



VIRGINIA

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TABLE OF CONTENTS

Register Information Page	2423
Publication Schedule and Deadlines	2424
Petitions for Rulemaking	2425
Notices of Intended Regulatory Action	2426
Regulations	2428
4VAC15-20. Definitions and Miscellaneous: In General (Proposed)	2428
4VAC15-20. Definitions and Miscellaneous: in General (Proposed)	2433
4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (Proposed)	2434
4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (Proposed)	2440
4VAC15-50. Game: Bear (Proposed)	2440
4VAC15-80. Game: Crow (Proposed)	2445
4VAC15-90. Game: Deer (Proposed)	2445
4VAC15-240. Game: Turkey (Proposed)	2455
4VAC15-320. Fish: Fishing Generally (Proposed)	2456
4VAC15-330. Fish: Trout Fishing (Proposed)	2466
4VAC15-340. Fish: Seines and Nets (Proposed)	2466
4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, Etc. (Proposed)	2467
4VAC15-360. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (Proposed)	2468
4VAC15-450. Watercraft: Commercial Parasail Operations (Proposed)	2469
12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (Emergency)	2470
12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (Emergency)	2470
12VAC30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (Emergency)	2470
12VAC30-80. Methods and Standards for Establishing Payment Rates; other Types of Care (Emergency)	2470
12VAC30-130. Amount, Duration and Scope of Selected Services (Emergency)	2470
12VAC30-141. Family Access to Medical Insurance Security Plan (Final)	2481
13VAC5-51. Virginia Statewide Fire Prevention Code (Notice of Suspension of Regulatory Process and Additional Comment Period)	2483
13VAC5-63. Virginia Uniform Statewide Building Code (Notice of Suspension of Regulatory Process and Additional Comment Period)	2483
18VAC65-20. Regulations of the Board of Funeral Directors and Embalmers (Proposed)	2484
18VAC65-40. Regulations for the Funeral Service Internship Program (Proposed)	2484
22VAC40-35. Virginia Independence Program (Fast-Track)	2489
22VAC40-41. Neighborhood Assistance Tax Credit Program (Final)	2494
General Notices/Errata	2496

Virginia Code Commission

<http://register.dls.virginia.gov>

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VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

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

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

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

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

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

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

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Robert L. Tavenner**.

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

PUBLICATION SCHEDULE AND DEADLINES

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

June 2014 through June 2015

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
30:20	May 14, 2014	June 2, 2014
30:21	May 28, 2014	June 16, 2014
30:22	June 11, 2014	June 30, 2014
30:23	June 25, 2014	July 14, 2014
30:24	July 9, 2014	July 28, 2014
30:25	July 23, 2014	August 11, 2014
30:26	August 6, 2014	August 25, 2014
31:1	August 20, 2014	September 8, 2014
31:2	September 3, 2014	September 22, 2014
31:3	September 17, 2014	October 6, 2014
31:4	October 1, 2014	October 20, 2014
31:5	October 15, 2014	November 3, 2014
31:6	October 29, 2014	November 17, 2014
31:7	November 12, 2014	December 1, 2014
31:8	November 25, 2014 (Tuesday)	December 15, 2014
31:9	December 10, 2014	December 29, 2014
31:10	December 23, 2014 (Tuesday)	January 12, 2015
31:11	January 7, 2015	January 26, 2015
31:12	January 21, 2015	February 9, 2015
31:13	February 4, 2015	February 23, 2015
31:14	February 18, 2015	March 9, 2015
31:15	March 4, 2015	March 23, 2015
31:16	March 18, 2015	April 6, 2015
31:17	April 1, 2015	April 20, 2015
31:18	April 15, 2015	May 4, 2015
31:19	April 29, 2015	May 18, 2015
31:20	May 13, 2015	June 1, 2015
31:21	May 27, 2015	June 15, 2015

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Agency Decision

Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.

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

Name of Petitioner: Jeffrey Chase.

Nature of Petitioner's Request: To amend definitions in 18VAC115-20-10 and requirements for a degree program in counseling in 18VAC115-20-49 to accept master's degree graduates of a non-CACREP clinical-counseling psychology program.

Agency's Decision: Request denied.

Statement of Reason for Decision: While the members of the Board of Counseling expressed appreciation for the value of non-CACREP psychology programs, they did not agree that such programs have a counseling identity and focus. Therefore, they declined to amend the provisions of 18VAC115-20-49, which have been in effect since April of 2000. The board suggested that the petitioner may want to direct his petition to the Board of Psychology for consideration of an amendment to its regulations.

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

VA.R. Doc. No. R14-02, Filed May 14, 2014, 2:49 p.m.

Agency Decision

Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.

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

Name of Petitioner: Jacqueline Biggs.

Nature of Petitioner's Request: To amend qualifications for supervisors of residents to include art therapists.

Agency Decision: Request denied.

Statement of Reason for Decision: While the members of the Board of Counseling appreciate the role of art therapy in counseling, it is not a licensed profession and therefore not subject to the statutory and regulatory authority of the board. There is no license on which to rely for competency, so anyone could claim to be an "art therapist" and register to supervise a resident. Many art therapists are licensed professional counselors and, in that capacity, are currently able to supervise a residency. Therefore, the board voted to deny the petition and will not amend its rules.

Agency Contact: Catherine Chappell, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4406, or email catherine.chappell@dhp.virginia.gov.

VA.R. Doc. No. R14-17; Filed May 14, 2014, 2:50 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-210, Virginia Water Protection Permit Program Regulation**. The purpose of the proposed action is to (i) change the overall organization of the regulation so that it is more reader-friendly; (ii) incorporate policies and guidance developed in recent years; (iii) incorporate certain federal regulatory provisions relative to the program; and (iv) clarify the regulatory text by correcting grammar, spelling, cross references, and errors. Other amendments to the regulation may be considered by the board based on comments received in response to this notice or discussions of the regulatory advisory panel.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act.

Public Comment Deadline: July 2, 2014.

Agency Contact: William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4347, TTY (804) 698-4021, or email william.norris@deq.virginia.gov.

VA.R. Doc. No. R14-4015; Filed May 13, 2014, 9:03 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-660, Virginia Water Protection General Permit for Impacts Less Than One-Half Acre**. The purpose of the proposed action is to (i) reissue this general permit, which expires in 2016, and allow for revisions to correct several administrative procedures; (ii) clarify certain definitions; (iii) revise application and permitting requirements to reflect current guidance and policies; (iv) incorporate certain federal regulatory provisions relative to the program; (v) increase efficiency; and (vi) make the general permit regulation more relevant and useful. The Virginia Water Protection Permit Program Regulation (9VAC25-210) provides authority for this general permit regulation, and applicable revisions to that program regulation must also be reflected in this general permit regulation.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Comment Deadline: July 2, 2014.

Agency Contact: William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4347, TTY (804) 698-4021, or email william.norris@deq.virginia.gov.

VA.R. Doc. No. R14-4057; Filed May 13, 2014, 9:04 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-670, Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities**. The purpose of the proposed action is to (i) reissue this general permit, which expires in 2016, and allow for revisions to correct several administrative procedures; (ii) clarify certain definitions; (iii) revise application and permitting requirements to reflect current guidance and policies; (iv) incorporate certain federal regulatory provisions relative to the program; (v) increase efficiency; and (vi) make the general permit regulation more relevant and useful. The Virginia Water Protection Permit Program Regulation (9VAC25-210) provides authority for this general permit regulation, and applicable revisions to that program regulation must also be reflected in this general permit regulation.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Comment Deadline: July 2, 2014.

