age	\$115.00
61 through 64 years of age	\$65.00
65 years of age and older	\$25.00

Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:	
through 44 years of age	\$265.00
45 through 50 years of age	\$215.00
51 through 55 years of age	\$165.00
56 through 60 years of age	\$115.00
61 through 64 years of age	\$65.00
65 years of age and older	\$25.00
Totally and Permanently Disabled Resident Special Lifetime License to Freshwater Fish	\$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	no fee
Virginia Nonresident Licenses to Fish	
Type license	Fee
Nonresident License to Freshwater Fish	\$46.00
Nonresident License to Freshwater Fish in Designated Stocked Trout Waters	<del>\$46.00</del> \$22.00
Nonresident License to Freshwater and Saltwater Fish	\$70.00
Nonresident Fishing License for Partially Disabled Veterans	\$23.00
Nonresident Annual Fishing License for Totally and Permanently Disabled Veterans	\$11.50
Nonresident License to Freshwater Fish for One Day	\$7.00
Nonresident License to Freshwater Fish for Five Consecutive Days	\$20.00
Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days	\$30.00
Nonresident Infant Lifetime License to Fish	\$275.00
Nonresident Special Lifetime License to Freshwater Fish	\$580.00
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	\$580.00

Miscellaneous Licenses or Permits to Fish	
Type license or permit	Fee
Permit to Fish for One Day at Board-Designated Stocked Trout Fishing Areas with Daily Use Fees	\$7.00
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Hunt)	\$17.00
Special Guest Fishing License	\$60.00

**4VAC15-20-100. Prohibited use of vehicles on department-owned lands.**

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. Any motor-driven vehicle shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by department-authorized personnel on department-owned lands. Nothing in this section shall be construed to prohibit the use of Class one or Class two electric power-assisted bicycles as defined in § 46.2-100 of the Code of Virginia where traditional bicycles are allowed. Class three electric power-assisted bicycles as defined in § 46.2-100 are prohibited. Nothing in this section shall be construed to prohibit the department from allowing the use of wheelchairs or other power-driven mobility devices by individuals with mobility disabilities in accordance with the federal Americans with Disabilities Act of 1990 (P.L. 101-336, 104 Stat. 327).

For the purposes of this section, the term "wheelchair" means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor, locomotion. "Other power-driven mobility device" means any mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities, that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistive mobility devices, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

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

A. The board hereby adopts the Federal Endangered and Threatened Species List, Endangered Species Act of December 28, 1973 (16 USC §§ 1531-1543), as amended as of ~~May 7, 2019~~ January 13, 2021, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to subdivision 12 of § 29.1-103 of the Code of Virginia, the director of the department is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

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B. In addition to the provisions of subsection A of this section, the following species are declared endangered or threatened in this Commonwealth, and are afforded the protection provided by Article 6 (§ 29.1-563 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia:

1. Fish:	
Endangered:	
<u>Dace, Clinch</u>	<u>Chrosomus sp. cf. saylori</u>
Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon
Threatened:	
Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorbranchium
Darter, sickle	Percina williamsi
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti
Paddlefish	Polyodon spathula
Shiner, emerald	Notropis atherinoides
Shiner, steelcolor	Cyprinella whipplei
Shiner, whitemouth	Notropis alborus
2. Amphibians:	
Endangered:	
Salamander, eastern tiger	Ambystoma tigrinum
Threatened:	
Salamander, Mabee's	Ambystoma mabeei
<del>Treefrog, barking</del>	<del>Hyla gratiosa</del>
3. Reptiles:	
Endangered:	
Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	Crotalus horridus
Turtle, bog	Glyptemys muhlenbergii
Turtle, eastern chicken	Deirochelys reticularia reticularia

Threatened:	
Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Glyptemys insculpta
4. Birds:	
Endangered:	
Plover, Wilson's	Charadrius wilsonia
Rail, black	Laterallus jamaicensis
<u>Woodpecker, red-cockaded</u>	<u>Dryobates borealis</u>
Wren, Bewick's	Thryomanes bewickii bewickii
Threatened:	
Falcon, peregrine	Falco peregrinus
Shrike, loggerhead	Lanius ludovicianus
Sparrow, Bachman's	Aimophila aestivalis
Sparrow, Henslow's	Ammodramus henslowii
Tern, gull-billed	Sterna nilotica
5. Mammals:	
Endangered:	
Bat, Rafinesque's eastern big-eared	Corynorhinus rafinesquii macrotis
Bat, little brown	Myotis lucifugus
Bat, tri-colored	Perimyotis subflavus
Hare, snowshoe	Lepus americanus
Shrew, American water	Sorex palustris
Vole, rock	Microtus chrotorrhinus
6. Mollusks:	
Endangered:	
Coil, rubble	Helicodiscus lirellus
Coil, shaggy	Helicodiscus diadema
Deertoe	Truncilla truncata
Elephantear	Elliptio crassidens
Elimia, spider	Elimia arachnoidea
Floater, brook	Alasmidonta varicosa
Ghostsnailed, thankless	Holsingeria unthansensis
Heelsplitter, Tennessee	Lasmigona holstonia

Lilliput, purple	Toxolasma lividus
Mussel, slippershell	Alasmidonta viridis
Pigtoe, Ohio	Pleurobema cordatum
Pigtoe, pyramid	Pleurobema rubrum
Springsnail, Appalachian	Fontigens bottimeri
Springsnail (no common name)	Fontigens morrisoni
Supercoil, spirit	Paravitrea hera
Threatened:	
Floater, green	Lasmigona subviridis
Papershell, fragile	Leptodea fragilis
Pigtoe, Atlantic	Fusconaiamasoni
Pimpleback	Quadrula pustulosa pustulosa
Pistolgrip	Tritogonia verrucosa
Riversnail, spiny	Iofluvialis
Sandshell, black	Ligumia recta
Supercoil, brown	Paravitrea septadens
7. Arthropods:	
Threatened:	
Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

		habited structures.	human health concerns. <del>DGIF-permitted</del> <del>Department-permitted</del> nuisance wildlife control operator with <del>DGIF-recognized</del> <del>department-recognized</del> certification in techniques associated with removal of bats. Use of exclusion devices that allow individual animals to escape. Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.	
		Public safety or property damage risk – need for tree removal, application of prescribed fire, or other land management actions affecting known roosts; removal of animals from	Hibernacula: no tree removal, use of prescribed fire, or other land management action within a 250-foot radius buffer area from December 1 through April 30. Between September 1 and November 30, increase the buffer to a 1/4-mile radius with	Little to no direct lethal taking expected.

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

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

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

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		known roosts.	<p>the following conditions: for timber harvests greater than 20 acres, retain snags and wolf trees (if not presenting public safety or property risk) and small tree groups up to 15 trees of 3-inch diameter at breast height (dbh) or greater, one tree group per 20 acres. Otherwise, document the need (public safety, property damage risk) for tree removal during this period and verify that no known roost trees exist in the buffer area. Tree removal and prescribed fire are permitted outside of these dates.</p> <p>Known roost trees: no tree removal, use of prescribed fire, or other land management action within a 150-foot radius buffer area from June 1 through July 31, if possible. Otherwise, document</p>			<p>public safety or property damage risk. <del>DGIF-permitted</del> <u>Department-permitted</u> nuisance wildlife control operator with <del>DGIF</del> <u>recognized department-recognized</u> certification in techniques associated with removal of bats.</p> <p>Use of exclusion devices that allow individual animals to escape.</p> <p>Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.</p>	
					<p>Facility or project operations when conducted in accordance with a <del>DGIF</del>-approved plan associated with these species.</p>	<p>Development and implementation of a plan that avoids, minimizes, and mitigates incidental take associated with an otherwise lawful activity. The plan shall include, but not be limited to, documenting the specific</p>	<p>Little to no direct lethal taking expected.</p>

			condition or action, the specific mitigation to be taken, and the expected incidental take.	
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**4VAC15-20-150. Structures on department-owned lands and national forest lands.**

A. It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands and national forest lands. This provision shall not apply to structures, stands or blinds provided by the department.

B. It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.

C. It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands and national forest lands and on Department of Conservation and Recreation owned or controlled lands, provided that portable tree stands which are not permanently affixed may be used.

D. Portable tree stands that are not permanently affixed can be placed on department-owned lands on or after September 15 and must be removed on or prior to January 31 of the following calendar year. Tree stands will be considered abandoned and will be confiscated by the department if left on department-owned lands after January 31.

**4VAC15-20-151. Manipulation of vegetation on department-owned lands.**

A. It shall be unlawful to plant, manipulate, cut, mutilate, destroy, or remove vegetation or to remove other minerals, artifacts, or other property from department-owned lands.

B. Nothing in this section shall prohibit the gathering of mushrooms, picking of berries, or collection of other fruits.

C. The use of down and dead trees and branches as firewood while camping on a wildlife management area shall be allowed by individuals with a valid camping permit issued by the department.

D. The department may issue permits for the collection of firewood under conditions and in locations determined by the department.

E. Nothing in this section shall prohibit department employees, contractors, or permittees from engaging in agriculture, forestry, herbicide application, or other habitat restoration and manipulation for the purpose of enhancing wildlife habitat and populations.

**4VAC15-20-152. Target shooting on department-owned lands.**

It shall be unlawful to target shoot on any department-owned or department-managed lands, except at designated ranges. Target shooting is defined as the discharge of a firearm (as defined in § 18.2-308.2:2 of the Code of Virginia), muzzleloader (as defined in 4VAC15-50-71), or archery equipment (as defined in 4VAC15-40-20) for purposes other than hunting, trapping, or self-defense. Nothing in this regulation shall prohibit department employees in execution of their duties from training with department-issued firearms.

**4VAC15-20-240. Use of drones for certain activities prohibited.**

A. Except as authorized by the director or the director's designee, it shall be unlawful at any time for any person to use a drone or unmanned aircraft:

1. To hunt, take, or kill a wild animal or to drive or herd any wild animal for the purpose of hunting, trapping, or killing.
- ~~2. To attempt to locate, surveil, aid, or assist in the hunting of any wild animal.~~
- ~~3. 2.~~ To harass any wild animal. For the purposes of this section, "harass" means any action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns, which include breeding, feeding, or sheltering.
4. ~~3.~~ On department-owned lands, except that department employees and contractors or agents acting on behalf of the department may use drones or other unmanned aircraft when addressing human safety, law enforcement, management, or other needs approved by the department.
4. It shall be unlawful for any person to hunt or assist another to hunt on the same calendar day on a property after having used a drone or unmanned aircraft to locate or surveil any wild animal during any open season.

B. No part of this section shall be construed to restrict the use of drones or other unmanned aircraft for wildlife management activities conducted or authorized by the department; by employees of the United States government or any of its agencies whose responsibility includes fisheries and wildlife management; or by county, city, or town animal control officers in the performance of their official duties.

DOCUMENTS INCORPORATED BY REFERENCE (4VAC15-20)

~~List of Native and Naturalized Fauna of Virginia, October 2020, Virginia Department of Wildlife Resources~~

[List of Native and Naturalized Fauna of Virginia, January 2021, Virginia Department of Wildlife Resources](#)

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

VA.R. Doc. No. R21-6734; Filed June 2, 2021, 6:19 a.m.

# Regulations

## Final Regulation

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

**Title of Regulation:** 4VAC15-30. **Definitions and Miscellaneous: Importation, Possession, Sale, etc., of Animals (amending 4VAC15-30-40).**

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

## Summary:

*The amendments remove the Mexican axolotl from and add the Alabama bass to the list of predatory and undesirable species that cannot be imported, possessed, or sold within the Commonwealth without a permit.*

## 4VAC15-30-40. Importation requirements, possession, and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those nonnative (exotic) animals listed in the following table and in 4VAC15-20-210 that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia.

AMPHIBIANS			
Order	Family	Genus/Species	Common Name
Anura	Bufo	Rhinella marina	Cane toad*
	Pipidae	Hymenochirus spp. Pseudohymenochirus merlini	African dwarf frog
		Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	All species, <u>except</u> <u>Ambystoma mexicanum</u>	All mole salamanders, <u>except</u> <u>Mexican axolotl</u>
BIRDS			
Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*
Anseriformes	Anatidae	Cygnus olor	Mute swan
FISH			
Order	Family	Genus/Species	Common Name
Cypriniformes	Catostomidae	Catostomus microps	Modoc sucker
		Catostomus santaanae	Santa Ana sucker
		Catostomus warnerensis	Warner sucker
		Ictiobus bubalus	Smallmouth* buffalo
		I. cyprinellus	Bigmouth* buffalo
		I. niger	Black buffalo*
	Characidae	Pygopristis spp. Pygocentrus spp. Rooseveltiella spp. Serrasalmo spp. Serrasalmus spp. Taddyella spp.	Piranhas

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	Cobitidae	Misgurnus anguillicaudatus	Oriental weatherfish
	Cyprinidae	Aristichthys nobilis	Bighead carp*
		Chrosomus saylori	Laurel dace
		Ctenopharyngodon idella	Grass carp or white amur
		Cyprinella caerulea	Blue shiner
		Cyprinella formosa	Beautiful shiner
		Cyprinella lutrensis	Red shiner
		Hypophthalmichthys molitrix	Silver carp*
		Mylopharyngodon piceus	Black carp*
		Notropis albizonatus	Palezone shiner
		Notropis cahabae	Cahaba shiner
		Notropis girardi	Arkansas River shiner
		Notropis mekistocholas	Cape Fear shiner
		Notropis simus pecosensis	Pecos bluntnose shiner
		Notropis topeka (= tristis)	Topeka shiner
		Phoxinus cumberlandensis	Blackside dace
		Rhinichthys osculus lethoporus	Independence Valley speckled dace
		Rhinichthys osculus nevadensis	Ash Meadows speckled dace
		Rhinichthys osculus oligoporus	Clover Valley speckled dace
		Rhinichthys osculus ssp.	Foskett speckled dace
		Rhinichthys osculus thermalis	Kendall Warm Springs dace
	Scardinius erythrophthalmus	Rudd	
	Tinca tinca	Tench*	
Cyprinodontiformes	Poeciliidae	Gambusia gaigei	Big Bend gambusia
		Gambusia georgei	San Marcos gambusia
		Gambusia heterochir	Clear Creek gambusia
		Gambusia nobilis	Pecos gambusia
		Peociliopsis occidentalis	Gila topminnow
Gasterosteiformes	Gasterosteidae	Gasterosteus aculeatus williamsoni	Unarmored threespine stickleback
Gobiesociformes	Gobiidae	Proterorhinus marmoratus	Tube-nose goby
		Neogobius melanostomus	Round goby
Perciformes	<u>Centrarchidae</u>	<u>Micropterus henshalli</u>	<u>Alabama bass</u>

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	Channidae	Channa spp. Parachanna spp.	Snakeheads	
	Cichlidae	Tilapia spp.	Tilapia	
		Gymnocephalus cernuum	Ruffe*	
	Elassomatidae	Elassoma alabamae	Spring pygmy sunfish	
	Percidae		Crystallaria cincotta	Diamond darter
			Etheostoma chermocki	Vermilion darter
			Etheostoma boschungii	Slackwater darter
			Etheostoma chienense	Relict darter
			Etheostoma etowahae	Etowah darter
			Etheostoma fonticola	Fountain darter
			Etheostoma moorei	Yellowcheek darter
			Etheostoma nianguae	Niangua darter
			Etheostoma nuchale	Watercress darter
			Etheostoma okaloosae	Okaloosa darter
			Etheostoma phytophilum	Rush darter
			Etheostoma rubrum	Bayou darter
			Etheostoma scotti	Cherokee darter
			Etheostoma sp.	Bluemask (= jewel) darter
			Etheostoma susanae	Cumberland darter
			Etheostoma wapiti	Boulder darter
		Percina antesella	Amber darter	
		Percina aurolineata	Goldline darter	
		Percina jenkinsi	Conasauga logperch	
	Percina pantherina	Leopard darter		
	Percina tanasi	Snail darter		
Scorpaeniformes	Cottidae	Cottus sp.	Grotto sculpin	
		Cottus paulus (= pygmaeus)	Pygmy sculpin	
Siluriformes	Clariidae	All species	Air-breathing catfish	
	Ictaluridae	Noturus baileyi	Smoky madtom	
		Noturus crypticus	Chucky madtom	
		Noturus placidus	Neosho madtom	
		Noturus stanauli	Pygmy madtom	
	Noturus trautmani	Scioto madtom		
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel	