Agency Contact: William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4347, TTY (804) 698-4021, or email william.norris@deq.virginia.gov.

VA.R. Doc. No. R14-4058; Filed May 13, 2014, 9:04 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-680, Virginia Water Protection General Permit for Linear Transportation Projects**. The purpose of the proposed action is to (i) reissue this general permit, which expires in 2016, and allow for revisions to correct several administrative procedures; (ii) clarify certain definitions; (iii) revise application and permitting requirements to reflect current guidance and policies; (iv) incorporate certain federal regulatory provisions relative to the program; (v) increase efficiency; and (vi) make the general permit regulation more relevant and useful. The Virginia Water Protection Permit Program Regulation

Notices of Intended Regulatory Action

(9VAC25-210) provides authority for this general permit regulation, and applicable revisions to that program regulation must also be reflected in this general permit regulation.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Comment Deadline: July 2, 2014.

Agency Contact: William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4347, TTY (804) 698-4021, or email william.norris@deq.virginia.gov.

VA.R. Doc. No. R14-4059; Filed May 13, 2014, 9:05 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-690, Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities**. The purpose of the proposed action is to (i) reissue this general permit, which expires in 2016, and allow for revisions to correct several administrative procedures; (ii) clarify certain definitions; (iii) revise application and permitting requirements to reflect current guidance and policies; (iv) incorporate certain federal regulatory provisions relative to the program; (v) increase efficiency; and (vi) make the general permit regulation more relevant and useful. The Virginia Water Protection Permit Program Regulation (9VAC25-210) provides authority for this general permit regulation, and applicable revisions to that program regulation must also be reflected in this general permit regulation.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Public Comment Deadline: July 2, 2014.

Agency Contact: William K. Norris, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4022, FAX (804) 698-4347, TTY (804) 698-4021, or email william.norris@deq.virginia.gov.

VA.R. Doc. No. R14-4060; Filed May 13, 2014, 9:05 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending the following regulations:

12VAC30-50, Amount, Duration, and Scope of Medical and Remedial Care Services;

12VAC30-60, Standards Established and Methods Used to Assure High Quality Care;

12VAC30-70, Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services;

12VAC30-80, Methods and Standards for Establishing Payment Rate; Other Types of Care; and

12VAC30-130, Amount, Duration and Scope of Selected Services.

The purpose of the proposed action is to amend the reimbursement methodology for institutions for mental disease, such as freestanding public/private psychiatric hospitals and residential treatment centers.

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

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

Public Comment Deadline: July 2, 2014.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

VA.R. Doc. No. R14-3714; Filed May 5, 2014, 12:21 p.m.



REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Proposed Regulation

Title of Regulation: **4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-65, 4VAC15-20-130).**

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

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) establish a new combined license for persons hunting with a bow and arrow or a crossbow at a cost of \$17 for residents and \$30 for nonresidents; (ii) allow nonresident veterans who are totally and permanently disabled due to a service-connected disability to purchase annual licenses to hunt or fish at a cost equal to one-quarter the fee for the state nonresident hunting or fishing license; (iii) establish a license for hunting foxes on horseback with hounds without firearms, at the cost of the standard hunting license; (iv) make corrections to the license fee table; (v) adopt the updated and modified federal list of endangered and threatened wildlife species; and (vi) remove the slabside pearl mussel from the Virginia List of Endangered and Threatened Species and correct errors in scientific or common names of species on the list.

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 (~~16~~) 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
1-year Resident License to Hunt, for licensees 16 years of age or older	\$22.00
2-year Resident License to Hunt, for licensees 16 years of age or older	\$43.00
3-year Resident License to Hunt, for licensees 16 years of age or older	\$64.00
4-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 under 12 years of age	\$7.50
Resident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees under 16 years of age	\$15.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow <u>or a crossbow</u> during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters, and to hunt with a crossbow (also listed under Virginia Resident Licenses to Fish)	\$132.00

Regulations

Virginia Resident Licenses to Hunt		Virginia Nonresident Licenses to Hunt	
Type license	Fee	Type license	Fee
Resident Junior Lifetime License to Hunt, for licensees under 12 years of age at the time of purchase	\$255.00	Nonresident License to Hunt, for licensees 16 years of age or older	\$110.00
Resident Lifetime License to Hunt, for licensees at the time of purchase:		Nonresident Three-Day Trip License to Hunt	\$59.00
through 44 years of age	\$260.00	Nonresident Youth License to Hunt, for licensees:	
45 through 50 years of age	\$210.00	under 12 years of age	\$12.00
51 through 55 years of age	\$160.00	12 through 15 years of age	\$15.00
56 through 60 years of age	\$110.00	Nonresident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees under 16 years of age	\$30.00
61 through 64 years of age	\$60.00	<u>Nonresident Annual Hunting License for Partially Disabled Veterans</u>	<u>\$55.00</u>
65 years of age and over	\$20.00	<u>Nonresident Annual Hunting License for Totally and Permanently Disabled Veterans</u>	<u>\$27.50</u>
<u>Resident Hunting License for Partially Disabled Veterans</u>	<u>\$11.00</u>	Nonresident Lifetime License to Hunt	\$555.00
Totally and Permanently Disabled Resident Special Lifetime License to Hunt	\$15.00		
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and <u>or</u> Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	\$15.00 <u>no fee</u>		

Virginia Resident Licenses for Additional Hunting Privileges		Virginia Nonresident Licenses for Additional Hunting Privileges	
Type license or permit	Fee	Type license or permit	Fee
Resident Bear, Deer, and Turkey Hunting License, for licensees 16 years of age or older	\$22.00	Nonresident Bear, Deer, and Turkey Hunting License, for licensees:	
Resident Junior Bear, Deer, and Turkey Hunting License, for licensees under 16 years of age	\$7.50	16 years of age or older	\$85.00
Resident Archery License to Hunt with bow and arrow <u>or crossbow</u> during archery hunting season	\$17.00	12 through 15 years of age	\$15.00
Resident Crossbow License to Hunt with crossbow during archery hunting season	\$17.00	under 12 years of age	\$12.00
Resident Muzzleloading License to Hunt during muzzleloading hunting season	\$17.00	Nonresident Archery License to Hunt with bow and arrow <u>or crossbow</u> during archery hunting season	\$30.00
Resident Bonus Deer Permit	\$17.00	Nonresident Crossbow License to Hunt with crossbow during archery hunting season	\$30.00
<u>Resident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)</u>	<u>\$22.00</u>	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

Regulations

Nonresident Bonus Deer Permit	\$30.00	Nonresident License to Trap	\$205.00
<u>Nonresident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)</u>	<u>\$110.00</u>	Virginia Resident Licenses to Fish	
Miscellaneous Licenses or Permits to Hunt		Type license	Fee
Type license or permit	Fee	1-year Resident License to Freshwater Fish	\$22.00
Waterfowl Hunting Stationary Blind in Public Waters License	\$22.50	2-year Resident License to Freshwater Fish	\$43.00
Waterfowl Hunting Floating Blind in Public Waters License	\$40.00	3-year Resident License to Freshwater Fish	\$64.00
Foxhound Training Preserve License	\$17.00	4-year Resident License to Freshwater Fish	\$85.00
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	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	\$39.00
		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 bow and arrow <u>or</u> <u>crossbow</u> during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters, and to hunt with a crossbow (also listed under Virginia Resident Licenses to Hunt)	\$132.00
		Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:	
		through 44 years of age	\$260.00
		45 through 50 years of age	\$210.00
		51 through 55 years of age	\$160.00
		56 through 60 years of age	\$110.00
		61 through 64 years of age	\$60.00
		65 years of age and over	\$20.00
Virginia Resident and Nonresident Licenses to Trap			
Type license	Fee		
1-year Resident License to Trap, for licensees 16 years of age or older	\$45.00		
2-year Resident License to Trap, for licensees 16 years of age or older	\$89.00		
3-year Resident License to Trap, for licensees 16 years of age or older	\$133.00		
4-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 under 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	\$20.00		
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		

Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:	
through 44 years of age	\$260.00
45 through 50 years of age	\$210.00
51 through 55 years of age	\$160.00
56 through 60 years of age	\$110.00
61 through 64 years of age	\$60.00
65 years of age and over	\$20.00
<u>Resident Fishing License for Partially Disabled Veterans</u>	<u>\$11.00</u>
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)	\$15.00 <u>no fee</u>

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

4VAC15-20-130. 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 ~~August 13, 2012~~ February 24, 2014, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to § 29.1-103.12 of the Code of Virginia, the director of the department is hereby delegated authority to propose adoption of modifications and amendments to the Federal Endangered and Threatened Species List in accordance with the procedures of §§ 29.1-501 and 29.1-502 of the Code of Virginia.

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

1. Fish:

Endangered:

Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorobranchium
Darter, longhead sickle	Percina macrocephala <u>williamsi</u>
Darter, western sand	Ammocrypta clara

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	\$46.00
Nonresident License to Freshwater and Saltwater Fish	\$70.00
<u>Nonresident Fishing License for Partially Disabled Veterans</u>	<u>\$23.00</u>
<u>Nonresident Annual Fishing License for Totally and Permanently Disabled Veterans</u>	<u>\$11.50</u>
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 Special Lifetime License to Freshwater Fish	\$555.00
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	\$555.00

Regulations

Madtom, orangefin	<i>Noturus gilberti</i>
Paddlefish	<i>Polyodon spathula</i>
Shiner, emerald	<i>Notropis atherinoides</i>
Shiner, steelcolor	<i>Cyprinella whipplei</i>
Shiner, whitemouth	<i>Notropis alborus</i>

2. Amphibians:

Endangered:

Salamander, eastern tiger	<i>Ambystoma tigrinum</i> tigrinum
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Threatened:

Salamander, Mabee's	<i>Ambystoma mabeei</i>
Treefrog, barking	<i>Hyla gratiosa</i>

3. Reptiles:

Endangered:

Rattlesnake, canebrake (Coastal Plain population of timber rattlesnake)	<i>Crotalus horridus</i>
Turtle, bog	<i>Glyptemys muhlenbergii</i>
Turtle, eastern chicken	<i>Deirochelys reticularia reticularia</i>

Threatened:

Lizard, eastern glass	<i>Ophisaurus ventralis</i>
Turtle, wood	<i>Glyptemys insculpta</i>

4. Birds:

Endangered:

Plover, Wilson's	<i>Charadrius wilsonia</i>
Rail, black	<i>Laterallus jamaicensis</i>
Wren, Bewick's	<i>Thryomanes bewickii</i> bewickii bewickii

Threatened:

Falcon, peregrine	<i>Falco peregrinus</i>
Sandpiper, upland	<i>Bartramia longicauda</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow,	<i>Aimophila aestivalis</i>

Bachman's	
Sparrow, Henslow's	<i>Ammodramus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

5. Mammals:

Endangered:

Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, American water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

Threatened:

Shrew, Dismal Swamp southeastern	<i>Sorex longirostris fisheri</i>
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6. Molluscs:

Endangered:

Ghostsnailed, thankless	<i>Holsingeria unthanksensis</i>
Coil, rubble	<i>Helicodiscus lirellus</i>
Coil, shaggy	<i>Helicodiscus diadema</i>
Deertoe	<i>Truncilla truncata</i>
Elephantear	<i>Elliptio crassidens</i>
Elimia, spider	<i>Elimia arachnoidea</i>
Floater, brook	<i>Alasmidonta varicosa</i>
Heelsplitter, Tennessee	<i>Lasmigona holstonia</i>
Lilliput, purple	<i>Toxolasma lividus</i>
Mussel, slippershell	<i>Alasmidonta viridis</i>
Pigtoe, Ohio eordatum	<i>Pleurobema cordatum</i>
Pigtoe, pyramid	<i>Pleurobema rubrum</i>
Springsnail, Appalachian	<i>Fontigens bottimeri</i>
Springsnail (no common name)	<i>Fonitgens morrisoni</i>
Supercoil, spirit	<i>Paravitrea hera</i>

Threatened:

Floater, green	Lasmigona subviridis
Papershell, fragile	Leptodea fragilis
Pearlymussel, slabside	Lexingtonia dolabelloides
Pigtoe, Atlantic	Fusconaia masoni
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

8. Crustaceans:

Endangered:

Crayfish, Big Sandy	Cambarus veteranus
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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.

VA.R. Doc. No. R14-4038; Filed May 14, 2014, 10:23 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-20. Definitions and Miscellaneous: in General (amending 4VAC15-20-50).

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) update the referenced year of the department's "List of Native and Naturalized Fauna of Virginia" and (ii) exempt from the definition of domestic animals those swine that are free-roaming or wild.

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

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

"Native animal" means those species and subspecies of animals naturally occurring in Virginia, as included in the department's ~~2012~~ 2014 "List of Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

"Naturalized animal" means those species and subspecies of animals not originally native to Virginia which ~~that~~ have established wild, self-sustaining populations, as included in the department's ~~2012~~ 2014 "List of Native and Naturalized Fauna of Virginia," with copies available in the Richmond and regional offices of the department.

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

The following animals are defined as domestic animals:

- Domestic dog (Canis familiaris), including wolf hybrids.
- Domestic cat (Felis catus), including hybrids with wild felines.
- Domestic horse (Equus caballus), including hybrids with Equus asinus.
- Domestic ass, burro, and donkey (Equus asinus).
- Domestic cattle (Bos taurus and Bos indicus).
- Domestic sheep (Ovis aries) including hybrids with wild sheep.
- Domestic goat (Capra hircus).
- Domestic swine (Sus scrofa domestica), including pot-bellied pig excluding any swine that are free-roaming or wild.
- Llama (Lama glama).
- Alpaca (Lama pacos).
- Camels (Camelus bactrianus and Camelus dromedarius).
- Domesticated races of hamsters (Mesocricetus spp.).
- Domesticated races of mink (Mustela vison) where adults are heavier than 1.15 kilograms or their coat color can be distinguished from wild mink.
- Domesticated races of red fox (Vulpes) where their coat color can be distinguished from wild red fox.
- Domesticated races of guinea pigs (Cavia porcellus).
- Domesticated races of gerbils (Meriones unguiculatus).

Regulations

- Domesticated races of chinchillas (*Chinchilla laniger*).
- Domesticated races of rats (*Rattus norvegicus* and *Rattus rattus*).
- Domesticated races of mice (*Mus musculus*).
- Domesticated races of European rabbit (*Oryctolagus cuniculus*).
- Domesticated races of chickens (*Gallus*).
- Domesticated races of turkeys (*Meleagris gallopavo*).
- Domesticated races of ducks and geese distinguishable morphologically from wild birds.
- Feral pigeons (*Columba domestica* and *Columba livia*) and domesticated races of pigeons.
- Domesticated races of guinea fowl (*Numida meleagris*).
- Domesticated races of peafowl (*Pavo cristatus*).