<b>MAMMALS</b>				
Order	Family	Genus/Species	Common Name	
Artiodactyla	Suidae	All Species	Pigs or Hogs*	
	Cervidae	All Species	Deer*	
Carnivora	Canidae	All Species	Wild Dogs,* Wolves, Coyotes or Coyote hybrids, Jackals and Foxes	
	Ursidae	All Species	Bears*	
	Procyonidae	All Species	Raccoons and* Relatives	
	Mustelidae		All Species	Weasels, Badgers,* Skunks and Otters
			(except <i>Mustela putorius furo</i> )	Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas	
	Herpestidae	All Species	Mongooses*	
	Hyaenidae	All Species	Hyenas and Aardwolves*	
	Felidae	All Species	Cats*	
Chiroptera		All Species	Bats*	
Lagomorpha	Leporidae	<i>Brachylagus idahoensis</i>	Pygmy rabbit	
		<i>Lepus europeaeus</i>	European hare	
		<i>Oryctolagus cuniculus</i>	European rabbit	
		<i>Sylvilagus bachmani riparius</i>	Riparian brush rabbit	
		<i>Sylvilagus palustris hefneri</i>	Lower Keys marsh rabbit	
Rodentia		All species native to Africa	All species native to Africa	
	Dipodidae	<i>Zapus hudsonius preblei</i>	Preble's meadow jumping mouse	
	Muridae	<i>Microtus californicus scirpensis</i>	Amargosa vole	
		<i>Microtus mexicanus hualpaiensis</i>	Hualapai Mexican vole	
		<i>Microtus pennsylvanicus dukecampbelli</i>	Florida salt marsh vole	
		<i>Neotoma floridana smalli</i>	Key Largo woodrat	
		<i>Neotoma fuscipes riparia</i>	Riparian (= San Joaquin Valley) woodrat	
		<i>Oryzomys palustris natator</i>	Rice rat	
		<i>Peromyscus gossypinus allapaticola</i>	Key Largo cotton mouse	
		<i>Peromyscus polionotus allophrys</i>	Choctawhatchee beach mouse	

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		Peromyscus polionotus ammobates	Alabama beach mouse
		Peromyscus polionotus niveiventris	Southeastern beach mouse
		Peromyscus polionotus peninsularis	St. Andrew beach mouse
		Peromyscus polionotus phasma	Anastasia Island beach mouse
		Peromyscus polionotus trissyllepsis	Perdido Key beach mouse
		Reithrodontomys raviventris	Salt marsh harvest mouse
	Heteromyidae	Dipodomys heermanni morroensis	Morro Bay kangaroo rat
		Dipodomys ingens	Giant kangaroo rat
		Dipodomys merriami parvus	San Bernadino Merriam's kangaroo rat
		Dipodomys nitratoides exilis	Fresno kangaroo rat
		Dipodomys nitratoides nitratoides	Tipton kangaroo rat
		Dipodomys stephensi (including D. cascus)	Stephens' kangaroo rat
	Sciuridae	Perognathus longimembris pacificus	Pacific pocket mouse
		Cynomys spp.	Prairie dogs
		Spermophilus brunneus brunneus	Northern Idaho ground squirrel
		Tamiasciurus hudsonicus grahamensis	Mount Graham red squirrel
Soricomorpha	Soricidae	Sorex ornatus relictus	Buena Vista Lake ornate shrew
<b>MOLLUSKS</b>			
Order	Family	Genus/Species	Common Name
Neotaenioglossa	Hydrobiidae	Potamopyrgus antipodarum	New Zealand mudsnail
Veneroida	Dreissenidae	Dreissena bugensis	Quagga mussel
		Dreissena bugensis	Quagga mussel
<b>REPTILES</b>			
Order	Family	Genus/Species	Common Name
Crocodilia	Alligatoridae	All species	Alligators, caimans*
	Crocodylidae	All species	Crocodiles*
	Gavialidae	All species	Gavials*
Squamata	Colubridae	Boiga irregularis	Brown tree snake*

CRUSTACEANS			
Order	Family	Genus/Species	Common Name
Decapoda	Cambaridae	Cambarus aculabrum	Cave crayfish
		Cambarus zophonastes	Cave crayfish
		Orconectes rusticus	Rusty crayfish
		Orconectes shoupi	Nashville crayfish
		Pacifastacus fortis	Shasta crayfish
		Procambarus sp.	Marbled crayfish
	Parastacidae	Cherax spp.	Australian crayfish
	Varunidea	Eriocheir sinensis	Chinese mitten crab

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A of this section, a person, company, or corporation possessing any nonnative (exotic) animal, designated with an asterisk (\*) in subsection A of this section, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date or dates acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded with a seamless band.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A of this section that may be used for personal use, in the manufacture of products, or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business, or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Wildlife Resources.

E. Exception for prairie dogs. The effective date of listing of prairie dogs under subsection A of this section shall be January

1, 1998. Prairie dogs possessed in captivity in Virginia on December 31, 1997, may be maintained in captivity until the animals' deaths, but they may not be sold on or after January 1, 1998, without a permit.

F. Exception for snakehead fish. Anglers may legally harvest snakehead fish of the family Channidae, provided that they immediately kill such fish and that they notify the department, as soon as practicable, of such actions.

G. Exception for feral hogs. Anyone may legally trap feral hogs with written permission of the landowner, provided that any trapped hogs are not removed from the trap site alive and are killed immediately.

H. Exception for grass carp. Anglers may legally harvest grass carp of the family Cyprinidae only from public waters of the Commonwealth. It is unlawful to harvest grass carp from any public inland lake or reservoir. Anglers taking grass carp must ensure that harvested grass carp are dead.

I. Exception for Alabama bass. Anglers may possess live Alabama bass of the family Centrarchidae only on the body of water from which the fish were captured, provided that the angler does not live transport these fish outside of the body of water from which the fish were captured. Anglers may only release live Alabama bass back into the body of water from which the fish were captured. Anglers may legally harvest Alabama bass provided that the anglers ensure all harvested Alabama bass are dead.

J. All other nonnative (exotic) animals. All other nonnative (exotic) animals not listed in subsection A of this section may be possessed, purchased, and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R21-6736; Filed June 2, 2021, 6:22 a.m.

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# Regulations

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## Final Regulation

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

**Title of Regulation:** 4VAC15-40. **Game:** In General (amending 4VAC15-40-220, 4VAC15-40-240).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The amendments (i) change the maximum loop size for a snare trap from a 12-inch diameter to a maximum size of 38 inches in circumference and (ii) allow the director to issue special permits to take game and fur-bearing animals for the purpose of population reduction in situations where existing statutory and regulatory options for population reduction are not applicable.*

**4VAC15-40-220. Use of deadfalls prohibited; restricted use of snares.**

It shall be unlawful to trap, or attempt to trap, on land any wild bird or wild animal with any deadfall or snare; provided, that snares with loops no more than ~~12 inches in diameter~~ 38 inches in circumference and with the bottom of the snare loop set not to exceed 12 inches above ground level may be used with the written permission of the landowner. Snares with the top of the snare loop set higher than 12 inches above ground level must include a single-piece lock that is not power assisted, a cable stop that prevents the snare loop from closing smaller than 2-1/2 inches in diameter, and a break-away device that has been tested to break or disassemble at no more than 285 pounds pull.

**4VAC15-40-240. Animal population control.**

Whenever biological evidence suggests that populations of game animals or fur-bearing animals may exceed or threaten to exceed the carrying capacity of a specified range, or whenever population reduction of a species is necessary to manage for another wildlife species, or whenever the health or general condition of a species indicates the need for population reduction, or whenever the threat of human public health and safety or significant economic loss indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction by licensed hunters or licensed trappers on areas prescribed by department wildlife biologists. Further, in situations where existing statutory and regulatory options for population reduction are not applicable,

the director is authorized to issue special permits to obtain the desired population reduction by individuals named within the director's authorization document. Designated game species or fur-bearing species may be taken in excess of the general bag limits, during closed seasons, with all legal methods outlined in the Code of Virginia or board regulation, and with any type of lawful weapon, as defined in § 29.1-519 of the Code of Virginia and in board regulation, on special permits issued under this section under such conditions as may be prescribed by the director.

VA.R. Doc. No. R21-6737; Filed June 2, 2021, 6:24 a.m.

## Final Regulation

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

**Title of Regulation:** 4VAC15-50. **Game:** Bear (amending 4VAC15-50-71, 4VAC15-50-81, 4VAC15-50-91, 4VAC15-50-110, 4VAC15-50-120).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The amendments (i) clarify the different types of muzzleloading guns that are legal during the muzzleloading bear season, update language consistent with recent technological changes, and conform regulations regarding muzzleloading guns to statute; (ii) remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests to be reported electronically using the telephone, Internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-2022 hunting season; (iii) more explicitly define current time restrictions on the use of dogs for hunting bears to enable the extension of deer firearms open seasons for disease and population management purposes in certain areas; and (iv) add Dinwiddie County to the list of counties allowing bear hound training season as originally intended when the training season was initiated in that area in 2013.*

**4VAC15-50-71. Muzzleloading gun hunting.**

A. It shall be lawful to hunt bears during the special muzzleloading season with muzzleloading guns from the Saturday prior to the second Monday in November through the Friday prior to the third Monday in November, both dates inclusive, except in the Cities of Chesapeake, Suffolk, and Virginia Beach.

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

C. ~~A muzzleloading gun~~ Muzzleloading guns, for the purpose of this section, ~~means a single shot weapon, .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) where the propellant and projectile are loaded from the muzzle of the weapon.~~ include:

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

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

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

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

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

#### **4VAC15-50-81. Validating tags and ~~checking~~ reporting bear and tooth submission by licensee or permittee.**

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

B. Upon killing a bear and validating (notching) a license tag or special permit, as provided in subsection A of this section, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass and validated (notched) license tag or special permit to an authorized bear checking station or to an appropriate representative of the department in the county or adjoining~~

~~county in which the bear was killed or report the kill through the department's automated harvest reporting system. At such time, the person checking or reporting the carcass will be given a black bear check card furnished by the department or a confirmation number from the automated reporting system. The successful hunter shall then immediately record the game check card number or confirmation number, in ink, on the line provided on the tag that was validated (notched) in the field. If checked at an authorized bear check station, the black bear check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the bear check card must be securely attached to the carcass. If After the kill is reported using the automated harvest reporting system, no check card written documentation is required as long as the hunter who killed the animal is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a bear killed legally in Virginia may be transported; however, upon request of any authorized law-enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

~~C. If the carcass is checked at a bear check station, upon presentation of the carcass and validated (notched) license tag or special permit to the bear checking station, the licensee shall surrender or allow to be removed one premolar tooth from the carcass. If the kill is reported through the department's automated harvest reporting system, a A premolar tooth must be removed by the hunter immediately after reporting the kill through the department's automated harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, check confirmation number, date of kill, and the sex of the harvested bear. This envelope with premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.~~

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

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~~bear checking station or reported through the department's automated harvest reporting system as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

## **4VAC15-50-91. Checking Reporting bear and tooth submission by persons exempt from license requirements or holding a license authorization number.**

A. Upon killing a bear, any person (i) exempt from license requirements as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339 of the Code of Virginia, (iii) holding a permanent license issued pursuant to § 29.1-301 E of the Code of Virginia, or (iv) the holder of a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass to an authorized bear checking station or to any appropriate representative of the department in the county or adjoining county in which the bear was killed, or report the kill through the department's automated harvest reporting system. At such time, the person checking or reporting the carcass shall be given a black bear check card furnished by the department or a confirmation number from the automated reporting system. If checked at a bear check station, the black bear check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the black bear check card must be securely attached to the carcass. If~~ After the kill is reported using the automated harvest reporting system, the successful hunter shall immediately create written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a black bear killed legally in Virginia may be transported; however, upon request of any authorized law-enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.

B. ~~If the bear is checked at a bear checking station, the person checking the carcass shall surrender or allow to be removed one premolar tooth from the carcass. If the kill is reported through the department's automated harvest reporting system,~~ a A premolar tooth must be removed by the hunter immediately after reporting the kill through the department's automated harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, check confirmation number, date of kill,

and the sex of the harvested bear. This envelope with premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.

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

## **4VAC15-50-110. Use of dogs in hunting bear.**

A. It shall be unlawful to use dogs for the hunting of bear ~~during the open season for hunting deer~~ on the Saturday prior to the third Monday in November and for 15 consecutive days following in the counties west of the Blue Ridge Mountains and ~~during the first 16 days of the deer open season~~ in the Counties of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, and Nelson (west of Route 151) and within the boundaries of the national forests, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

B. It shall be unlawful to use dogs for the hunting of bear ~~during the first 14 days of the open season for hunting deer~~ on the Saturday prior to the third Monday in November and for 13 consecutive days following in the Counties of Greene and Madison, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

C. It shall be unlawful to use dogs for the hunting of bear during the open season prescribed in 4VAC15-50-11 in the Counties of Campbell (west of Norfolk Southern Railroad), Carroll (east of the New River), Fairfax, Floyd, Franklin, Grayson (east of the New River), Henry, Loudoun, Montgomery (south of Interstate 81), Patrick, Pittsylvania (west of Norfolk Southern Railroad), Pulaski (south of Interstate 81), Roanoke (south of Interstate 81), and Wythe (southeast of the New River or that part bounded by Route 21 on the west, Interstate 81 on the north, the county line on the east, the New River on the southeast, and Cripple Creek on the south); in the City of Lynchburg; and on Amelia, Chester F. Phelps, G. Richard Thompson, and Pettigrew Wildlife Management Areas, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

**4VAC15-50-120. Bear hound training season.**

A. It shall be lawful to chase black bear with dogs, without capturing or taking, from August 1 through the last Saturday in September, both dates inclusive, in the Counties of Albemarle, Alleghany, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Carroll, Charlotte, Craig, Culpeper, Dickenson, Floyd, Franklin, Giles, Grayson (east of Route 16), Greene, Greensville, Highland, Lee, Lunenburg, Madison, Mecklenburg, Montgomery, Nelson, Page, Pulaski, Rappahannock, Roanoke (west of I-81), Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth (except for the part southeast of I-81 and west of State Route 16), Tazewell, Warren, Washington (northwest of I-81), Wise, and Wythe and in the Cities of Chesapeake, Suffolk, and Virginia Beach.

B. It shall be lawful to chase black bear with dogs, without capturing or taking, from the Saturday prior to the third Monday in November and for 14 days following, both dates inclusive, in the Counties of Amelia, Appomattox, Buckingham, Brunswick, Campbell (east of the Norfolk Southern Railroad), Charles City, Charlotte, Cumberland, Dinwiddie, Essex, Gloucester, Greensville, Halifax, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northumberland, Nottoway, Pittsylvania (east of the Norfolk Southern Railroad), Prince Edward, Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, and York.

C. It shall be unlawful to have in possession a firearm, bow, crossbow, or any weapon capable of taking a black bear while participating in the bear hound training season. The meaning of "possession" for the purpose of this section shall include having a firearm, bow, crossbow, or any weapon capable of taking a black bear in or on one's person, vehicle, or conveyance.

VA.R. Doc. No. R21-6738; Filed June 2, 2021, 6:26 a.m.

**Final Regulation**

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

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-10, 4VAC15-90-70, 4VAC15-90-80, 4VAC15-90-89, 4VAC15-90-90, 4VAC15-90-91, 4VAC15-90-231, 4VAC15-90-241, 4VAC15-90-260, 4VAC15-90-293; adding 4VAC15-90-500 through 4VAC15-90-550; repealing 4VAC15-90-85).**

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

Effective Date: July 1, 2021.

Agency Contact: Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

Summary:

*The amendments:*

(i) establish an early September antlerless-only firearms deer season and a late (January through March) antlerless-only firearms deer season in certain counties on selected private lands within department-designated disease containment areas to meet antlerless deer harvest population objectives;

(ii) conform the definition of "common interest community" to statute;

(iii) expand early and late muzzleloading hunting days in certain counties to meet deer population objectives;

(iv) clarify that four different types of muzzleloading guns are legal during muzzleloading deer seasons;

(v) change the minimum caliber for muzzleloading rifles from .45 to .40 caliber;

(vi) require that only the projectile be loaded from the muzzle for muzzleloading rifles and muzzleloading shotguns to conform to statute;

(vii) repeal and replace elk hunting regulations;

(viii) establish an unlimited daily bag limit for deer in all the cities and towns in Virginia that allow deer hunting except in the Cities of Chesapeake, Suffolk, and Virginia Beach;

(ix) create a uniform statewide deer bag limit of one deer per day on national forest, department-owned, and department-managed lands;

(x) clarify that national forest lands in Amherst, Bedford, and Nelson Counties are included under the "west of the Blue Ridge Mountains" bag limit;

(xi) adjust firearms hunting either-sex hunting days in certain counties to meet deer population objectives;

(xii) expand the Earn-A-Buck Program to select private lands while making adjustments to the program in some areas where it is already designated;

(xiii) address electronic deer tags and deer reporting using the eNotch feature of the department's smartphone application;

(xiv) require mandatory drop off of deer heads from designated areas on designated days for disease testing;

(xv) more explicitly define current time restrictions on the use of dogs for hunting deer to enable the extension of deer firearms open seasons for disease and population

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management purposes in September and January through March;

(xvi) add cleaned jaw bones to the list of parts permitted to be imported and possessed and outline how deer parts and whole deer carcasses may be transported within, outside, and between disease management areas; and

(xvii) outline seasons, bag limits, and tag validation associated with administering the hunting of elk within the Elk Management Zone, including the creation of a special elk license awarded to a wildlife conservation organization, providing access on private lands, a random drawing program, and provisions related to hunting within the Elk Management Zone.

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

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

Locality	Season
Accomack County	Saturday prior to the third Monday in November through the first Saturday in January
Albemarle County	Saturday prior to the third Monday in November through the first Saturday in January
Alleghany County	Saturday prior to the third Monday in November and for 14 consecutive days following
Amelia County	Saturday prior to the third Monday in November through the first Saturday in January
Amherst County (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Amherst County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following

Amherst County (east of Business U.S. 29, as defined above)	Saturday prior to the third Monday in November through the first Saturday in January
Appomattox County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Augusta County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bath County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bedford County (except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Bedford County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Bland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Botetourt County	Saturday prior to the third Monday in November and for 14

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	consecutive days following		<u>and the Sunday following the first Saturday in January through the last Sunday in March</u>
Brunswick County	Saturday prior to the third Monday in November through the first Saturday in January		
Buchanan County	Saturday prior to the third Monday in November and for 14 consecutive days following	Craig County	Saturday prior to the third Monday in November and for 14 consecutive days following
Buckingham County	Saturday prior to the third Monday in November through the first Saturday in January	Culpeper County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Campbell County	Saturday prior to the third Monday in November through the first Saturday in January	Culpeper County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
Caroline County	Saturday prior to the third Monday in November through the first Saturday in January	<u>Culpeper County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>
Carroll County	Saturday prior to the third Monday in November and for 14 consecutive days following	<u>Culpeper County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Charles City County	Saturday prior to the third Monday in November through the first Saturday in January	Cumberland County	Saturday prior to the third Monday in November through the first Saturday in January
Charlotte County	Saturday prior to the third Monday in November through the first Saturday in January	Dickenson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Chesapeake (City of)	October 1 through November 30	Dinwiddie County	Saturday prior to the third Monday in November through the first Saturday in January
Chesterfield County	Saturday prior to the third Monday in November through the first Saturday in January	Essex County	Saturday prior to the third Monday in November through the first Saturday in January
Clarke County	Saturday prior to the third Monday in November through the first Saturday in January		
<u>Clarke County (antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>		

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Fairfax County	Saturday prior to the third Monday in November through the first Saturday in January
Fairfax County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Fauquier County (except Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November through the first Saturday in January
Fauquier County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Fauquier County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>
<u>Fauquier County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Floyd County	Saturday prior to the third Monday in November and for 28 consecutive days following
Fluvanna County	Saturday prior to the third Monday in November through the first Saturday in January
Franklin County	Saturday prior to the third Monday in November and for 28 consecutive days following
Frederick County (non-national forest lands)	Saturday prior to the third Monday in November through the first Saturday in January

Frederick County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Frederick County (non-national forest lands antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Giles County	Saturday prior to the third Monday in November and for 14 consecutive days following
Gloucester County	Saturday prior to the third Monday in November through the first Saturday in January
Goochland County	Saturday prior to the third Monday in November through the first Saturday in January
Grayson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Greene County	Saturday prior to the third Monday in November through the first Saturday in January
Greensville County	Saturday prior to the third Monday in November through the first Saturday in January
Halifax County	Saturday prior to the third Monday in November through the first Saturday in January
Hanover County	Saturday prior to the third Monday in November through the first Saturday in January

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Henrico County	Saturday prior to the third Monday in November through the first Saturday in January
Henry County	Saturday prior to the third Monday in November and for 28 consecutive days following
Highland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Isle of Wight County	Saturday prior to the third Monday in November through the first Saturday in January
James City County	Saturday prior to the third Monday in November through the first Saturday in January
King and Queen County	Saturday prior to the third Monday in November through the first Saturday in January
King George County	Saturday prior to the third Monday in November through the first Saturday in January
King William County	Saturday prior to the third Monday in November through the first Saturday in January
Lancaster County	Saturday prior to the third Monday in November through the first Saturday in January
Lee County	Saturday prior to the third Monday in November and for 14 consecutive days following
Loudoun County	Saturday prior to the third Monday in November through the first Saturday in January

Loudoun County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Louisa County	Saturday prior to the third Monday in November through the first Saturday in January
Lunenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County	Saturday prior to the third Monday in November through the first Saturday in January
<u>Madison County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>
<u>Madison County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Mathews County	Saturday prior to the third Monday in November through the first Saturday in January
Mecklenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Middlesex County	Saturday prior to the third Monday in November through the first Saturday in January
Montgomery County	Saturday prior to the third Monday in November and for 14 consecutive days following

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Nelson County (west of Route 151, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following	<u>Page County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Nelson County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following	Patrick County	Saturday prior to the third Monday in November and for 28 consecutive days following
Nelson County (east of Route 151)	Saturday prior to the third Monday in November through the first Saturday in January	Pittsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
New Kent County	Saturday prior to the third Monday in November through the first Saturday in January	Powhatan County	Saturday prior to the third Monday in November through the first Saturday in January
Northampton County	Saturday prior to the third Monday in November through the first Saturday in January	Prince Edward County	Saturday prior to the third Monday in November through the first Saturday in January
Northumberland County	Saturday prior to the third Monday in November through the first Saturday in January	Prince George County	Saturday prior to the third Monday in November through the first Saturday in January
Nottoway County	Saturday prior to the third Monday in November through the first Saturday in January	Prince William County	Saturday prior to the third Monday in November through the first Saturday in January
Orange County	Saturday prior to the third Monday in November through the first Saturday in January	Prince William County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
<u>Orange County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>	Pulaski County (except on New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin)	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Orange County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>		
Page County	Saturday prior to the third Monday in November and for 14 consecutive days following		

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Pulaski County (New River Unit of the Radford Army Ammunition Plant adjacent to the Town of Dublin)	Saturday prior to the second Monday in November through the first Saturday in January
Rappahannock County	Saturday prior to the third Monday in November through the first Saturday in January
<u>Rappahannock County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>
<u>Rappahannock County (disease focus areas defined by the department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Richmond County	Saturday prior to the third Monday in November through the first Saturday in January
Roanoke County	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockbridge County	Saturday prior to the third Monday in November and for 14 consecutive days following
Rockingham County	Saturday prior to the third Monday in November and for 14 consecutive days following
Russell County	Saturday prior to the third Monday in November and for 14 consecutive days following
Scott County	Saturday prior to the third Monday in November and for 14 consecutive days following

Shenandoah County	Saturday prior to the third Monday in November and for 14 consecutive days following
<u>Shenandoah County (non-national forest lands antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Smyth County	Saturday prior to the third Monday in November and for 14 consecutive days following
Southampton County	Saturday prior to the third Monday in November through the first Saturday in January
Spotsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
Stafford County	Saturday prior to the third Monday in November through the first Saturday in January
Suffolk (City of) (east of Dismal Swamp Line)	October 1 through November 30
Suffolk (City of) (west of Dismal Swamp Line)	Saturday prior to the third Monday in November through the first Saturday in January
Surry County	Saturday prior to the third Monday in November through the first Saturday in January
Sussex County	Saturday prior to the third Monday in November through the first Saturday in January
Tazewell County	Saturday prior to the third Monday in November and for 14 consecutive days following

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

## 4VAC15-90-70. Archery hunting.

A. It shall be lawful to hunt deer during the early special archery season with archery equipment or a slingbow from the first Saturday in October through the Friday prior to the third Monday in November, both dates inclusive.

B. In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer during the late special archery season with archery equipment or a slingbow:

1. From the Sunday following the close of the general firearms season on deer through the first Saturday in January, both dates inclusive, (i) in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County); (ii) in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick; (iii) on the Chester F. Phelps Wildlife Management Area; and (iv) on national forest lands in Frederick County.

2. From December 1 through the first Saturday in January, both dates inclusive, in the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

C. Deer of either sex may be taken full season during the special archery seasons as provided in subsections A and B of this section.

D. It shall be unlawful to carry firearms while hunting with archery equipment during the special archery seasons, except that a muzzleloading gun, as defined in 4VAC15-90-80, may be in the possession of a properly licensed muzzleloading gun hunter when and where a special archery deer season overlaps a special muzzleloading deer season.

E. It shall be unlawful to use dogs when hunting with archery equipment during any special archery season, except that tracking dogs as described in § 29.1-516.1 of the Code of Virginia may be used.

F. It shall be lawful to hunt antlerless deer during the special urban archery season with archery equipment or a slingbow from the first Saturday in September through the Friday prior to the first Saturday in October, both dates inclusive, and from the Sunday following the first Saturday in January through the last Sunday in March, both dates inclusive, within the incorporated limits of any city or town in the Commonwealth (except on national forest and department-owned lands) and counties with a human population density of 300 persons per square mile or more (except on national forest and department-owned lands), provided that its governing body submits by certified letter to the department prior to April 1, its intent to participate in the special urban archery season. Any city, town, or county no longer participating in this season shall submit by

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

C. Except as provided in subsection A of this section, west of the Blue Ridge Mountains deer may be hunted from the Saturday prior to the third Monday in November and for 14 consecutive days following within the incorporated limits of any city or town that allows deer hunting.

certified letter to the department prior to April 1 notice of its intent not to participate in the special urban archery season. When consistent with the department's deer management objectives and subject to the director's approval, a participating county may exclude from this season a geographic area by submitting a clear description of such area in a certified letter to the department prior to April 1.

G. It shall be lawful to hunt antlerless deer during the special urban archery season with archery equipment or a slingbow during dates specified in subsection F of this section within the boundaries of any common interest community as defined in ~~§ 55-528~~ § 54.1-2345 of the Code of Virginia provided that (i) the association submits by certified letter to the department prior to July 1 the association's request to participate in the special urban archery season and (ii) the department approves such request.

1. The special urban archery season will in no way supersede any local ordinance, any restriction in the association's governing documents, or the requirement to obtain a landowner's permission to hunt.
2. An association no longer participating in the special urban archery season shall submit notice of the association's intent not to participate in the special urban archery season. The association shall submit the certified letter to the department prior to July 1.
3. At its discretion, the department may suspend or revoke the special urban archery season in any association upon written notice to the association.

For the purposes of this subsection, "association" means the governing board or the authorized agent of the governing board of an association of property owners, condominium unit owners, or proprietary lessees.

H. It shall be lawful to hunt antlerless deer during the special antlerless archery season with archery equipment or a slingbow from the Monday following the last Sunday in March through the last Sunday in April, both dates inclusive, in the Counties of Arlington, Fairfax, Loudoun, and Prince William (including the cities and towns within).

**4VAC15-90-80. Muzzleloading gun hunting.**

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

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

1. In all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County);
2. East of the Blue Ridge Mountains in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick;
3. On national forest lands in Frederick County; and
4. In the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

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

1. Deer of either sex may be taken on the second Saturday only of the early special muzzleloading season on state forest lands, state park lands (except Occoneechee State Park), department-owned lands (except on Merrimac Farm Wildlife Management Area), and Philpott Reservoir.
2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season on national forest lands in Amherst, Bedford, and Nelson Counties.

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

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

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

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

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

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

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

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

H. ~~A muzzleloading gun~~, Muzzleloading guns, for the purpose of this section, means a single shot weapon, .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) where the propellant and projective are loaded from the muzzle of the weapon. include:

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

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

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

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

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

## **4VAC15-90-85. Elk hunting; (Repealed.)**

~~A. Closed season. There shall be a continuous closed season for elk (*Cervus elaphus*) hunting in Buchanan, Dickenson, and Wise counties.~~

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

~~C. Validating tags and checking elk by licensee or permittee. Upon killing an elk, any licensed or permitted hunter shall validate a tag, bonus deer permit, or special permit and check the elk in accordance with 4VAC15 90 231. At the time of checking, the hunter must call the department upon receiving a check card or confirmation number to schedule an inspection of the carcass and the site of kill for the collection of biological samples for disease testing.~~

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

## **4VAC15-90-89. Earn a buck (EAB).**

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

~~Albemarle County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Albemarle County prior to taking at least one antlerless deer on private lands in Albemarle County, and it shall be unlawful to take a third antlered deer on private lands in Albemarle County prior to taking at least two antlerless deer on private lands in Albemarle County.~~

~~Arlington County. During a license year, it shall be unlawful to take a second antlered deer in Arlington County prior to taking at least two antlerless deer in Arlington County, and it shall be unlawful to take a third antlered deer in Arlington County prior to taking at least three antlerless deer in Arlington County.~~

~~Bedford County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Bedford County prior to taking at least one antlerless deer on private lands in Bedford County, and it shall be unlawful to take a third antlered deer on private lands in Bedford County prior to taking at least two antlerless deer on private lands in Bedford County.~~

~~Clarke County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Clarke County prior to taking at least two antlerless deer on private lands in Clarke County.~~

~~Culpeper County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Culpeper County prior to taking at least one antlerless deer on private lands in Culpeper County, and it shall be unlawful to take a third antlered deer on private lands in Culpeper County prior to taking at least two antlerless deer on private lands in Culpeper County.~~

~~Fairfax County. During a license year, it shall be unlawful to take a second antlered deer in Fairfax County prior to taking at least two antlerless deer in Fairfax County, and it shall be unlawful to take a third antlered deer in Fairfax County prior to taking at least three antlerless deer in Fairfax County.~~

~~Fauquier County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Fauquier County prior to taking at least one antlerless deer on private lands in Fauquier County, and it shall be unlawful to take a third antlered deer on private lands in Fauquier County prior to taking at least two antlerless deer on private lands in Fauquier County.~~

~~Floyd County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Floyd County prior to taking at least one antlerless deer on private lands in Floyd County.~~