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

V.A.R. Doc. No. R14-4050; Filed May 14, 2014, 10:25 a.m.

Proposed Regulation

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.

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) add certain nonnative species of animals currently included on the federal list of endangered and threatened species to the list of predatory and undesirable species, (ii) add the oriental weatherfish to the list of predatory and undesirable species, (iii) update taxonomic references in the list of predatory and undesirable species, and (iv) repeal an exception for certain animals from the requirement that all individuals in possession of animals included on the list of predatory and undesirable species apply for a department permit to exhibit wild animals in Virginia.

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 below 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	Bufonidae	Rhinella marina	Cane toad*
	Pipidae	Hymenochirus spp.	African dwarf frog
		Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma tigrinum mavortium All species	Barred tiger salamander All mole salamanders
		A. t. diabolii	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander
BIRDS:			
Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

Regulations

Anseriformes	Anatidae	Cygnus olor	Mute swan	
FISH:				
Order	Family	Genus/Species	Common Name	
Cypriniformes	Catostomidae	<u>Catostomus microps</u>	<u>Modoc sucker</u>	
		<u>Catostomus santaanae</u>	<u>Santa Ana sucker</u>	
		<u>Catostomus warnerensis</u>	<u>Warner sucker</u>	
		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
	<u>Cobitidae</u>	<u>Misgurnus anguillicaudatus</u>	<u>Oriental weatherfish</u>	
	Cyprinidae		Aristichthys nobilis	Bighead carp*
			<u>Chrosomus saylori</u>	<u>Laurel dace</u>
			Ctenopharyngodon idella	Grass carp or white amur
			<u>Cyprinella caerulea</u>	<u>Blue shiner</u>
			<u>Cyprinella formosa</u>	<u>Beautiful shiner</u>
			Cyprinella lutrensis	Red shiner
			Hypophthalmichthys molitrix	Silver carp*
			Mylopharyngodon piceus	Black carp*
			<u>Notropis albizonatus</u>	<u>Palezone shiner</u>
			<u>Notropis cahabae</u>	<u>Cahaba shiner</u>
			<u>Notropis girardi</u>	<u>Arkansas River shiner</u>
			<u>Notropis mekistocholas</u>	<u>Cape Fear shiner</u>
			<u>Notropis simus pecosensis</u>	<u>Pecos bluntnose shiner</u>
			<u>Notropis topeka (=tristis)</u>	<u>Topeka shiner</u>
			<u>Phoxinus cumberlandensis</u>	<u>Blackside dace</u>
			<u>Rhinichthys osculus lethoporus</u>	<u>Independence Valley speckled dace</u>
	<u>Rhinichthys osculus nevadensis</u>	<u>Ash Meadows speckled dace</u>		
	<u>Rhinichthys osculus oligoporus</u>	<u>Clover Valley speckled dace</u>		
<u>Rhinichthys osculus ssp.</u>	<u>Foskett speckled dace</u>			

Regulations

		<u>Rhinichthys osculus thermalis</u>	<u>Kendall Warm Springs dace</u>
		Scardinius erythrophthalmus	Rudd
		Tinca tinca	Tench*
<u>Cyprinodontiformes</u>	<u>Poeciliidae</u>	<u>Gambusia gagei</u>	<u>Big Bend gambusia</u>
		<u>Gambusia georgei</u>	<u>San Marcos gambusia</u>
		<u>Gambusia heterochir</u>	<u>Clear Creek gambusia</u>
		<u>Gambusia nobilis</u>	<u>Pecos gambusia</u>
		<u>Peociliopsis occidentalis</u>	<u>Gila topminnow</u>
<u>Gasterosteiformes</u>	<u>Gasterosteidae</u>	<u>Gasterosteus aculeatus williamsoni</u>	<u>Unarmored threespine stickleback</u>
Gobiesociformes	<u>Gobiidae</u>	Proterorhinus marmoratus	Tubenose goby
		Neogobius melanostomus	Round goby
Perciformes	<u>Channidae</u>	Channa spp. Parachanna spp.	Snakeheads
	<u>Cichlidae</u>	Tilapia spp.	Tilapia
		Gymnocephalus cernuum	Ruffe*
	<u>Elassomatidae</u>	<u>Elassoma alabamae</u>	<u>Spring pygmy sunfish</u>
	<u>Percidae</u>	<u>Crystallaria cincotta</u>	<u>Diamond darter</u>
		<u>Etheostoma chermocki</u>	<u>Vermilion darter</u>
		<u>Etheostoma boschungii</u>	<u>Slackwater darter</u>
		<u>Etheostoma chienense</u>	<u>Relict darter</u>
		<u>Etheostoma etowahae</u>	<u>Etowah darter</u>
		<u>Etheostoma fonticola</u>	<u>Fountain darter</u>
		<u>Etheostoma moorei</u>	<u>Yellowcheek darter</u>
		<u>Etheostoma nianguae</u>	<u>Niangua darter</u>
		<u>Etheostoma nuchale</u>	<u>Watercress darter</u>
		<u>Etheostoma okaloosae</u>	<u>Okaloosa darter</u>
		<u>Etheostoma phytophilum</u>	<u>Rush darter</u>
		<u>Etheostoma rubrum</u>	<u>Bayou darter</u>
		<u>Etheostoma scotti</u>	<u>Cherokee darter</u>
		<u>Etheostoma sp.</u>	<u>Bluemask (= jewel) darter</u>
		<u>Etheostoma susanae</u>	<u>Cumberland darter</u>
		<u>Etheostoma wapiti</u>	<u>Boulder darter</u>
<u>Percina antesella</u>	<u>Amber darter</u>		
<u>Percina aurolineata</u>	<u>Goldline darter</u>		

Regulations

		<u>Percina jenkinsi</u>	<u>Conasauga logperch</u>
		<u>Percina pantherina</u>	<u>Leopard darter</u>
		<u>Percina tanasi</u>	<u>Snail darter</u>
<u>Scorpaeniformes</u>	<u>Cottidae</u>	<u>Cottus sp.</u>	<u>Grotto sculpin</u>
		<u>Cottus paulus (= pygmaeus)</u>	<u>Pygmy sculpin</u>
Siluriformes	Clariidae	All species	Air-breathing catfish
	<u>Ictaluridae</u>	<u>Noturus baileyi</u>	<u>Smoky madtom</u>
		<u>Noturus crypticus</u>	<u>Chucky madtom</u>
		<u>Noturus placidus</u>	<u>Neosho madtom</u>
		<u>Noturus stanauli</u>	<u>Pygmy madtom</u>
	<u>Noturus trautmani</u>	<u>Scioto madtom</u>	
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel
MAMMALS:			
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 (except <i>Mustela putorius furo</i>)	Weasels, Badgers,* Skunks and Otters Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas
	Herpestidae	All Species	Mongoose*
	Hyaenidae	All Species	Hyenas and Aardwolves*
Felidae	All Species	Cats*	
Chiroptera		All Species	Bats*
Lagomorpha	Lepridae	<u>Brachylagus idahoensis</u>	<u>Pygmy rabbit</u>
		Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit
		<u>Sylvilagus bachmani riparius</u>	<u>Riparian brush rabbit</u>