~~Franklin County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Franklin County prior to taking at least one antlerless deer on private lands in Franklin County, and it shall be unlawful to take a third antlered deer on private lands in Franklin County prior to taking at least two antlerless deer on private lands in Franklin County.~~

~~Frederick County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Frederick County prior to taking at least two antlerless deer on private lands in Frederick County.~~

~~Grayson County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Grayson County prior to taking at least one antlerless deer on private lands in Grayson County.~~

~~Hanover County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Hanover County prior to taking at least one antlerless deer on private lands in Hanover County, and it shall be unlawful to take a third antlered deer on private lands in Hanover County prior to taking at least two antlerless deer on private lands in Hanover County.~~

~~Henrico County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Henrico County prior to taking at least one antlerless deer on private lands in Henrico County, and it shall be unlawful to take a third antlered deer on private lands in Henrico County prior to taking at least two antlerless deer on private lands in Henrico County.~~

~~James City County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in James City County prior to taking at least one antlerless deer on private lands in James City County, and it shall be unlawful to take a third antlered deer on private lands in James City County prior to taking at least two antlerless deer on private lands in James City County.~~

~~Loudoun County. During a license year, it shall be unlawful to take a second antlered deer in Loudoun County prior to taking at least two antlerless deer in Loudoun County, and it shall be unlawful to take a third antlered deer in Loudoun County prior to taking at least three antlerless deer in Loudoun County.~~

~~Montgomery County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Montgomery County prior to taking at least one antlerless deer on private lands in Montgomery County.~~

~~Prince George County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Prince George County prior to taking at least one antlerless deer on private lands in Prince George County, and it shall be unlawful to take a third antlered deer on private lands in Prince George County prior to taking at least two antlerless deer on private lands in Prince George County.~~

~~Prince William County except on Department of Defense lands. During a license year, it shall be unlawful to take a second antlered deer in Prince William County (except on Department of Defense lands) prior to taking at least two antlerless deer in Prince William County (except on Department of Defense lands), and it shall be unlawful to take a third antlered deer in Prince William County (except on Department of Defense lands) prior to taking at least three antlerless deer in Prince William County (except on Department of Defense lands).~~

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~~Pulaski County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Pulaski County prior to taking at least one antlerless deer on private lands in Pulaski County.~~

~~Rappahannock County. During a license year, it shall be unlawful to take a second antlered deer in Rappahannock County prior to taking at least one antlerless deer in Rappahannock County, and it shall be unlawful to take a third antlered deer in Rappahannock County prior to taking at least two antlerless deer in Rappahannock County.~~

~~Roanoke County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Roanoke County prior to taking at least one antlerless deer on private lands in Roanoke County.~~

~~Shenandoah County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Shenandoah County prior to taking at least one antlerless deer on private lands in Shenandoah County.~~

~~Warren County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in Warren County prior to taking at least two antlerless deer on private lands in Warren County.~~

~~York County on private lands. During a license year, it shall be unlawful to take a second antlered deer on private lands in York County prior to taking at least one antlerless deer on private lands in York County, and it shall be unlawful to take a third antlered deer on private lands in York County prior to taking at least two antlerless deer on private lands in York County.~~

~~Cities and towns. During a license year in any town or city (except Chesapeake, Suffolk, and Virginia Beach) east of the Blue Ridge Mountains, it shall be unlawful to take a second antlered deer prior to taking at least one antlerless deer in that town or city, and it shall be unlawful to take a third antlered deer prior to taking at least two antlerless deer in that town or city. During a license year in any town or city west of the Blue Ridge Mountains, it shall be unlawful to take a second antlered deer prior to taking at least one antlerless deer in that town or city.~~

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

The counties subject to the provisions of this subsection are Accomack, Albemarle, Amherst (west of Route 29), Bedford, Carroll, Clarke, Culpeper, Fauquier, Floyd, Franklin, Frederick, Grayson, Greene, Hanover, Henrico, Madison,

Montgomery, Orange, Prince George, Pulaski, Rappahannock, Roanoke, Rockingham (east of Routes 613 and 731), Shenandoah, Stafford, Warren, and Wythe.

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

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

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

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

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

F. The Earn A Buck Program does not apply to the Cities of Chesapeake, Suffolk (east of the Dismal Swamp line), and Virginia Beach.

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

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

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

2. Only one deer per day may be taken on national forest, ~~lands in Amherst, Bedford, and Nelson Counties~~ department-owned, and department-managed lands.

3. Only one elk per day may be taken ~~east of the Blue Ridge Mountains.~~

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

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

2. Only one deer per day may be taken on national forest, department-owned, and department-managed lands ~~west of the Blue Ridge Mountains.~~

~~2.~~ 3. If a deer hunter kills two antlered bucks in a license year in Alleghany, Augusta, Bath, Highland, or Rockbridge County, at least one of the antlered bucks must have at least four antler points, one inch or longer, on one side of the antlers. This subdivision shall not apply to any county designated by the department within 25 miles of a confirmed detection of Chronic Wasting Disease.

~~3.~~ 4. Only one elk per day may be taken ~~west of the Blue Ridge Mountains.~~

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

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

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

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

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

Accomack County: full season.

Albemarle County: full season.

Alleghany County: the second Saturday and the last day.

-National forest lands: the last day.

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

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

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

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

-National forest lands: the last day.

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

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

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

Arlington County: full season.

Augusta County: full season.

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

Bath County: the second Saturday and the last day.

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

Bedford County: full season.

-National forest lands: the last day.

Bland County: the second Saturday and the last day.

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

Botetourt County: full season.

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

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

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

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

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

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

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

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

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

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

Carroll County: full season.

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

Charles City County: ~~the second and third Saturdays and the last 29 days~~ full season.

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

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

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

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

Clarke County: full season.

Craig County: full season.

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

Culpeper County: full season.

-Chester F. Phelps WMA: the second Saturday ~~and the last day~~.

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

-Cumberland State Forest: the second and third Saturdays.

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

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

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

Fairfax County: full season.

Fauquier County: full season.

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

-Chester F. Phelps WMA: the second Saturday ~~and the last day~~.

Floyd County: full season.

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

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

Franklin County: full season.

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

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

Frederick County: full season.

-National forest lands: the last day.

Giles County: full season.

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

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

Goochland County: ~~the second and third Saturdays and the last 29 days~~ full season.

Grayson County: full season.

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

Greene County: full season.

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

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

Hanover County: full season.

Henrico County: full season.

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

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

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

Highland County: the second Saturday and the last day.

-National forest lands: the last day.

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

Isle of Wight County: full season.

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

James City County: full season.

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

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

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

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

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

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

Loudoun County: full season.

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

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

Madison County: full season.

-Rapidan WMA: the second and third Saturdays and the last ~~29~~ 13 days.

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

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

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

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

Montgomery County: full season.

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

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

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

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

-National forest lands: the last day.

New Kent County: ~~the second and third Saturdays and the last 29 days~~ full season.

Northampton County: full season.

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

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

Orange County: full season.

Page County: ~~the second Saturday and the last six days~~ full season.

-National forest lands: the last day.

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

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

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

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

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

Powhatan County: ~~the second and third Saturdays and the last 29 days~~ full season.

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

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

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

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

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

Prince George County: full season.

Prince William County: full season.

Pulaski County: full season.

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

Rappahannock County: full season.

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

Roanoke County: full season.

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

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

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

Rockingham County: full season.

-National forest lands: the last day.

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

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Russell County: the second Saturday and the last two days.  
-Department-owned lands and the Channels State Forest: the last day.

Scott County: the second Saturday and the last six days.  
-National forest lands: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Shenandoah County: full season.  
-National forest lands: the last day.

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

Southampton County: full season.

Spotsylvania County: ~~the second and third Saturdays and the last 29 days~~ full season.

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

Stafford County: full season.

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

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

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

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

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

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

Warren County: full season.  
-National forest lands: the last day.

Washington County: the second Saturday and the last six days.  
-National forest lands, department-owned lands, and the Channels State Forest: the last day.

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

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

Wythe County: full season.

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

York County: full season.

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

## **4VAC15-90-231. Validating tags and checking reporting deer by licensee or permittee.**

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

B. Upon killing a deer and validating (notching) a license tag, bonus deer permit or special permit, as provided in subsection A of this section, the licensee or permittee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass and validated (notched) license tag, bonus deer permit or special permit to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the deer was killed or report the kill through the department's automated harvest reporting system. All deer killed after the first Saturday in January (as prescribed in 4VAC15-90-10 and 4VAC15-90-70) must be checked by telephone or Internet.~~ At such time, the person ~~checking or~~ reporting the carcass will be given a ~~game check card furnished by the department or a confirmation number from the automated reporting system.~~ The successful hunter shall then immediately record the ~~game check card number or~~ confirmation number; in ink, on the line provided on the tag that was validated (notched) in the field. ~~If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass. If the kill is reported using the automated harvest reporting system, no check card is required~~

~~as long as the hunter who killed the animal is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a deer killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

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

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

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

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

D. G. Upon killing a deer within an area designated by the department for deer disease management and on days designated by the department, the licensee or permittee shall present the carcass, on the day of kill, at or submit carcass parts or samples as directed by the department, to a location

designated by the department for the purposes of disease surveillance or biological monitoring.

**4VAC15-90-241. Checking Reporting deer by persons exempt from license requirement or holding a license authorization number.**

A. Upon killing a deer, any person (i) exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339 of the Code of Virginia, (iii) holding a permanent license issued pursuant to § 29.1-301 E of the Code of Virginia, or (iv) holding a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B of the Code of Virginia shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass to an authorized checking station or to any appropriate representative of the department in the county or adjoining county in which the deer was killed or report the kill through the department's automated harvest reporting system. All deer killed after the first Saturday in January (as prescribed in 4VAC15 90 22 and 4VAC15 90 70) must be checked by telephone or Internet.~~ At such time, the person ~~checking or~~ reporting the carcass shall be given a ~~game check card furnished by the department or a confirmation number from the automated reporting system. If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass. If the kill is reported using the automated harvest reporting system, the~~ The successful hunter shall immediately create written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the ~~automated harvest reported~~ carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. ~~Processed carcass parts of a deer killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

B. It shall be unlawful for any person to destroy the identity (sex) of any deer killed until the deer is ~~checked reported~~ as required by this section. Successful deer hunters are allowed to dismember the carcass to pack it out from the place of kill as long as they do not destroy the identity of the sex and all the parts of the carcass are present when the deer is ~~checked at a big game check station or reported through the automated harvest reporting system. Any deer that has not been checked (via a big game check station or the automated harvest reporting system) as required by this section found in the~~

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~~possession of any person exempt from license requirements or holding a license authorization number shall be forfeited to the Commonwealth to be disposed of as provided by law reported.~~

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

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

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

#### **4VAC15-90-260. Hunting with dogs prohibited in certain counties and areas.**

A. Generally. It shall be unlawful to hunt deer with dogs in the counties of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Campbell (west of Norfolk Southern Railroad, and in the City of Lynchburg), Fairfax, Franklin, Henry, Loudoun, Nelson (west of Route 151), Northampton, Patrick and Pittsylvania (west of Norfolk Southern Railroad); and on the Amelia, Chester F. Phelps, G. Richard Thompson and Pettigrew Wildlife Management Areas, except that tracking dogs as defined in § 29.1-516.1 of the Code of Virginia may be used.

B. Special provision for Greene and Madison counties. It shall be unlawful to hunt deer with dogs ~~during the first 14 days on the Saturday prior to the third Monday in November and for 13 consecutive days following~~ in the ~~counties~~ of Greene and Madison Counties, except that tracking dogs as defined in § 29.1-516.1 of the Code of Virginia may be used.

C. It shall be unlawful to hunt deer with dogs in any county or city during open deer season for antlerless deer only as defined in 4VAC15-90-10.

#### **4VAC15-90-293. Unauthorized cervid parts, excretions, and carcass importation, movement, possession, and use.**

A. The following words or terms, when used in 4VAC15-40-285, this section, and 4VAC15-90-294, shall have the following meanings unless the context clearly indicates otherwise:

"Cervid" means any member of the deer family Cervidae, including white-tailed deer, fallow deer, sika deer, elk, and reindeer.

"Import" means to transport a carcass or carcass parts, other than those outlined in subsection B of this section, into the Commonwealth in such a manner that the carcass or carcass parts are removed from their place of storage within a vehicle or other conveyance and placed or deposited within the Commonwealth. Deer harvested on properties that span the Commonwealth's boundary with an adjoining state shall not be considered imported.

B. No person shall import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating outside of the Commonwealth, except that the following carcass parts may be imported and possessed:

1. Boned-out meat;
2. Quarters or other portions of meat with no part of the spinal column or skull attached;
3. Hides or capes with no skull attached;
4. Clean (no meat or tissue attached) skulls or skull plates with or without antlers attached;
5. Clean (no meat or tissue attached) lower jaw bones;
6. Antlers (with no meat or tissue attached);
- ~~6.~~ 7. Upper canine teeth (buglers, whistlers, or ivories); and
- ~~7.~~ 8. Finished taxidermy products.

A legible label shall be affixed to packages or containers containing the allowed carcass parts bearing the following information: the species of animal, the state or province from where the animal originated, and the name and address of the person who either killed or possesses the allowed parts in the Commonwealth.

C. Any person who imports into Virginia any deer carcass or parts described in subsection A of this section and is notified that the animal has tested positive for Chronic Wasting Disease must report the test results to the department within 72 hours of receiving the notification. In order to facilitate the proper disposal of any infected material, the department may take into possession any imported carcass or carcass part of an animal if the animal has tested positive for Chronic Wasting Disease.

~~D. No person shall transport any carcass or part of a carcass of any cervid out of any area designated by the department as a disease management area, except that the carcass parts enumerated in subsection B of this section may be transported, and carcasses or parts may be transported directly to locations designated by the department, provided that such carcasses or parts are transported without unnecessary delay and secured within a vehicle during transit. Provisions of this section shall not apply to employees of the department or another~~

government agency, or their designees, working in an official disease investigation or management capacity:

1. Carcass parts enumerated in subsection B of this section; or

2. Carcasses and parts transported to other locations or areas within the Commonwealth designated by the department or to specified locations in other states and provinces where it is legal to import such materials, provided that such carcasses or parts are transported without delay and secured within a vehicle or other conveyance during transit.

Provided further that, except for carcass parts enumerated in subsection B of this section, no person shall transport any carcass or part of a carcass of any cervid between administrative units of a disease management area when prohibited by the department. Provisions of this section shall not apply to employees of the department or another government agency, or their designees, working in an official disease investigation or management capacity.

E. No person shall for the purposes of taking or attempting to take, attracting, or scouting any wild animal in Virginia possess or use any substance or material that contains or purports to contain any excretion collected from a cervid, including feces, urine, blood, gland oil, or other bodily fluid.

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

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

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

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

department to schedule an inspection of the carcass and the site of kill for the collection of biological samples.

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

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

B. The seasonal bag limit for elk shall be one per season as prescribed on the special elk hunting license. The department shall determine the number and type of special elk hunting licenses distributed within a season and license year.

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

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

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

#### **4VAC15-90-520. Special provisions for hunting elk within the Elk Management Zone.**

A. It shall be unlawful for any person to destroy the identity of the sex of any harvested elk unless and until requirements outlined in this section are met. Successful elk hunters are allowed to dismember the carcass to pack it out from the place of kill as long as evidence of the sex remains naturally attached to a major portion of the meat. Once the requirements for tag validation, reporting, and biological sampling have been met in accordance with 4VAC15-90-510, evidence of sex is no longer required.

B. Any elk found in the possession of any person without a validated (notched) license tag or documentation that the elk has been reported in accordance with 4VAC15-90-510, shall be forfeited to the Commonwealth to be disposed of as provided by law.

C. It is unlawful for a person to fail to reasonably attempt to dress, care for, and remove from the field the edible portions of any harvested elk, at a minimum that includes the meat from front shoulders, back quarters, and back-straps. Violation of this subsection shall constitute wanton waste for the purposes of section § 29.1-553.1 of the Code of Virginia.

D. It shall be unlawful to hunt elk with dogs. This subsection shall not prohibit the use of tracking dogs, which may be used in accordance with § 29.1-516.1 of the Code of Virginia.

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E. It shall be unlawful to drive elk from any area, including man-drives, pushing with vehicles, or any other human action that is intended to cause animals to move into a harvestable situation.

F. The special elk hunting license shall be valid on all private land, with written permission from the landowner, within the Elk Management Zone. The special elk hunting license shall also be valid on public lands as designated on an individual's special elk hunting license. This is only applicable to special elk hunting licenses awarded through the random drawing and conservation license programs.

G. Elk hunters 15 years of age and younger or holders of an apprentice hunting license must be accompanied by and directly supervised by an adult who has a valid Virginia hunting license or is exempt from purchasing a hunting license. Adult hunters accompanying youth or apprentice hunters on a special elk hunt may not carry or discharge weapons.

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

A. The annual application period to enter the random drawing for a special elk hunting license shall be February 1 to March 30, both dates inclusive, unless extended by the director. Individuals selected for special elk hunting licenses via the random drawing will be notified by May 30, and special elk hunting licenses must be purchased from the department within 30 days of notification.

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

1. Complete the application for a special elk hunting license as provided by the department.
2. Pay a nonrefundable application fee.
3. Apply only once for each random drawing.

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

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

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

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

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

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

A. Upon receipt of a valid Landowner License Program application from a landowner within the Elk Management Zone, the director or the director's designee shall verify the application materials and have sole discretion in enrolling the property in the Landowner License Program. Applications must be received or postmarked by July 1 each year to be eligible for the Landowner License Program during that calendar year.

B. A valid Landowner License Program application shall include:

1. Landowner's name, home address, telephone number, and address of the property to be enrolled in the program.
2. A recorded survey or other legal documentation certifying that the property to be enrolled is greater than or equal to 50 contiguous acres.
3. Affidavit that elk hunters on the enrolled property shall not be charged a fee.
4. Original signature of the landowner.
5. Only a single application per license year, per landowner.

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

D. The department shall determine and make available to the public a program guidance document outlining how landowners enrolled in the Landowner License Program shall accrue points toward a special elk hunting license, the number of points necessary to be awarded such license, and other program requirements. The program guidance document will be published annually prior to June 1.

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

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

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

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

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

J. A landowner may transfer or sell the special elk hunting license to any person eligible to hunt in Virginia. Transfer of the special elk hunting license must be reported to the department no less than one month prior to the opening day of the elk hunting season during the year in which the special elk hunting license is requested. To report a transfer to the department, the landowner shall provide the department with the hunter's:

1. Name;
2. Department customer identification number;
3. Address; and
4. Telephone number.

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

#### **4VAC15-90-550. Special elk hunting license, Conservation License Program.**

A. For the purposes of this section, the following words or terms shall have the following meanings, unless the context clearly indicates otherwise:

"Individual, cooperators, or wildlife conservation organizations" means those people or entities whose mission is to promote and ensure the conservation of Virginia's wildlife resources or to promote opportunities for hunting, fishing, trapping, boating, or other wildlife-related recreation within Virginia.

"Proceeds" means the amount of money received by the cooperator or organization from the transfer of a special elk hunting license minus all expenses and administrative costs directly attributable to the transfer of the permit or the implementation of the defined project.

B. Upon receipt of a valid Conservation License Program application from an officer or other designated official representative of any individual, cooperator, or wildlife conservation organization, the director or the director's designee shall verify the application materials and may select a program awardee annually. Applications must be received or postmarked no later than April 1 to be eligible for the Conservation License Program during that calendar year.

C. A valid Conservation License Program application shall include:

1. Cooperator or organization name, name of the individual designated to submit and receive official correspondence, address for such correspondence, and a telephone number.
2. Cooperator or organization mission statement.
3. A written application describing:
  - a. Cooperator or organization role in wildlife conservation in Virginia.
  - b. Cooperator or organization purpose and intent for requesting special elk hunting license through the Conservation License Program.
  - c. Cooperator or organization proposal for method of generating funds from transfer of the special elk hunting license to an eligible individual.
  - d. Cooperator or organization strategy to direct proceeds received from the transfer of the special elk hunting license and any matching funding toward wildlife conservation or wildlife-related recreation in Virginia's Elk Management Zone.

D. The director shall establish a Conservation License Program Committee to review program applications and submit a recommendation to the director to award no more than one special elk hunting license to a cooperator or organization whose application is deemed to provide the greatest benefit to wildlife conservation and wildlife-related recreation in Virginia per license year. This committee shall be composed of a minimum of three individuals and make a recommendation to the director by May 1 each year.

E. A cooperator or organization receiving a special elk hunting license must direct all proceeds from the transfer of such license, toward a project to improve and enhance wildlife habitat, wildlife populations, or wildlife-related recreation within the Elk Management Zone. The proposed strategy and requirements will be outlined in a memorandum of agreement between the department and the cooperator or organization.

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F. A cooperator or organization may transfer the special elk hunting license to any person eligible to hunt in Virginia. The generation of funds from the transfer of the special elk hunting license may only be conducted through a raffle.

G. Transfer of the special elk hunting license must be reported to the department no less than one month prior to the opening day of the elk hunting season during which the special elk hunting license is valid. To report a transfer to the department, the cooperator or organization shall provide the department with the hunter's:

1. Name;
2. Department customer identification number;
3. Address; and
4. Telephone number.

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

I. A cooperator or organization awarded a special elk hunting license shall submit an annual report to the department regarding any proceeds received from the transfer of the license and an accounting of how those funds were directed toward wildlife conservation or wildlife-related recreation in the Elk Management Zone.

VA.R. Doc. No. R21-6739; Filed June 2, 2021, 6:29 a.m.

## Final Regulation

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

**Title of Regulation:** 4VAC15-200. Game: Rabbit and Hares (amending 4VAC15-200-30; adding 4VAC15-200-15, 4VAC15-200-50, 4VAC15-200-60).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

### Summary:

*The amendments (i) limit the translocation of live wild rabbits box trapped in Virginia to within the county of capture in order to reduce the risk of spreading Rabbit Hemorrhagic Disease, (ii) prohibit the import and*

*possession of all whole wild rabbit carcasses originating from anywhere outside of Virginia, and (iii) prohibit the disposal of wild rabbit parts onto the landscape of the Commonwealth.*

### **4VAC15-200-15. Definitions.**

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

"Import" means to transport a carcass or carcass parts, other than those outlined in 4VAC15-200-60, into the Commonwealth in such a manner that the carcass or carcass parts are removed from their place of storage within a vehicle or other conveyance and placed or deposited within the Commonwealth. Rabbits harvested on properties that span the Commonwealth's boundary with an adjoining state shall not be considered imported.

"Wild rabbit" means any member of the taxonomic order Lagomorpha, including rabbits, hares, and pika regulated by the Department of Wildlife Resources and not defined as domestic breeds by the American Rabbit Breeders Association.

### **4VAC15-200-30. Trapping with box traps.**

It shall be lawful to trap rabbits with box traps from October 15 through January 31, both dates inclusive; provided, that no traps shall be set on the lands of another without written permission; provided further, that it shall be lawful to live-trap rabbits and transport them only within the county of capture, for release or restocking purposes in Virginia at any time, provided they are not released onto the lands of another without permission.

### **4VAC15-200-50. Unauthorized wild rabbit carcass importation and possession.**

No person shall import or possess a whole carcass or any part of a carcass of a wild rabbit originating from outside the Commonwealth, except for a fully dressed carcass with the skin, feet, head, and internal organs removed.

### **4VAC15-200-60. Disposal of wild rabbit parts.**

No wild rabbit carcasses or carcass parts may be discarded or disposed of directly on the ground. All such carcasses or carcass parts must be buried at least two feet below ground, incinerated, or securely bagged and discarded in household trash for ultimate disposal in a permitted landfill.

VA.R. Doc. No. R21-6740; Filed June 2, 2021, 6:33 a.m.

## Final Regulation

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

**Title of Regulation:** 4VAC15-240. **Game:** Turkey (amending 4VAC15-240-20, 4VAC15-240-32, 4VAC15-240-40, 4VAC15-240-60, 4VAC15-240-81, 4VAC15-240-91).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The amendments (i) increase the Orange County fall turkey season to a six-week season, (ii) allow hunting from one-half an hour before sunrise to sunset for the entire spring turkey season, (iii) align the fall turkey archery season with the current statewide deer and bear archery season dates, and (iv) remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests, including turkey, to be reported electronically using the telephone, Internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-2022 hunting season.*

**4VAC15-240-20. Open season; certain counties and areas; two-week season.**

It shall be lawful to hunt turkeys 14 days immediately before the Saturday prior to the first Monday in November and on Thanksgiving Day in the Counties of Albemarle, Alleghany, Augusta, Bath, Greene, Highland, Madison, Page, ~~Orange~~, and Rockingham.

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

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

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

A. Except as otherwise provided in this section, it shall be lawful to hunt bearded turkeys from the second Saturday in April and for 35 days following, both dates inclusive, from 1/2 hour before sunrise to ~~12:00 noon prevailing time during the first 23 days and from 1/2 hour before sunrise to sunset during the last 13 days of the spring season~~ sunset.

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

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

D. Bearded turkeys may be hunted by calling.

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

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

**4VAC15-240-60. Archery hunting.**

A. Season. It shall be lawful to hunt turkey with archery equipment or a slingbow in those counties and areas open to fall turkey hunting from the first Saturday in October through the Friday ~~that is 13 days after the Saturday before the last Monday in October~~ prior to the third Monday in November, both dates inclusive.

B. Bag limit. The daily and seasonal bag limit for hunting turkey with archery equipment or a slingbow shall be the same as permitted during the general turkey season in those counties and areas open to fall turkey hunting, and any turkey taken shall apply toward the total season bag limit.

C. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with archery equipment or a slingbow during the special archery season.

D. Use of dogs prohibited during archery season. It shall be unlawful to use dogs when hunting with archery equipment from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

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## **4VAC15-240-81. Validating tags and reporting turkey by licensee.**

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

B. Upon killing a turkey and validating (notching) a license tag, as provided above, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass and validated (notched) license tag to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the turkey was killed or report his~~ the kill through the department's automated harvest reporting system. ~~Turkeys killed during the January season (as prescribed in 4VAC15-240-10) and the spring turkey seasons (as prescribed in 4VAC15-240-40 and 4VAC15-240-60) must be reported through the department's automated harvest reporting system. The person reporting the carcass will be given a game check card furnished by the department or a confirmation number from the automated harvest reporting system. The successful hunter shall then immediately record the game check card number or confirmation number, in ink, on the line provided on the license tag that was validated (notched) in the field. If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass. If reported using the automated harvest reporting system, no check card is required as long as the hunter who killed the turkey is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the turkey was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.~~

C. It shall be unlawful for any person to destroy the identity of the sex of any turkey killed unless and until the license tag is validated (notched) and reported ~~to an authorized checking station or to an appropriate representative of the department in~~

~~the county or adjoining county in which the turkey was killed or by using the automated harvest reporting system as required by this section. Any turkey found in the possession of any person without a validated (notched) license tag or documentation that the turkey has been reported to an authorized checking station or to an appropriate representative of the department in the county or adjoining counties in which the turkey was killed or by using the automated harvest reporting system as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.~~

## **4VAC15-240-91. Reporting turkey by persons exempt from license requirement or holding a license authorization number.**

A. Upon killing a turkey, any person exempt from the license requirement as described in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, or the holder of a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever comes first, and without unnecessary delay, ~~present the carcass to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the turkey was killed or report his~~ kill through the department's automated harvest reporting system. ~~Turkeys killed during the January season (as prescribed in 4VAC15-240-10) and the spring turkey seasons (as prescribed in 4VAC15-240-40 and 4VAC15-240-60) must be reported through the department's automated harvest reporting system. The person reporting the carcass shall be given a game check card furnished by the department or a confirmation number from the automated harvest reporting system. If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass. If reported using the automated harvest reporting system, no~~ No check card is required as long as the hunter who killed the turkey is in possession of the carcass. If the automated harvest reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the turkey was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.

B. It shall be unlawful for any person to destroy the identity of the sex of any turkey killed until the turkey is reported ~~to an authorized checking station or to an appropriate representative~~

of the department in the county or adjoining county in which the turkey was killed or by using the automated harvest reporting system as required by this section. Any turkey that has not been reported to an authorized checking station or to an appropriate representative of the department in the county or adjoining county or counties in which the turkey was killed or by using the automated harvest reporting system as required by this section found in the possession of any person exempt from license requirements or holding a license authorization number shall be forfeited to the Commonwealth to be disposed of as provided by law.

VA.R. Doc. No. R21-6741; Filed June 2, 2021, 6:35 a.m.

### Final Regulation

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

**Title of Regulation:** 4VAC15-270. **Game:** Firearms (amending 4VAC15-270-10).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The amendment includes elk in the list of species that must be hunted with rifles not less than .23 caliber and removes the .23 caliber restriction for humanely dispatching a bear, elk, or deer in circumstances where a smaller caliber weapon may be more appropriate.*

**4VAC15-270-10. Size rifles for hunting bear, elk, and deer.**

It shall be unlawful to use a rifle of a caliber less than 23 for the hunting or killing of bear, elk, and deer.

VA.R. Doc. No. R21-6742; Filed June 2, 2021, 6:37 a.m.

### Final Regulation

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

**Title of Regulation:** 4VAC15-360. **Fish:** Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (amending 4VAC15-360-10, 4VAC15-360-60).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Aaron Proctor, Regulations Coordinator, Department of Wildlife Resources, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email [aaron.proctor@dwr.virginia.gov](mailto:aaron.proctor@dwr.virginia.gov).

**Summary:**

*The amendments (i) limit the number of native and naturalized amphibians and reptiles that can be held in personal possession, (ii) protect from collection those reptiles and amphibians designated as Species of Greatest Conservation Need in Virginia's 2015 Wildlife Action Plan, (iii) prohibit the use and sale of salamanders as bait, (iv) preclude the collection of reptiles and amphibians on all state and federal lands without an appropriate permit or license, (v) establish an online registry to report those animals legally held prior to the effective date, (vi) include requiring snapping turtles harvested for personal use have a minimum curved-line carapace length of 13 inches for consistency with commercial harvest requirements and protection of the species, and (vii) remove the Mexican axolotl from the list of predatory and undesirable species as found in 4VAC15-30-40, as its listing in 2013 was inadvertent.*

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

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

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

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# Regulations

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

3. For the purpose of this chapter, "fish bait" shall be defined as native or naturalized species of minnows and chubs (Cyprinidae), ~~salamanders (each under six inches in total length)~~, crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, unless said person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders and crayfish which cannot be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

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

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

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

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

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

B. Methods of taking species in subsection A of this section. Except as otherwise provided for in the Code of Virginia, 4VAC15-20-130, 4VAC15-320-40, and other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A of this section may only be taken (i) by hand, hook, and line; (ii) with a seine not exceeding four feet in depth by 10 feet in length; (iii) with an umbrella type net not exceeding five by five feet square; (iv) by small minnow traps with throat openings no larger than one

inch in diameter; (v) with cast nets; and (vi) with hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia). Gizzard shad and white perch may also be taken from below the fall line in all tidal rivers of the Chesapeake Bay using a gill net in accordance with Virginia Marine Resources Commission recreational fishing regulations. Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire. Snapping turtles may be taken for personal use with hoop nets not exceeding six feet in length with a throat opening not exceeding 36 inches.