Regulations

		<u>Sylvilagus palustris hefneri</u>	<u>Lower Keys marsh rabbit</u>
Rodentia		All species native to Africa	All species native to Africa
	<u>Dipodidae</u>	<u>Zapus hudsonius preblei</u>	<u>Preble's meadow jumping mouse</u>
	<u>Muridae</u>	<u>Microtus californicus scirpensis</u>	<u>Amargosa vole</u>
		<u>Microtus mexicanus hualpaiensis</u>	<u>Hualapai Mexican vole</u>
		<u>Microtus pennsylvanicus dukecampbelli</u>	<u>Florida salt marsh vole</u>
		<u>Neotoma floridana smalli</u>	<u>Key Largo woodrat</u>
		<u>Neotoma fuscipes riparia</u>	<u>Riparian (= San Joaquin Valley) woodrat</u>
		<u>Oryzomys palustris natator</u>	<u>Rice rat</u>
		<u>Peromyscus gossypinus allapaticola</u>	<u>Key Largo cotton mouse</u>
		<u>Peromyscus polionotus allophrys</u>	<u>Choctawhatchee beach mouse</u>
		<u>Peromyscus polionotus ammobates</u>	<u>Alabama beach mouse</u>
		<u>Peromyscus polionotus niveiventris</u>	<u>Southeastern beach mouse</u>
		<u>Peromyscus polionotus peninsularis</u>	<u>St. Andrew beach mouse</u>
		<u>Peromyscus polionotus phasma</u>	<u>Anastasia Island beach mouse</u>
		<u>Peromyscus polionotus trissyllepsis</u>	<u>Perdido Key beach mouse</u>
		<u>Reithrodontomys raviventris</u>	<u>Salt marsh harvest mouse</u>
		<u>Heteromyidae</u>	<u>Dipodomys heermanni morroensis</u>
	<u>Dipodomys ingens</u>		<u>Giant kangaroo rat</u>
	<u>Dipodomys merriami parvus</u>		<u>San Bernadino Merriam's kangaroo rat</u>
	<u>Dipodomys nitratoides exilis</u>		<u>Fresno kangaroo rat</u>
	<u>Dipodomys nitratoides nitratoides</u>		<u>Tipton kangaroo rat</u>
	<u>Dipodomys stephensi (including D. cascus)</u>		<u>Stephens' kangaroo rat</u>
	<u>Perognathus longimembris</u>		<u>Pacific pocket mouse</u>

Regulations

		<u>pacificus</u>	
	Sciuridae	Cynomys spp.	Prairie dogs
		<u>Spermophilus brunneus brunneus</u>	<u>Northern Idaho ground squirrel</u>
		<u>Tamiasciurus hudsonicus grahamensis</u>	<u>Mount Graham red squirrel</u>
<u>Soricomorpha</u>	<u>Soricidae</u>	<u>Sorex ornatus relictus</u>	<u>Buena Vista Lake ornate shrew</u>
MOLLUSKS:			
Order	Family	Genus/Species	Common Name
Neotaenioglossa	Hydrobiidae	Potamopyrgus antipodarum	New Zealand mudsnail
Veneroida	Dreissenidae	Dreissena bugensis	Quagga mussel
		Dreissena polymorpha	Zebra mussel
REPTILES:			
Order	Family	Genus/Species	Common Name
Squamata <u>Crocodylia</u>	Alligatoridae	All species	Alligators, caimans*
	<u>Colubridae</u>	<u>Boiga irregularis</u>	<u>Brown tree snake*</u>
	Crocodylidae	All species	Crocodiles*
	Gavialidae	All species	Gavials*
<u>Squamata</u>	<u>Colubridae</u>	<u>Boiga irregularis</u>	<u>Brown tree snake*</u>
CRUSTACEANS:			
Order	Family	Genus/Species	Common Name
Decapoda	Cambaridae	<u>Cambarus aculabrum</u>	<u>Cave crayfish</u>
		<u>Cambarus zophonastes</u>	<u>Cave crayfish</u>
		Orconectes rusticus	Rusty crayfish
		<u>Orconectes shoupi</u>	<u>Nashville crayfish</u>
		<u>Pacifastacus fortis</u>	<u>Shasta crayfish</u>
		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, a person, company or corporation possessing any nonnative (exotic) animal, designated with an asterisk (*) in subsection A, 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

Regulations

listed in subsection A 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 Game and Inland Fisheries.

~~E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A, except members of the Cervidae family, African rodents, and prairie dogs, that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act (7 USC §§ 2131 et seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license or licenses or registration or registrations from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.~~

~~F. 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.~~

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

~~H. G. 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. R14-4039; Filed May 14, 2014, 10:23 a.m.

Proposed Regulation

Title of Regulation: **4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4VAC15-30-10).**

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendment prohibits marking fish with fish tagging equipment for personal information or research by prohibiting the conducting of research on any wild animal unless otherwise specifically permitted by law or regulation.

4VAC15-30-10. Possession, importation, sale, etc., of wild animals.

Under the authority of §§ 29.1-103 and 29.1-521 of the Code of Virginia it shall be unlawful to take, possess, conduct research, import, cause to be imported, export, cause to be exported, buy, sell, offer for sale, or liberate within the Commonwealth any wild animal unless otherwise specifically permitted by law or regulation. Unless otherwise stated, for the purposes of identifying species regulated by the board, when both the scientific and common names are listed, the scientific reference to genus and species will take precedence over common names.

VA.R. Doc. No. R14-4051; Filed May 14, 2014, 10:26 a.m.

Proposed Regulation

Title of Regulation: **4VAC15-50. Game: Bear (amending 4VAC15-50-11, 4VAC15-50-71, 4VAC15-50-110, 4VAC15-50-120).**

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

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

Legislation enacted in the 2014 Session of the General Assembly legalized most forms of hunting on Sundays and

allows muzzleloading pistols to be used for hunting in seasons when muzzleloading rifles are permitted. The proposed amendments (i) incorporate hunting on Sundays into the various bear hunting and bear hound training seasons and (ii) allow the use of muzzleloading pistols for the purpose of hunting deer during muzzleloading gun hunting season.

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

A. It shall be lawful to hunt bears within:

Location	Season
Accomack County	Closed
Albemarle County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Alleghany County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Amelia County	Monday nearest December 2 and for 5 consecutive hunting days following.
Amherst County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Appomattox County	Monday nearest December 2 and for 5 consecutive hunting days following.
Arlington County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Augusta County (North of US-250)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Augusta County (South of US-250)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Bath County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Bedford County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Bland County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Botetourt County	Fourth Monday in November through the first Saturday in January, both dates inclusive.

Brunswick County	Monday nearest December 2 and for 5 consecutive hunting days following.
Buchanan County	First Monday in December through the first Saturday in January, both dates inclusive.
Buckingham County	Monday nearest December 2 and for 5 consecutive hunting days following.
Campbell County	Monday nearest December 2 and for 5 consecutive hunting days following.
Caroline County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Carroll County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.
Charles City County	Monday nearest December 2 and for 5 consecutive hunting days following.
Charlotte County	Monday nearest December 2 and for 5 consecutive hunting days following.
Chesapeake (City of)	October 1 through the first Saturday in January, both dates inclusive.
Chesterfield County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Clarke County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Craig County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Culpeper County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Cumberland County	Monday nearest December 2 and for 5 consecutive hunting days following.
Dickenson County	First Monday in December through the first Saturday in January, both dates inclusive.

Regulations

Dinwiddie County	Monday nearest December 2 and for 5 consecutive hunting days following.	Hanover County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Essex County	Monday nearest December 2 and for 5 consecutive hunting days following.	Henrico County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Fairfax County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Henry County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.
Fauquier County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Highland County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Floyd County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	Isle of Wight County	Monday nearest December 2 and for 5 consecutive hunting days following.
Fluvanna County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	James City County	Monday nearest December 2 and for 5 consecutive hunting days following.
Franklin County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	King and Queen County	Monday nearest December 2 and for 5 consecutive hunting days following.
Frederick County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	King George County	Monday nearest December 2 and for 5 consecutive hunting days following.
Giles County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	King William County	Monday nearest December 2 and for 5 consecutive hunting days following.
Gloucester County	Monday nearest December 2 and for 5 consecutive hunting days following.	Lancaster County	Monday nearest December 2 and for 5 consecutive hunting days following.
Goochland County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Lee County	First Monday in December through the first Saturday in January, both dates inclusive.
Grayson County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	Loudoun County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Greene County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Louisa County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Greensville County	Monday nearest December 2 and for 5 consecutive hunting days following.	Lunenburg County	Monday nearest December 2 and for 5 consecutive hunting days following.
Halifax County	Monday nearest December 2 and for 5 consecutive hunting days following.	Madison County	Fourth Monday in November through the first Saturday in January, both dates inclusive.

Regulations

Mathews County	Monday nearest December 2 and for 5 consecutive hunting days following.	Prince Edward County	Monday nearest December 2 and for 5 consecutive hunting days following.
Mecklenburg County	Monday nearest December 2 and for 5 consecutive hunting days following.	Prince George County	Monday nearest December 2 and for 5 consecutive hunting days following.
Middlesex County	Monday nearest December 2 and for 5 consecutive hunting days following.	Prince William County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Montgomery County (southeast of I-81)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	Pulaski County (southeast of I-81)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.
Montgomery County (northwest of I-81)	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Pulaski County (northwest of I-81)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Nelson County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Rappahannock County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
New Kent County	Monday nearest December 2 and for 5 consecutive hunting days following.	Richmond County	Monday nearest December 2 and for 5 consecutive hunting days following.
Northampton County	Closed	Roanoke County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Northumberland County	Monday nearest December 2 and for 5 consecutive hunting days following.	Rockbridge County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Nottoway County	Monday nearest December 2 and for 5 consecutive hunting days following.	Rockingham County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Orange County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Russell County (except on the Channels State Forest and Clinch Mountain WMA)	First Monday in December through the first Saturday in January, both dates inclusive.
Page County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Russell County (on the Channels State Forest and Clinch Mountain WMA)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Patrick County	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	Scott County	First Monday in December through the first Saturday in January, both dates inclusive.
Pittsylvania County	Monday nearest December 2 and for 5 consecutive hunting days following.	Shenandoah County	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Powhatan County	Fourth Monday in November through the first Saturday in January, both dates inclusive.		

Regulations

Smyth County (southeast of I-81)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.	Wise County	First Monday in December through the first Saturday in January, both dates inclusive.
Smyth County (northwest of I-81)	Fourth Monday in November through the first Saturday in January, both dates inclusive.	Wythe County (southeast of I-81)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.
Southampton County	Monday nearest December 2 and for 5 consecutive hunting days following.	Wythe County (northwest of I-81)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
Spotsylvania County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	York County	Monday nearest December 2 and for 5 consecutive hunting days following.
Stafford County	Fourth Monday in November through the first Saturday in January, both dates inclusive.	<p>B. Except as provided in the subsection A of this section, bears may be hunted from the Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive, within the incorporated limits of any city that allows bear hunting.</p> <p>4VAC15-50-71. Muzzleloading gun hunting.</p> <p>A. It shall be lawful to hunt bear 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.</p> <p>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.</p> <p>C. A muzzleloading gun, for the purpose of this section, means a single shot weapon, excluding muzzleloading pistols, .45 caliber or larger, firing a single projectile or sabot (with a .38 caliber or larger projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent or smokeless powder).</p> <p>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.</p> <p>4VAC15-50-110. Use of dogs in hunting bear.</p> <p>A. It shall be unlawful to use dogs for the hunting of bear during the open season for hunting deer in the counties west of the Blue Ridge Mountains and 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 defined in § 29.1-516.1 of the Code of Virginia may be used.</p> <p>B. It shall be unlawful to use dogs for the hunting of bear during the first 12 hunting <u>14</u> days of the open season for hunting deer in the counties of Greene and Madison, except</p>	
Suffolk (City of)	October 1 through the first Saturday in January, both dates inclusive.		
Surry County	Monday nearest December 2 and for 5 consecutive hunting days following.		
Sussex County	Monday nearest December 2 and for 5 consecutive hunting days following.		
Tazewell County	Fourth Monday in November through the first Saturday in January, both dates inclusive.		
Virginia Beach (City of)	October 1 through the first Saturday in January, both dates inclusive.		
Warren County	Fourth Monday in November through the first Saturday in January, both dates inclusive.		
Washington County (southeast of I-81)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.		
Washington County (northwest of I-81 and east of Route 19)	First Monday in December through the first Saturday in January, both dates inclusive.		
Washington County (northwest of I-81 and west of Route 19)	First Monday in December and for 17 consecutive hunting <u>19</u> days following.		
Westmoreland County	Monday nearest December 2 and for 5 consecutive hunting days following.		

that tracking dogs as defined 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 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), 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 defined 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 the second Saturday in August through the last Saturday in September, both dates inclusive, in all counties and cities or in the portions in which bear hunting is permitted except in the counties of Accomack, Amelia, Appomattox, Brunswick, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Grayson, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King & Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Montgomery (south of Interstate 81), New Kent, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski (south of Interstate 81), Richmond, Roanoke (south of Interstate 81), Smyth (south of Interstate 81), Southampton, Spotsylvania, Stafford, Surry, Sussex, Washington (south of Interstate 81), Westmoreland, Wythe (south of Interstate 81), and York, and in the cities of Hampton, Newport News and Norfolk.

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 ~~12 consecutive hunting~~ 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, 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 lawful to chase black bears with dogs, without capturing or taking, in the counties of Brunswick, Greensville, Lunenburg, and Mecklenburg from the first

Saturday in September through the third Saturday in September, both dates inclusive.

D. 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, but not be limited to, 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. R14-4040; Filed May 14, 2014, 10:24 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-80. **Game:** Crow (amending 4VAC15-80-10).

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

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) remove Mondays and add Sundays as days on which it is legal to hunt crows during crow open season and (ii) adjust the ending day of the season so as to keep the total number of available crow hunting days constant.

4VAC15-80-10. Open season.

It shall be lawful to hunt crow on ~~Monday~~, Wednesday, Friday ~~and~~, Saturday, and Sunday of each week from the third Saturday in August through the third ~~Saturday~~ Friday in March, both dates inclusive.

VA.R. Doc. No. R14-4041; Filed May 14, 2014, 10:24 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-90. **Game:** Deer (amending 4VAC15-90-10, 4VAC15-90-70, 4VAC15-90-80, 4VAC15-90-91, 4VAC15-90-260, 4VAC15-90-293).

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

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Regulations

Summary:

The proposed amendments incorporate hunting on Sundays into the various deer hunting seasons and allow the use of muzzleloading pistols to hunt deer during muzzleloading gun hunting season, pursuant to legislation enacted in the 2014 Session of the General Assembly. The proposed amendments also correct inadvertent omissions from amendments adopted by the board in 2013 that (i) adjust the days either-sex deer may be taken with muzzleloading guns in Shenandoah County, (ii) prohibit the importation of any cervid carcass or part, with certain exceptions, from an enclosure intended to confine deer or elk, and (iii) allow the importation of skulls or skull plates with or without antlers.