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

~~D. Areas restricted from taking salamanders. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take salamanders in Grayson Highlands State Park and on National Forest lands in the Jefferson National Forest in those portions of Grayson, Smyth, and Washington Counties bounded on the east by State Route 16, on the north by State Route 603 and on the south and west by U.S. Route 58.~~

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

### **4VAC15-360-60. Prohibit the sale of salamander and madtom species.**

It shall be unlawful to sell any species of madtom (*Noturus* sp.) and any species of salamander with the exception of nonnative newts (*Salamandridae*) and Mexican axolotls (*Ambystoma mexicanum*).

V.A.R. Doc. No. R21-6743; Filed June 2, 2021, 6:40 a.m.



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PHYSICAL THERAPY

#### Forms

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

#### **Title of Regulation: 18VAC112-20. Regulations Governing the Practice of Physical Therapy.**

**Agency Contact:** Elaine Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, FAX (804) 527-4434, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

#### FORMS (18VAC112-20)

Application for Licensure by Examination to Practice Physical Therapy as a Physical Therapist or Physical Therapist Assistant - form available online only at [https://www.dhp.virginia.gov/PhysicalTherapy/physther\\_for.ms.htm](https://www.dhp.virginia.gov/PhysicalTherapy/physther_for.ms.htm)

Application for Licensure by Endorsement to Practice Physical Therapy as a Physical Therapist or Physical Therapist Assistant - form available online only at [https://www.dhp.virginia.gov/PhysicalTherapy/physther\\_for.ms.htm](https://www.dhp.virginia.gov/PhysicalTherapy/physther_for.ms.htm)

~~Application for Reinstatement to Practice Physical Therapy (rev. 7/2020)~~

[Application for Reinstatement to Practice Physical Therapy \(rev. 4/2021\)](#)

[Application for Reinstatement After Disciplinary Action \(rev. 7/2020\)](#)

~~Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy (rev. 7/2020)~~

~~Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy (Graduate of a Non-Approved Program) (rev. 7/2020)~~

[Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy \(rev. 4/2021\)](#)

[Checklist and Instructions for Application for Licensure by Endorsement to Practice Physical Therapy \(Graduate of a Non-Approved Program\) \(rev. 4/2021\)](#)

[Checklist and Instructions for Application for Licensure by Examination to Practice Physical Therapy \(rev. 7/2020\)](#)

[Checklist and Instructions for Application for Licensure by Examination to Practice Physical Therapy \(Graduate of a Non-Approved Program\) \(rev. 7/2020\)](#)

~~Instructions: Reinstatement of Licensure to Practice as a Physical Therapist or Physical Therapist Assistant (rev. 7/2020)~~

[Instructions: Reinstatement of Licensure to Practice as a Physical Therapist or Physical Therapist Assistant \(rev. 4/2021\)](#)

[Trainee Application - Statement of Authorization \(rev. 7/2020\)](#)

[Trainee Application - Statement of Authorization \(Graduates of a Non-Approved PT or PTA Program Who Need to Complete a Full Time 1,000 Hours of Traineeship\) \(rev. 7/2020\)](#)

[Trainee Application - Statement of Authorization \(320-hour Traineeship\) \(rev. 7/2020\)](#)

[320 Hour Traineeship Completion Form \(rev. 7/2020\)](#)

[Educational Authorization Form \(rev. 7/2020\)](#)

[Continued Competency Activity and Assessment Form \(rev. 1/2015\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

~~Application for Direct Access Certification - form available online only at [https://www.dhp.virginia.gov/PhysicalTherapy/physther\\_forms.htm](https://www.dhp.virginia.gov/PhysicalTherapy/physther_forms.htm)~~

~~Instructions - Direct Access Certification by Experience (rev. 8/2016)~~

~~Instructions - Direct Access Certification by Transitional Doctorate (rev. 6/2015)~~

[Application for Direct Access Certification \(rev. 6/2020\)](#)

[Instructions - Direct Access Certification by Experience \(rev. 11/2020\)](#)

[Instructions - Direct Access Certification by Transitional Doctorate \(rev. 11/2020\)](#)

[Direct Access Patient Attestation and Medical Release Form \(eff. 5/2018\)](#)

[Name/Address Change Form \(rev. 7/2020\)](#)

[Request for Verification of a Virginia Physical Therapy License \(rev. 7/2020\)](#)

VA.R. Doc. No. R21-6805; Filed June 1, 2021, 12:51 p.m.

## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

#### Proposed Regulation

**Title of Regulation:** 20VAC5-309. Rules for Enforcement of the Underground Utility Damage Prevention Act (amending 20VAC5-309-150).

**Statutory Authority:** §§ 12.1-13 and 56-265.30 of the Code of Virginia.

**Public Hearing Information:** A public hearing will be held upon request.

**Public Comment Deadline:** August 6, 2021.

**Agency Contact:** Lauren Govoni, Director, Division of Utility and Railroad Safety, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9590, FAX (804) 371-9734, or email [lauren.govoni@scc.virginia.gov](mailto:lauren.govoni@scc.virginia.gov).

#### Summary:

*The proposed amendment allows for a person other than the excavator to complete the post excavation video inspection for trenchless excavation across gravity fed sewer mains and combination storm and sanitary sewer system utility lines.*

AT RICHMOND, MAY 27, 2021

PETITION OF

VIRGINIA NATURAL GAS, INC.,

CASE NO. URS-2021-00171

For rulemaking to revise requirements for trenchless excavation set forth in 20 VAC 5-309-150 B 4 of the Rules for Enforcement of the Underground Utility Damage Prevention Act

#### ORDER ESTABLISHING PROCEEDING

On May 6, 2021, Virginia Natural Gas, Inc. ("Petitioner"), filed a Petition for Rulemaking ("Petition") requesting that the State Corporation Commission ("Commission") initiate a rulemaking for the limited purpose of revising 20 VAC 5-309-150 B 4 ("Rule 150 B 4") of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act<sup>1</sup> that prescribes requirements for post excavation inspection. The proposed revisions ("Proposed Rule") are attached hereto as Attachment A.<sup>2</sup>

The Petitioner states that the Proposed Rule would provide for greater safety, efficiency, and flexibility when conducting post-drill inspections of certain trenchless excavations.<sup>3</sup> The Petitioner states 20 VAC 5-309-150 establishes the requirements for trenchless excavation. Subsection B, in particular, provides that "any person conducting trenchless excavation crossing any gravity fed sewer main or combination

storm-sanitary sewer system utility lines need not expose such utility lines by hand digging" if certain steps are taken, including obtaining appropriate documentation from the utility line operator, appropriately locating the utility line and ensuring proper clearance, and conducting a post-excavation inspection to ensure no cross bore or other damage has occurred.<sup>4</sup>

The Petitioner seeks the amendment of the rule regarding the post-excavation inspection set forth in subsection B 4. Rule 150 B 4 currently requires the same excavator who performed the pre-excavation inspection and trenchless excavation work to also perform the post-excavation inspection using the same type of video equipment.<sup>5</sup>

With its Petition, the Petitioner proposes the revision of Rule 150 B 4 to allow a qualified contractor other than the one who performed the trenchless excavation to conduct the post-excavation inspection of that work. The Proposed Rule would still require a post-excavation video inspection of the sewer lines but provides an alternative to the current requirement that the excavator inspect his or her own excavation work.<sup>6</sup>

The Petitioner asserts that the Proposed Rule is in the public interest, as it would enhance the safety, effectiveness, and efficiency of the post-excavation inspection process. The Petitioner states that in its own experience, opening the post-excavation inspection process to qualified contractors who were not involved in pre-inspection and excavation work would allow certain contractors to develop specialized skills in this area, and would facilitate scheduling efficiencies that would benefit the system.<sup>7</sup>

The Petitioner further asserts that introducing a neutral third party that specializes in post-drill inspection would also provide increased accountability on trenchless excavation projects and stands to potentially reduce damage events.<sup>8</sup>

The Petitioner further proposes to remove the requirement that the post excavation inspector use "the same type of video equipment" utilized by the trenchless excavator during the pre-excavation inspection. In support, the Petitioner states that qualified contractors may use varying types of closed-circuit video equipment, provided it is suitable to adequately conduct the inspection.<sup>9</sup>

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to consider adopting the proposed revision to Rule 150 B 4. Attachment A to this Order contains the Proposed Rule. We will direct that notice of the Proposed Rule be given to interested persons and that interested persons and the Commission Staff ("Staff") be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rule. We will further direct that the Petitioner serve a copy of this Order upon each member of the Commission's Underground Utility Damage

Prevention Advisory Committee ("Advisory Committee") and each entity listed in Attachment B.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. URS-2021-00171.

(2) The Commission's Division of Information Resources shall forward a copy of this Order Establishing Proceeding to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(3) On or before June 11, 2021, the Commission's Division of Information Resources shall cause the following notice to be published in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PETITION FOR RULEMAKING TO REVISE REQUIREMENTS FOR TRENCHLESS EXCAVATION SET FORTH IN RULE 20 VAC 5-309-150 B 4 OF THE STATE CORPORATION COMMISSION'S RULES FOR ENFORCEMENT OF THE UNDERGROUND UTILITY DAMAGE PREVENTION ACT CASE NO. URS-2021-00171

On May 6, 2021, Virginia Natural Gas, Inc. ("Petitioner"), filed a Petition for Rulemaking ("Petition") requesting that the State Corporation Commission ("Commission") initiate a rulemaking for the limited purpose of revising 20 VAC 5-309-150B 4 ("Rule 150 B 4") of the Commission's Rules for Enforcement of the Underground Utility Damage Prevention Act that prescribes requirements for post excavation inspection. The proposed revisions ("Proposed Rule") are attached as Attachment A to the Commission's Order Establishing Proceedings.

The Petitioner states that the Proposed Rule would provide for greater safety, efficiency, and flexibility when conducting post-drill inspections of certain trenchless excavations. The Petitioner states 20 VAC 5-309-150 establishes the requirements for trenchless excavation. Subsection B, in particular, provides that "any person conducting trenchless excavation crossing any gravity fed sewer main or combination storm-sanitary sewer system utility lines need not expose such utility lines by hand digging" if certain steps are taken, including obtaining appropriate documentation from the utility line operator, appropriately locating the utility line and ensuring proper clearance, and conducting a post-excavation inspection to ensure no cross bore or other damage has occurred.

The Petitioner seeks the amendment of the rule regarding the post-excavation inspection set forth in subsection B 4. Rule 150 B 4 currently requires the same excavator who performed the pre-excavation inspection and trenchless excavation work to also perform the post-excavation inspection using the same type of video equipment.

With its Petition, the Petitioner proposes the revision of Rule 150 B 4 to allow a qualified contractor other than the one who performed the trenchless excavation to conduct the post-excavation inspection of that work. The Proposed Rule would still require a post-excavation video inspection of the sewer lines but provides an alternative to the current requirement that the excavator inspect his or her own excavation work.

The Petitioner asserts that the Proposed Rule is in the public interest, as it would enhance the safety, effectiveness, and efficiency of the post-excavation inspection process. The Petitioner states that in its own experience, opening the post-excavation inspection process to qualified contractors who were not involved in pre-inspection and excavation work would allow certain contractors to develop specialized skills in this area, and would facilitate scheduling efficiencies that would benefit the system.

The Petitioner further asserts that introducing a neutral third party that specializes in post drill inspection would also provide increased accountability on trenchless excavation projects and stands to potentially reduce damage events.

The Petitioner further proposes to remove the requirement that the post excavation inspector use "the same type of video equipment" utilized by the trenchless excavator during the pre-excavation inspection. In support, the Petitioner states that qualified contractors may use varying types of closed-circuit video equipment, provided it is suitable to adequately conduct the inspection.

An electronic copy of the Petitioner's Petition may be obtained by submitting a written request to counsel for the Petitioner, Jonathan B. Heath, Southern Company Gas, 544 South Independence Boulevard, Virginia Beach, Virginia, 23454, JBHeath@southernco.com. If acceptable to the requesting party, the Petitioner may provide the documents by electronic means. Interested persons also may download unofficial copies from the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

On or before August 6, 2021, any interested person may file written comments on the Petition with the Clerk of the Commission, State Corporation Commission c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. In the alternative, comments may be submitted with the Clerk of the Commission electronically by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact discs or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. URS-2021-00171.

On or before August 13, 2021, any interested person may request that the Commission convene a hearing on the Proposed Rule. If not filed electronically, an original and fifteen (15) copies of such request for hearing shall be filed

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# Regulations

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with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. URS-2021-00171 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter, and why this matter cannot be decided on the pleadings.

A copy of any written comments and requests for hearing simultaneously shall be sent to counsel to the Petitioner at the address set forth above.

## STATE CORPORATION COMMISSION

(4) On or before June 18, 2021, the Petitioner shall serve, electronically, a copy of this Order upon each member of the Advisory Committee and each entity listed in Attachment B to this Order.

(5) On or before July 2, 2021, the Petitioner shall file with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, proof of the service required by Ordering Paragraph (4).

(6) On or before August 6, 2021, any interested person may file comments on the Application by following the instructions found on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments). All comments shall provide suggested changes, if any, to the Proposed Rule. Comments shall refer to Case No. URS-2021-00171.

(7) On or before August 13, 2021, interested persons may request that the Commission convene a hearing on the Proposed Rule. Such request for hearing shall be filed with the Clerk of the Commission. If not filed electronically, the original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (5). Requests for hearing shall refer to Case No. URS-2021-00171 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter, and why this matter cannot be decided on the pleadings.

**EDITOR'S NOTE:** The order does not have a paragraph (8).

(9) A copy of any written comments and request for hearing simultaneously shall be sent to counsel for the Petitioner, Jonathan B. Heath, Southern Company Gas, 544 South Independence Boulevard, Virginia Beach, Virginia 23454, [JBHeath@southernco.com](mailto:JBHeath@southernco.com).

(10) On or before August 30, 2021, the Staff may file any comments on, proposed modifications or supplements to, or requests for hearing on the Proposed Rule.

(11) On or before September 3, 2021, the Petitioner may file with the Clerk of the Commission any response in rebuttal to Staff comments, requests for hearing, and any comments filed by interested persons in this proceeding.

(12) This matter is continued generally pending further order of the Commission.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: Jonathan B. Heath, Southern Company Gas, 544 South Independence Boulevard, Virginia Beach, Virginia 23454, [jbheath@southernco.com](mailto:jbheath@southernco.com); Nicole M. Allaband, Esquire and Timothy D. Patterson, Esquire, McGuireWoods LLP, Gateway Plaza, 800 East Canal Street, Richmond, Virginia 23219, [nallaband@mcguirewoods.com](mailto:nallaband@mcguirewoods.com), [tpatterson@mcguirewoods.com](mailto:tpatterson@mcguirewoods.com); and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424, [Mbrowder@oag.state.va.us](mailto:Mbrowder@oag.state.va.us); and a copy shall be delivered to the Commission's Office of General Counsel, Division of Utility and Railroad Safety, and the Division of Information Resource.

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<sup>1</sup>20 VAC 5-309-10 et seq.

<sup>2</sup>Attachment A reflects the Proposed Rule as filed by the Petitioner and modified consistent with Virginia Code Commission drafting recommendations.

<sup>3</sup>Petition at 1.

<sup>4</sup>Id. at 2.

<sup>5</sup>Id.

<sup>6</sup>Id.

<sup>7</sup>Id. at 3.

<sup>8</sup>Id.

<sup>9</sup>Id.

## **20VAC5-309-150. Requirement for trenchless excavation.**

A. Any person conducting trenchless excavation shall take all reasonable steps necessary to protect and support underground utility lines. Except as provided in subsection B of this section, these steps shall include, ~~but are not limited to~~ the following:

1. The excavator should verify that all utility lines in the area are marked;
2. The excavator shall ensure that bore equipment stakes are installed at a safe distance from marked utility lines;
3. When grounding rods are used, the excavator shall ensure that they are installed at a safe distance (at least 24 inches plus the width of the utility line, if known) away from the marked or staked location of utility lines;

4. The excavator shall ensure sufficient clearance is maintained between the bore path and any underground utility lines during pullback;

5. The excavator shall give special consideration to water and sewer systems within the area that cannot be located accurately;

6. Unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose all utility lines that will be in the bore path by hand digging to establish the underground utility line's location prior to commencing bore. For a parallel type bore, unless prohibited by other laws, ordinances, regulations, or rules of governmental and regulatory authorities having jurisdiction, the excavator shall expose the utility line by hand digging at reasonable distances along the bore path;

7. The excavator shall ensure the drill head locating device is functioning properly and within its specification;

8. The excavator shall visually check the drill head as it passes through potholes, entrances, and exit pits; and

9. If the depth indicated by the locating device is lower than the bottom of the pothole or pit, the excavator shall cease boring until the hole or pit can be hand excavated further to maintain a visual inspection of the drill head.

B. Notwithstanding the requirements of subdivision A 6 of this section, any person conducting trenchless excavation crossing any gravity fed sewer main or combination storm/sanitary sewer system utility lines need not expose such utility lines by hand digging if, in addition to meeting the other applicable requirements set forth in subsection A of this section, the following steps are taken:

1. Prior to commencing a trenchless excavation project, the excavator shall receive documentation from the utility line operator (such as, but not limited to, documentation through the permitting process) documenting that the operator has been notified of the proposed trenchless excavation and that trenchless excavation will be used to cross its underground utility line. The scope of a trenchless excavation project shall not exceed the scope of a single notice of excavation;

2. Prior to commencing the boring process, the excavator shall determine (i) the depth of the utility line through appropriate locating technology and (ii) the diameter and condition of the utility line using a sewer system camera with video recording capability;

3. The excavator shall ensure that a clearance of at least three feet is maintained between the bore path and the utility line;

4. ~~Using the same type of video equipment identified in subdivision B 2 of this section, after~~ After the trenchless excavation project has been completed, ~~the excavator a~~ qualified contractor shall use a closed circuit sewer system

video camera to determine the condition of the utility line and ensure that no cross bore or other damage has occurred;

5. The excavator shall immediately notify the utility line operator of any damage found; and

6. After the bore has been completed, the excavator shall make all video documentation available to the utility line operator and the division upon request. Such video documentation shall be maintained and made available for 12 months from the time of the notice of excavation.

C. The provisions of subsection B of this section shall apply only to gravity fed sewer mains or combination storm/sanitary systems that are considered "utility lines" as that term is defined in § 56-265.15 of the Act.

## DOCUMENTS INCORPORATED BY REFERENCE (20VAC5-309)

~~Virginia Underground Utility Marking Standards, March 2004, Virginia State Corporation Commission, Division of Utility and Railroad Safety.~~

[Virginia Underground Utility Marking Standards, February 2020, Virginia State Corporation Commission, Division of Utility and Railroad Safety](#)

VA.R. Doc. No. R21-6795; Filed May 28, 2021, 3:04 p.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

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

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

### ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Title of Document: [Approval of Outdoor Dining Areas.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: LaTonya D. Hucks-Watkins, Legal Liaison, Alcoholic Beverage Control Authority, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, or email [latonya.hucks-watkins@virginiaabc.com](mailto:latonya.hucks-watkins@virginiaabc.com).

### CRIMINAL JUSTICE SERVICES BOARD

Title of Document: [Forfeited Asset Sharing Program Manual.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 21, 2021.

Agency Contact: Maria Garnett, Policy Advisor, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 613-0001, or email [maria.garnett@dcjs.virginia.gov](mailto:maria.garnett@dcjs.virginia.gov).

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Document: [Utility Leverage Program – Unserved Certification Guidelines.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

### DEPARTMENT OF MOTOR VEHICLES

Titles of Documents: [Obtaining a Virginia Driver's License or Identification ID Card.](#)

[Obtención de una licencia de conducción de Virginia o una tarjeta de identificación ID.](#)

[Online Driver's Manual Course Requirements.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Melissa K. Velazquez, Legislative Manager, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-1844, or email [melissa.velazquez@dmv.virginia.gov](mailto:melissa.velazquez@dmv.virginia.gov).

### BOARD OF PHYSICAL THERAPY

Title of Document: [Approval of a Traineeship.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

### STATE BOARD OF SOCIAL SERVICES

Titles of Documents: [Child and Families Services Manual, Chapter C, Child Protective Services.](#)

[Child and Family Services Manual, Chapter E, Foster Care.](#)

[Child and Family Services Manual, Chapter I, Title IV-E Foster Care.](#)

[Supplemental Nutrition Assistance Program Volume V.](#)

[Temporary Assistance for Needy Families Manual.](#)

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Nikki Clarke Callaghan, Legislation, Regulations, and Guidance Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7943, or email [nikki.clark@dss.virginia.gov](mailto:nikki.clark@dss.virginia.gov).

## **DEPARTMENT OF TRANSPORTATION**

Title of Document: [Locally Administered Projects Manual](#).

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Jo Anne P. Maxwell, Regulator Coordinator, Policy Division, Department of Transportation, 11th Floor, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-1830, or email [joanne.maxwell@vdot.virginia.gov](mailto:joanne.maxwell@vdot.virginia.gov).

## **STATE WATER CONTROL BOARD**

Title of Document: [Virginia's Nonpoint Source \(NPS\) Implementation Best Management Practice \(BMP\) Guidelines – FY 2022](#).

Public Comment Deadline: July 21, 2021.

Effective Date: July 22, 2021.

Agency Contact: Justin Williams, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4185, or email [justin.williams@deq.virginia.gov](mailto:justin.williams@deq.virginia.gov).

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# GENERAL NOTICES

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## STATE BOARD OF HEALTH

### **Revision to Waterworks Operation Fees (12VAC5-600-50), Effective July 1, 2021 – June 30, 2022**

Purpose of notice and background information: The Virginia Department of Health Office of Drinking Water (ODW) is providing notice to all community waterworks of the change in the fee for each service connection from \$2.95 to \$3.00 under Chapter 552 of the 2021 Acts of Assembly and 12VAC5-600-50.

12VAC5-600-50 A states that the fee for each fiscal year for community waterworks is the number of customer accounts multiplied by no more than \$3.00 and that the annual waterworks operation fee shall not exceed \$160,000. Item 304 B of Chapter 552 of the 2021 Acts of Assembly states that the "fee schedule for charges to community waterworks shall be adjusted to the level necessary to cover the cost of operating the Waterworks Technical Assistance Program, consistent with § 32.1-171.1, Code of Virginia, and shall not exceed \$3.00 per connection to all community waterworks."

For the fiscal year beginning July 1, 2021, ODW will bill waterworks \$3.00 per customer account or service connection. This represents an increase of \$0.05 per customer account over the fee for the fiscal year that began on July 1, 2020.

The revised fees are exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Item 304 B of Chapter 552 of the 2021 Acts of Assembly allows ODW to adjust the fee up to but not above \$3.00 to cover the cost of operating the Waterworks Technical Assistance Program. ODW is not accepting public comment on the fee increase.

Contact Information: Joseph Hilbert, Deputy Commissioner, Government and Regulatory Affairs, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022.

## **DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Contact Information for all Department of Medical Assistance Services Notices: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680.

### **Review of Forms**

The Department of Medical Assistance Services (DMAS) is making these forms available for review:

[DSP and Supervisors Competencies Checklist \(DMAS P241a\)](#)

[Direct Support Professional Assurance \(DMAS P242a\)](#)

[Supervisor Assurance \(DMAS P245a\)](#)

### **Draft Addiction and Recovery Treatment Services Provider Manual**

The draft Addiction and Recovery Treatment Services (ARTS) Provider Manual Chapter IV is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment period until June 23, 2021.

### **Draft Addiction and Recovery Treatment Services Provider Manual Opioid Treatment Services Supplement**

The draft Addiction and Recovery Treatment Services (ARTS) Opioid Treatment Services/Medication Assisted Treatment Supplement is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/>.

### **Draft Durable Medical Equipment Provider Manual**

The draft Durable Medical Equipment Manual Chapters IV and VI are now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> until June 23, 2021.

### **Draft Eligibility Manual with Updates Effective on July 1, 2021**

Please see the full text of the draft Eligibility Manual at <https://www.dmas.virginia.gov/media/3461/draft-tn-dmas-20-5-28-2021.pdf>.

### **Draft Home Health Provider Manual**

The draft Home Health Provider Manual Chapter IV is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until June 25, 2021.

### **Draft Local Education Agency Provider Manual**

The draft Local Education Agency Provider Manual Chapter V is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/>.

### **Draft Local Education Agency Provider Manual**

The draft Local Education Agency Provider Manual Chapter IV is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/>.

[providers/general-information/medicaid-provider-manual-drafts/](https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/) for public comment until June 25, 2021.

## Draft Pharmacy Provider Manual

The draft Pharmacy Provider Manual Appendix D is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment period until June 23, 2021.

## Draft Physician-Practitioner Provider Manual

The draft Physician-Practitioner Provider Manual Chapters IV and V are now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment period until June 23, 2021.

## Draft Provider Manual Chapter 1

The draft Provider Manual Chapter 1 is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until June 23, 2021.

## Draft Psychiatric Provider Manual

The draft Psychiatric Provider Manual Chapter IV is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment period until June 23, 2021.

## Draft Telehealth Services Supplement Provider Manual

The draft Telehealth Services Supplement Provider Manual is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until June 23, 2021.

## Intent to Amend the Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - Non-Institutional Provider Reimbursement Changes

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC

§ 1396a(a)(13)). A copy of this notice is available for public review from Emily McClellan, see Contact Information at the beginning of the Department of Medical Assistance Services general notices.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Emily McClellan and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall public comment forum at <https://townhall.virginia.gov/L/generalnotice.cfm>.

In accordance with Items 313 EEEE, UUUU, and VVVV of the 2021 Appropriations Act, DMAS will be making the following changes regarding

Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80):

1. The state plan is being revised to increase rates for psychiatric services by 14.7% to the equivalent of 110% of Medicare rates, effective July 1, 2021.

The expected increase in annual aggregate expenditures is \$593,674 in state general funds, \$46,102 in special funds, and \$1,046,444 in federal funds in federal fiscal year 2021.

2. The state plan is being revised to increase rates for anesthesiologists to reflect the equivalent of 70% of the 2019 Medicare rates.

The expected increase in annual aggregate expenditures is \$65,623 in state general funds, \$189,985 in federal funds, and \$13,379 in special funds in federal fiscal year 2021.

3. The state plan is being revised to increase the supplemental physician payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 to the maximum allowed by the Centers for Medicare and Medicaid Services within the limit of the appropriation provided for this purpose. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Virginia Medicaid fee-for-service payments.

The expected increase in annual aggregate expenditures is \$88,692 in state general funds and \$88,692 in federal funds in federal fiscal year 2021.

## Intent to Amend the Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - 2021 Institutional Provider Reimbursement Changes

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to

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## General Notices

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provide for changes to the Methods and Standards for Establishing Payment Rates; In-Patient Care (12VAC30-70) and Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from Emily McClellan; see Contact Information at the beginning of the Department of Medical Assistance Services general notices.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries, on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Emily McClellan and such comments are available for review at the same address. Comments may also be submitted, in writing, on the Virginia Regulatory Town Hall at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Methods and Standards for Establishing Payment Rates; In-Patient Care (12VAC30-70)

1. In accordance with Item 313 CC of the 2021 Special Session, the state plan is being revised to change per diem rates paid to Virginia-based psychiatric residential treatment facilities using the provider's audited cost per day from the facility's cost report for provider fiscal years ending in state fiscal year 2018. New Virginia-based residential psychiatric facilities must submit pro forma cost report data, which will be used to set the initial per diem rate for up to two years. After this period, the department shall establish a per diem rate based on an audited cost report for a 12-month period within the first two years of operation. Virginia-based residential psychiatric facilities that do not submit cost reports shall be paid at 75% of the established rate ceiling. If necessary to enroll out-of-state providers for network adequacy, the department shall negotiate rates. If there is sufficient utilization DMAS may require out-of-state providers to submit a cost report to establish a per diem rate. In-state and out-of-state provider per diem rates shall be subject to a ceiling based on the statewide weighted average cost per day from fiscal year 2018 cost reports.

The expected increase in annual aggregate expenditures is \$1,899,924 in state general funds and \$1,899,924 in federal funds in federal fiscal year 2021.

2. In accordance with Items 313 UU(9) of the 2021 Special Session, the state plan is being revised to implement a supplemental inpatient payment for Lake Taylor Transitional Care Hospital based on the difference between Medicaid reimbursement and the inpatient Upper Payment Limit for non-state-government owned hospitals. DMAS shall include in its contracts with managed care organizations a percentage increase for Lake Taylor Transitional Care Hospital consistent with the fee for service supplemental payment percentage increase and shall adjust capitation payments to Medicaid

managed care organizations to fund this percentage increase. The originating funding for this program will come entirely from Lake Taylor for Lake Taylor.

The expected increase in annual aggregate expenditures is \$1,359,319 in state general funds and \$1,359,319 in federal funds in federal fiscal year 2021.

3. In accordance with Items 313 BBB of the 2021 Special Session, the state plan is being revised to clarify that supplemental payments for graduate medical education residency slots shall be in amounts of \$100,000 minus any Medicare residency payment for which the sponsoring institution is eligible. For any residency program at a facility whose Medicaid payments are capped by the Centers for Medicare and Medicaid Services, the supplemental payments for each qualifying residency slot shall be \$50,000 from the general fund annually minus any Medicare residency payments for which the residency program is eligible.

There is no expected increase or decrease in annual aggregate expenditures as a result of this clarification.

4. In accordance with Items 313 IIIII(1) of the 2021 Special Session, the state plan is being revised to adjust the formula for indirect medical education (IME) reimbursement for managed care discharges for freestanding children's hospitals with greater than 50% Medicaid utilization in 2009 by increasing the case mix adjustment factor to 2.718. This increased case mix index (CMI) factor shall take precedence over future rebasing. Total payments for IME in combination with other payments for freestanding children's hospitals with greater than 50% Medicaid utilization in 2009 may not exceed the federal uncompensated care cost limit that disproportionate share hospital payments are subject to.

The expected increase in annual aggregate expenditures is \$562,500 in state general funds and \$562,500 in federal funds in federal fiscal year 2021.

Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90)

1. In accordance with Items 313 GGGG of the 2021 Special Session, the state plan is being revised to modify reimbursement for nursing facility services such that the direct peer group price percentage shall be increased to 109.3% and the indirect peer group price percentage shall be increased to 103.3%.

The expected increase in annual aggregate expenditures is \$1,746,197 in state general funds and \$1,746,197 in federal funds in federal fiscal year 2021.

2. In accordance with Item 313 JJJJ of the 2021 Special Session, the state plan is being revised to provide that any nursing facility which thereafter loses its Medicaid capital reimbursement status as a hospital-based nursing facility because a replacement hospital was built at a different location and Medicare rules no longer allow the nursing home's cost to

be included on the hospital's Medicare cost report shall have its first fair rental value (FRV) capital payment rate set at the maximum FRV rental rate for a new free-standing nursing facility with the date of acquisition for its capital assets being the date the replacement hospital is licensed.

The expected increase in annual aggregate expenditures is \$29,989 in state general funds and \$29,989 in federal funds in federal fiscal year 2021.

3. In accordance with Item 313 KKKK of the 2021 Special Session, the state plan is being revised to increase the direct and indirect operating rates from 15% to 25.4% above a facility's calculated price-based rates where at least 80% of the resident population have one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy. In addition, a qualifying facility must have at least 90% Medicaid utilization and a case mix index of 1.15 or higher in fiscal year 2014.

The expected increase in annual aggregate expenditures is \$126,726 in state general funds and \$126,726 in federal funds in federal fiscal year 2021.