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 12 14 consecutive hunting 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)	Saturday prior to the third Monday in November and for 12 14 consecutive hunting 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 Monday <u>Sunday</u> following the first Saturday in January through the last Saturday <u>Sunday</u> in March
Augusta County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Bath County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Bedford County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Bland County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Botetourt County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Brunswick County	Saturday prior to the third Monday in November through the first Saturday in January
Buchanan County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Buckingham County	Saturday prior to the third Monday in November through the first Saturday in January
Campbell County	Saturday prior to the third Monday in November through the first Saturday in January
Caroline County	Saturday prior to the third Monday in November through the first Saturday in January

Regulations

Carroll County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following	Fairfax County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Monday Sunday following the first Saturday in January through the last Saturday Sunday in March
Charles City County	Saturday prior to the third Monday in November through the first Saturday in January	Fauquier County (except Chester F. Phelps Wildlife Management Area)	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	Fauquier County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Chesapeake (City of)	October 1 through November 30	Floyd County	Saturday prior to the third Monday in November and for 24 28 consecutive hunting days following
Chesterfield County	Saturday prior to the third Monday in November through the first Saturday in January	Fluvanna 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	Franklin County	Saturday prior to the third Monday in November and for 24 28 consecutive hunting days following
Craig County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following	Frederick County (non-national forest lands)	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	Frederick County (national forest lands)	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Culpeper County (Chester F. Phelps Wildlife Management Area)	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following	Giles County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Cumberland County	Saturday prior to the third Monday in November through the first Saturday in January	Gloucester 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 12 14 consecutive hunting days following	Goochland County	Saturday prior to the third Monday in November through the first Saturday in January
Dinwiddie 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 12 14 consecutive hunting days following
Essex County	Saturday prior to the third Monday in November through the first Saturday in January		
Fairfax County	Saturday prior to the third Monday in November through the first Saturday in January		

Regulations

Greene County	Saturday prior to the third Monday in November through the first Saturday in January	Loudoun 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	Loudoun County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Monday <u>Sunday</u> following the first Saturday in January through the last Saturday <u>Sunday</u> in March
Halifax County	Saturday prior to the third Monday in November through the first Saturday in January		Louisa County
Hanover 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
Henrico 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
Henry County	Saturday prior to the third Monday in November and for 24 <u>28</u> consecutive hunting days following	Mathews County	Saturday prior to the third Monday in November through the first Saturday in January
Highland County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following	Mecklenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Isle of Wight 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
James City 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 12 <u>14</u> consecutive hunting days following
King and Queen County	Saturday prior to the third Monday in November through the first Saturday in January	Nelson County (west of Route 151)	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
King George County	Saturday prior to the third Monday in November through the first Saturday in January	Nelson County (east of Route 151)	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	New Kent 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	Northampton 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 12 <u>14</u> consecutive hunting days following	Northumberland County	Saturday prior to the third Monday in November through the first Saturday in January

Regulations

Nottoway County	Saturday prior to the third 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
Orange County	Saturday prior to the third Monday in November through the first Saturday in January	Richmond County	Saturday prior to the third Monday in November through the first Saturday in January
Page County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following	Roanoke County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Patrick County	Saturday prior to the third Monday in November and for 24 <u>28</u> consecutive hunting days following	Rockbridge County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Pittsylvania County	Saturday prior to the third Monday in November through the first Saturday in January	Rockingham County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Powhatan County	Saturday prior to the third Monday in November through the first Saturday in January	Russell County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Prince Edward County	Saturday prior to the third Monday in November through the first Saturday in January	Scott County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Prince George County	Saturday prior to the third Monday in November through the first Saturday in January	Shenandoah County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Prince William County	Saturday prior to the third Monday in November through the first Saturday in January	Smyth County	Saturday prior to the third Monday in November and for 12 <u>14</u> consecutive hunting days following
Prince William County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Monday <u>Sunday</u> following the first Saturday in January through the last Saturday <u>Sunday</u> in March	Southampton County	Saturday prior to the third Monday in November through the first Saturday in January
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 12 <u>14</u> consecutive hunting days following	Spotsylvania County	Saturday prior to the third Monday in November through the first Saturday in January
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	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

Regulations

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 12 14 consecutive hunting days following
Virginia Beach (City of)	October 1 through November 30
Warren County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
Washington County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting 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 12 14 consecutive hunting days following
Wythe County	Saturday prior to the third Monday in November and for 12 14 consecutive hunting days following
York County	Saturday prior to the third Monday in November through the first Saturday in January

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 ~~12~~ 14 consecutive ~~hunting~~ days following within the incorporated limits of any city or town that allows deer hunting.

4VAC15-90-70. Bow and arrow hunting.

A. It shall be lawful to hunt deer during the early special archery season with bow and arrow 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 bow and arrow from the ~~Monday~~ Sunday following the close of the general firearms season on deer through the first Saturday in January, both dates inclusive, in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County) and 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), Patrick and on the Chester F. Phelps Wildlife Management Area and on national forest lands in Frederick County and 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 (except on PALS (Public Access Lands) in Dickenson County where it shall be unlawful to take antlerless deer during the special archery seasons provided for in subsections A and B of this section).

D. It shall be unlawful to carry firearms while hunting with bow and arrow 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. Arrows used for hunting big game must have a minimum width head of 7/8 of an inch and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

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

G. For the purpose of the application of subsections A through I to this section, the phrase "bow and arrow" includes crossbows.

H. It shall be lawful to hunt antlerless deer during the special urban archery season with bow and arrow from the first Saturday in September through the Friday prior to the first Saturday in October, both dates inclusive, and from the ~~Monday~~ Sunday following the first Saturday in January through the last ~~Saturday~~ 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 certified letter to the department prior to April 1 notice of its intent not to participate in the special urban archery season.

I. It shall be lawful to hunt antlerless deer during the special antlerless archery season with a bow and arrow from the Monday following the last ~~Saturday~~ Sunday in March through the last ~~Saturday~~ Sunday in April, both dates inclusive, in Arlington, Fairfax, Loudoun, and Prince William counties (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 ~~18~~ 21 consecutive ~~hunting~~ days immediately prior to and ~~inclusive~~ of ~~on~~ the first Saturday in January, in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County), and 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), Patrick and on national forest lands in Frederick County and 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 below:

- 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 and Philpott Reservoir.
- 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 below:

- Deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd counties and on private lands in Carroll, Frederick, Grayson, Montgomery, Roanoke, Shenandoah, and Warren counties.

- Antlered bucks only—no either sex deer hunting days during the early special muzzleloading season in Buchanan, Dickenson, Lee, Russell, Smyth, Tazewell, Washington, and Wise counties and on national forest lands in Alleghany, Botetourt, Frederick, Grayson, Page, Rockingham, Scott, Shenandoah, Warren, and on national forest and department-owned lands in Augusta, Bath, Highland, and Rockbridge counties and on Grayson Highlands 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 below:

- 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 Carroll, Grayson, Montgomery, Roanoke, Shenandoah, and Warren counties and in the cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

- Deer of either sex may be taken the last day only during the late special muzzleloading season in Alleghany, Bath, Dickenson (north of Route 83), Highland, Lee, Russell, Scott, Smyth, Tazewell, Washington, and Wise counties and on national forest lands in Amherst, Bedford, Botetourt, Frederick, Grayson, Nelson, Page, Rockingham, Shenandoah, and Warren counties, and on national forest and department-owned lands in Augusta and Rockbridge counties and on private lands west of Routes 613 and 731 in Rockingham County and Grayson Highlands State Park.