4. In accordance with Item 313 LLLLL(1) of the 2021 Special Session, the state plan is being revised to increase nursing home and specialized care per diem rates by \$15 per day effective July 1, 2021. Such adjustment shall be made through existing managed care capitation rates as a mandated specified rate increase. DMAS shall adjust capitation rates to account for the nursing facility rate increase. The specified rate increase in this paragraph applies across fee-for-service and Medicaid managed care.

The expected increase in annual aggregate expenditures is \$11,680,754 in state general funds and \$11,680,754 in federal funds in federal fiscal year 2021.

5. In accordance with, Item 313 RRRRR the 2021 Special Session, the state plan is being revised to implement a supplemental Medicaid payment for Department of Veterans Services (DVS) state government-owned nursing facilities. The total supplemental Medicaid payment for DVS state government owned nursing homes shall be based on the difference between the Upper Payment Limit of 42 CFR 447.272, as approved by the Centers for Medicare and Medicaid Services (CMS), and all other Medicaid payments subject to such limit made to such nursing homes.

The expected increase in annual aggregate expenditures is \$762,714 in federal funds, \$576,048 in general funds, and \$2,620 in special funds in federal fiscal year 2021.

6. In accordance with Item 313 GGGGG the 2021 Special Session, the state plan is being revised to defer the next scheduled nursing facility rate rebasing for one year in order to utilize the calendar year 2021 cost reports as the base year. The deferred year's rates would reflect the prior year rates inflated according to the existing reimbursement regulations.

There is no expected increase or decrease in annual aggregate expenditures as a result of this change.

## STATE WATER CONTROL BOARD

### **Public Meeting and Notice of Public Comment for a Water Quality Study (Total Maximum Daily Load Study) for Lynch Creek and Reed Creek in Pittsylvania and Campbell Counties**

Purpose of notice: The Department of Environmental Quality (DEQ) and its contractors, 3E and JMU, will discuss the process and data used to develop a water quality study known as a total maximum daily load (TMDL) for Lynch Creek and Reed Creek in Pittsylvania and Campbell Counties. These streams are listed on the § 303(d) TMDL Priority List and Report as impaired due to violations of Virginia's water quality standards for the General Standard (Benthics). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. The draft TMDL report will be presented at this meeting to provide an opportunity for local residents to learn about the condition of these streams, share information about the area, and become involved in the process of local water quality improvement. A public comment period from June 29, 2021, to July 28, 2021, will follow the meetings.

Description: In Pittsylvania and Campbell Counties, the entirety of Lynch Creek and Reed Creek are impaired for the "General Use" water quality standard, meaning the macroinvertebrates or "water bugs" are not healthy and diverse and subsequently do not meet the "aquatic life" water quality standard. DEQ and its contractors have worked to identify the pollutant cause for the benthic impairment through a weight of evidence approach. After the pollutant was identified, a water quality report was developed to describe the sources of the pollutant and recommend reductions to meet water quality goals or TMDLs for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, the pollutant levels need to be reduced to the TMDL amount.

The Virginia Department of Environmental Quality will virtually host the final public meeting for the Lynch Creek and Reed Creek total maximum daily load (TMDL) Project on Tuesday, June 29, 2021, from 6 p.m. to 8 p.m. at the following webinar link: <https://attendee.gotowebinar.com/register/4723207698849803021>. Please register ahead of the meeting. Given the current State of Emergency related to the COVID-19 pandemic, this meeting will be held entirely virtually. A computer or a telephone are necessary to participate virtually. All participants are encouraged to access the meeting using a computer to view presentations or visual displays, although audio only participation using a phone is also an option.

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## General Notices

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This meeting will be open to the public and all are welcome. A 30-day public comment period will follow this meeting, from June 29, 2021, through July 28, 2021. The goal of this meeting is to present a draft water quality improvement report for Lynch Creek and Reed Creek, which (i) describes the water quality improvement process in Virginia, known as the TMDL Process; (ii) provides information on biological monitoring efforts; and (iii) outlines reductions in sediment that are necessary to improve the aquatic life. During the TMDL development process, a technical advisory committee was formed, which consisted of representatives from state and local governments, Virginia Pollutant Discharge Elimination System permittees, landowners, and recreational and conservation groups in the watershed.

For assistance with technical issues when registering for either meeting or difficulty during the meeting, contact Rob Breeding at telephone (804) 698-4013 or [robert.breeding@deq.virginia.gov](mailto:robert.breeding@deq.virginia.gov). For more information, please contact Lucy Smith at [lucy.smith@deq.virginia.gov](mailto:lucy.smith@deq.virginia.gov) or telephone (540) 562-6718.

In the event the Governor's State of Emergency is lifted, the meeting will be held on the same date and time at the Department of Environmental Quality, Blue Ridge Regional Office, Training Room, 901 Russell Drive, Salem, VA 24153. However, the virtual meeting option will still be available.

Public comment period: June 29, 2021, through July 28, 2021.

How to submit comment: The meetings of the TMDL process are open to the public and all interested parties are welcome. Written comments will be accepted through July 28, 2021, and should include the name, address, and telephone number of the person submitting the comments. For more information or to submit comments, please contact Lucy Smith, Department of Environmental Quality, Blue Ridge Regional Office, telephone (540) 562-6718, email [lucy.smith@deq.virginia.gov](mailto:lucy.smith@deq.virginia.gov). For technical issues registering for either meeting or difficulty signing on to the meeting, contact Rob Breeding at telephone (804) 698-4013 or email [robert.breeding@deq.virginia.gov](mailto:robert.breeding@deq.virginia.gov).

Additional information: The draft TMDL report will be available prior to the meeting date at <https://www.deq.virginia.gov/water/water-quality/tmdl-development/tmdls-under-development>.

### Proposed Enforcement Action for City of Alexandria, Virginia, Sanitation Authority

An enforcement action has been proposed for the City of Alexandria, Virginia, Sanitation Authority for violations of the State Water Control Law and regulations associated with the Alexandria Renew Enterprises water resources recovery facility, 1500 Eisenhower Avenue, Alexandria, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the Alexandria Renew Enterprises water resources recovery facility. A description of

the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov/permits-regulations/public-notices](http://www.deq.virginia.gov/permits-regulations/public-notices).

The staff contact person will accept comments by email or postal mail from June 22, 2021, through July 22, 2021.

**Contact Information:** Stephanie Bellotti, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email [stephanie.bellotti@deq.virginia.gov](mailto:stephanie.bellotti@deq.virginia.gov).

### Proposed Enforcement Action for the Town of Rural Retreat

An enforcement action has been proposed for the Town of Rural Retreat for violations of the State Water Control Law at the Rural Retreat wastewater treatment plant in Wythe County. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact person will accept comments by email or postal mail from June 22, 2021, through July 22, 2021.

**Contact Information:** Jonathan Chapman, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email [jonathan.chapman@deq.virginia.gov](mailto:jonathan.chapman@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](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <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/cumulatab.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 BOARD OF HEALTH

Title of Regulation: 12VAC5-590. Waterworks Regulations.

Publication: 37:20 VA.R. 3059-3260 May 24, 2021.

Correction to Final Regulation:

Page 3068, 12VAC5-590-10, definition of "Pressure vacuum breaker assembly"

line 2, after "assembly" insert "[ (i) ]"

line 4, after "situations" replace "₂" with "[ ₂ (ii) ]" and after "operating" replace "₂" with "[ ₂ ]"

line 5 after "valve" replace "₂" with "[ ₂ ]" and after "operating" replace "₂" with "[ ₂ ]"

line 6 after "valve" replace "₂" with "[ ₂ ]"

line 7 after "assembly" insert "[ ₂ ]" and after the following "and" insert "[ (iii) ]"

Page 3090, 12VAC5-590-340 C, EDITOR'S NOTE:, replace "Tables 340.1 through 340.7" with "Tables 340.2 through 340.6" and after the Editor's Note insert the following tables:

<u>TABLE 340.1</u> <u>Inorganic Chemicals</u>	
<u>SUBSTANCE</u>	<u>PMCL (mg/L)</u>
<u>Antimony</u>	<u>0.006</u>
<u>Arsenic</u>	<u>0.010<sup>a</sup></u>
<u>Asbestos</u>	<u>7 million fibers/liter (longer than 10 µm)</u>
<u>Barium</u>	<u>2</u>
<u>Beryllium</u>	<u>0.004</u>
<u>Cadmium</u>	<u>0.005</u>
<u>Chromium</u>	<u>0.1</u>
<u>Cyanide (as free Cyanide)</u>	<u>0.2</u>
<u>Fluoride</u>	<u>4.0<sup>b</sup></u>
<u>Mercury</u>	<u>0.002</u>
<u>Nickel</u>	<u>No limits designated</u>
<u>Nitrate (as N)</u>	<u>10<sup>c</sup></u>
<u>Nitrite (as N)</u>	<u>1.0<sup>c</sup></u>
<u>Total Nitrate and Nitrite (as N)</u>	<u>10<sup>c</sup></u>
<u>Selenium</u>	<u>0.05</u>
<u>Thallium</u>	<u>0.002</u>

<u>SUBSTANCE</u>	<u>SECONDARY MAXIMUM CONTAMINANT LEVEL (mg/L)</u>
<u>Aluminum</u>	<u>0.05-0.2<sup>d</sup></u>
<u>Chloride</u>	<u>250<sup>e</sup></u>
<u>Copper</u>	<u>1.0</u>
<u>Corrosivity</u>	<u>Noncorrosive</u>
<u>Fluoride</u>	<u>2.0</u>
<u>Foaming agents</u>	<u>0.5<sup>e</sup></u>
<u>Iron</u>	<u>0.3</u>
<u>Manganese</u>	<u>0.05</u>
<u>Silver</u>	<u>0.1</u>
<u>[ Sodium ]</u>	<u>[ No limits designated<sup>f</sup> ]</u>
<u>Sulfate</u>	<u>250<sup>e</sup></u>
<u>Zinc</u>	<u>5</u>
<u>SUBSTANCE</u>	<u>ACTION LEVEL (mg/L)</u>
<u>Lead</u>	<u>0.015</u>
<u>Copper</u>	<u>1.3</u>

<sup>a</sup>Arsenic sampling results shall be reported to the nearest 0.001 mg/L.  
<sup>b</sup>The fluoride PMCL applies only to community waterworks.  
<sup>c</sup>Significant figures are noted as shown. For values with trailing zeros, significant figures are noted as shown. The limits for nitrate and nitrate-nitrite have two significant figures. The limits for chloride and sulfate have three significant figures.  
<sup>d</sup>Varying water quality and treatment situations necessitates a flexible range for the aluminum SMCL. The owner is encouraged to maintain an aluminum concentration as low as possible. If the aluminum concentration in the finished water causes discoloration, then the owner is urged to contact the department.  
<sup>e</sup>Concentrations reported in terms of Methylene Blue Active Substances.  
<sup>f</sup>Monitoring and reporting in accordance with 40 CFR 141.41 and 12VAC5-590-372 D 6. ]

# Errata

**TABLE 340.7**  
**Maximum Residual Disinfectant Level Goals (MRDLG)**  
**and Maximum Residual Disinfectant Levels (MRDL) for**  
**Disinfectants**

<u>RESIDUAL DISINFECTANT</u>	<u>[ MRDLG and ] MRDL (mg/L)</u>
<u>Chlorine</u>	<u>4.0 (as Cl<sub>2</sub>)<sup>a</sup></u>
<u>Chloramines</u>	<u>4.0 (as Cl<sub>2</sub>)<sup>a</sup></u>
<u>Chlorine Dioxide</u>	<u>0.8 (as ClO<sub>2</sub>)</u>

<sup>a</sup>Chlorine and chloramines have two significant figures.

Page 3184, 12VAC5-590-545 C 3 c, at the end of the first sentence, after "accordance with" replace "the regulations" with "[ ~~the regulations~~ this chapter ]"

Page 3192, 12VAC5-590 570 A 6, **EDITOR'S NOTE:**, replace "Tables 570.1 through 340.14" with "Tables 570.1 through 570.12" and after the Editor's Note insert the following tables:

**Table 570.13**  
**UV Disinfection**

All waterworks using ultraviolet (UV) disinfection must report the following:

Total run time, hours (per unit)  
Lamp status for each reactor train  
Lamp age for each reactor train  
Total production, MGD or gpd  
Flow Rates, minimum, maximum and average, MGD or gpd for each reactor train

To receive disinfection credit, the following shall also be reported:

Number of off-specification events  
Total off-specification volume, gal  
Percent off-specification volume  
UV Intensity setpoint, [ ~~W/m<sup>2</sup>~~ W/m<sup>2</sup> ] (if using intensity setpoint approach, daily)  
UV Intensity for each reactor, minimum, [ ~~W/m<sup>2</sup>~~ W/m<sup>2</sup> ] (if using intensity setpoint approach, daily)  
UV Intensity sensor calibration date for each reactor  
Required dose, [ mJ/cm<sup>2</sup> mJ/cm<sup>2</sup> ] (if using calculated dose approach)  
UV Transmittance (UVT) for each reactor, daily percentage (if using calculated dose approach)  
Calculated dose for each reactor, daily minimum, [ mJ/cm<sup>2</sup> mJ/cm<sup>2</sup> ] (if using calculated dose approach)  
Validated dose for each reactor, daily minimum, [ mJ/cm<sup>2</sup> mJ/cm<sup>2</sup> ] (if using calculated dose approach)  
UVT analyzer calibration date (if using calculated dose approach)  
UV intensity sensor correction factor

**[ Table 570.14**  
**Ozone Disinfection**

All waterworks using ozone disinfection must report the following:  
Ozone applied, lb/day and mg/L.  
Bromate concentration (mg/L), at the entry point to the distribution system, monthly.

To receive disinfection credit, the waterworks shall also report:  
Minimum ozone concentration C<sub>initial</sub> from first sample point (Effluent Method) or C<sub>geo</sub> (Log Integration Method) in all contactors during peak flow, daily.  
Minimum and average ozone concentration C<sub>final</sub> (mg/L) for each contactor in service, daily.  
Log Inactivation by ozonation, for Giardia, virus and, if applicable, Cryptosporidium, daily at peak flow and the minimum CT, daily. ]

Page 3260, DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-590), column 2, after AWWA Standard, ANSI/AWWA D121-12, Bolted Aboveground Thermosetting Fiberglass-Reinforced Plastic Panel-Type Tanks for Water Storage, remove all documents.

VA.R. Doc. No. R18-5204; Filed May 28, 2021, 4:27 p.m.

## BOARD OF COUNSELING

**Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

**Publication:** 37:20 VA.R. 3304-3316 May 24, 2021.

**Correction to Final Regulation:**

Page 3308, 18VAC115-20-100, first column, after subsection D add subsection E:

"E. Practice with an expired license is prohibited and may constitute grounds for disciplinary action."

VA.R. Doc. No. R20-6111; Filed June 1, 2021, 3:12 p.m.

## DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

**Title of Regulation: 22VAC30-40. Protections of Participants in Human Research.**

**Publication:** 36:17 VA.R. 2100-2113 April 13, 2021.

**Correction to Final Regulation:**

Page 2105, 22VAC30-40-70 I 2, after "described in" insert "subdivisions 2 c, 3 a (3), 7, and 8 of" and after "22VAC30-40-80" strike "B 3, 22VAC30-40-80 C 1 c, and 22VAC30-40-80 G and H"

Page 2106, 22VAC30-40-70 K, after "required by" insert "subdivision 7 of" and replace "22VAC30-40-80-G" with "22VAC30-40-80"

Page 2108, 22VAC30-40-90 A 3, after "under" insert "subdivisions 2 c, 3 a (3), 7, and 8 of" and after "22VAC30-40-80" strike "B 3, 22VAC30-40-80 C 1 c, and 22VAC30-40-80 G and H"

VA.R. Doc. No. R20-5670; Filed May 28, 2021, 10:51 a.m.

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Errata

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