- Antlered bucks only—no either-sex deer hunting days during the late special muzzleloading season in Buchanan and Dickenson (south of Route 83).

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 counties of Buchanan, Dickenson, and Wise.

G. It shall be unlawful to hunt deer 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.

H. A muzzleloading gun, for the purpose of this section, means a single shot weapon, ~~excluding muzzleloading~~

Regulations

pistols, .45 caliber or larger, firing a single projectile or sabot (with a .38 caliber or larger projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent or smokeless powder).

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.

4VAC15-90-91. 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: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Albemarle County: full season.

Alleghany County: the second Saturday and the last ~~hunting~~ day.

-National forest lands: the last ~~hunting~~ day.

Amelia County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

-Amelia WMA: the second and third Saturdays and the last six ~~hunting~~ 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, third, and fourth Saturdays and the last ~~24 hunting~~ 27 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 ~~hunting~~ day.

Appomattox County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

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

-Featherfin WMA: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Arlington County: full season.

Augusta County: the second Saturday and the last six ~~hunting~~ days.

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

Bath County: the second Saturday and the last ~~hunting~~ day.

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

Bedford County: full season.

-National forest lands: the last ~~hunting~~ day.

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

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

Botetourt County: full season.

-National forest lands: the last ~~hunting~~ day.

Brunswick County: the second and third Saturdays and the last ~~12 hunting~~ 13 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 ~~12 hunting~~ 13 days.

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

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

-Featherfin WMA: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Campbell County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Caroline County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

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

Carroll County: full season.

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

Charles City County: full season.

-Chickahominy WMA: the second Saturday after Thanksgiving.

Charlotte County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

Chesapeake (City of): full season.

Chesterfield County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

Clarke County: full season.

Craig County: full season.

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

Culpeper County: full season.

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

Cumberland County: the second and third Saturdays and the last ~~12 hunting~~ 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 ~~12 hunting~~ 13 days.

Essex County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Fairfax County: full season (restricted to certain parcels of land by special permit).

Fauquier County: full season.

-G. Richard Thompson WMA: the second Saturday and the last ~~hunting~~ day.

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

Floyd County: full season.

Fluvanna County: second and third Saturdays and the last ~~12 hunting~~ 13 days.

Franklin County: full season.

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

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

Frederick County: full season

-National forest lands: the last ~~hunting~~ day.

Giles County: full season.

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

Gloucester County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Goochland County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Grayson County: full season.

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

Greene County: full season.

Greensville County: full season.

Halifax County: full season.

Hanover County: full season.

Henrico County: full season.

Henry County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

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

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

Highland County: the second Saturday and the last ~~hunting~~ day.

-National forest and department-owned lands: the last ~~hunting~~ 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, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

King George County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

King William County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Lancaster County: full season.

Lee County: the second Saturday and the last two ~~hunting~~ 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, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Lunenburg County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

Madison County: full season.

-Rapidan WMA: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Mathews County: the second, third, and fourth Saturdays and last ~~24 hunting~~ 27 days.

Mecklenburg County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

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

Middlesex County: the second, third, and fourth Saturdays and last ~~24 hunting~~ 27 days.

Montgomery County: full season.

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

Nelson County (east of Route 151): the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

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

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

-National forest lands: the last ~~hunting~~ day.

New Kent County: full season.

Northampton County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Northumberland County: full season.

Nottoway County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

Regulations

Orange County: full season.

Page County: the second Saturday and the last two ~~hunting~~ days.

-National forest lands: the last ~~hunting~~ day.

Patrick County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

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

Pittsylvania County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

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

Powhatan County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

-Powhatan WMA: the second and third Saturdays and the last six ~~hunting~~ days.

Prince Edward County: the second and third Saturdays and the last ~~12 hunting~~ 13 days.

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

-Featherfin WMA: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 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 ~~hunting~~ day.

Rappahannock County: full season.

Richmond County: full season.

Roanoke County: full season.

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

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

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

Rockingham County: the second Saturday and the last six ~~hunting~~ days.

-National forest lands and private lands west of Routes 613 and 731: the last ~~hunting~~ day.

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

-Clinch Mountain WMA, Hidden Valley WMA, and the Channels State Forest: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Scott County: the second Saturday and the last six ~~hunting~~ 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 ~~hunting~~ day.

Smyth County: the second Saturday and the last six ~~hunting~~ days.

-National forest lands, Clinch Mountain WMA, and Hungry Mother State Park: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Southampton County: full season.

Spotsylvania County: the second, third, and fourth Saturdays and the last ~~24 hunting~~ 27 days.

Stafford County: full season.

Suffolk (City of): full season.

Surry County: full season.

-Carlisle Tract 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.

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

-National forest lands, ~~and~~ Clinch Mountain WMA, ~~and~~ Hidden Valley WMA: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Virginia Beach (City of): full season.

Warren County: full season.

-National forest lands: the last ~~hunting~~ day.

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

-National forest lands, Clinch Mountain WMA, Hidden Valley WMA, and the Channels State Forest: antlered bucks only—no either-sex days. Only deer with antlers above the hairline may be taken.

Westmoreland County: full season.

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 lands and Big Survey WMA: the second Saturday and the last ~~hunting~~ 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.

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 ~~42~~ 14 days in the counties of Greene and Madison, except that tracking dogs as defined in § 29.1-516.1 of the Code of Virginia may be used.

4VAC15-90-293. Chronic Wasting Disease deer carcass movement restrictions.

A. For the purposes of this section and in 4VAC15-40-285 and 4VAC15-90-294:

"Cervid" means any member of the deer family Cervidae, including but not limited to white-tailed deer, fallow deer, sika deer, elk, and reindeer.

B. No person shall import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating from an enclosure intended to confine deer or elk or from any area designated by the department as a carcass-restriction zone in or adjacent to a state or Canadian province in which Chronic Wasting Disease has been found in free-ranging or captive deer, except that the following carcass parts may be imported and possessed:

1. Boned-out meat that is cut and wrapped;
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. Antlers (with no meat or tissue attached);
6. Upper canine teeth (buglers, whistlers, or ivories); and
7. 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 killed or owned the animal.

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 containment 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 or vehicles during transit. Provisions of this section shall not apply to employees of the department or another government agency working in an official disease investigation capacity.

VA.R. Doc. No. R14-4042; Filed May 14, 2014, 10:25 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-240. **Game:** Turkey (amending 4VAC15-240-10 through 4VAC15-240-40).

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

Public Hearing Information:

June 10, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: May 26, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments incorporate hunting on Sundays into the turkey hunting seasons pursuant to legislation enacted in the 2014 Session of the General Assembly.

4VAC15-240-10. Open season; generally.

Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to hunt turkeys from the Saturday prior to the last Monday in October and for ~~11 consecutive hunting~~ 13 days following; on Thanksgiving Day; ~~and~~ on the Monday nearest December 2 through the last Saturday in December, both dates inclusive; and on the second Saturday in January and for ~~12 consecutive hunting~~ 14 days following.

Regulations

4VAC15-240-20. Open season; certain counties and areas; Saturday prior to the last Monday in October and for ~~11~~ hunting 13 days following, and on Thanksgiving Day.

It shall be lawful to hunt turkeys on the Saturday prior to the last Monday in October and for ~~11 consecutive hunting~~ 13 days following, and on Thanksgiving Day in the counties of Albemarle, Alleghany, Augusta, Bath, Greene, Highland, Madison, Page, Orange, Rockingham, and Warren.

4VAC15-240-31. Open season; certain counties and areas; Saturday prior to the last Monday in October and for ~~11~~ hunting 13 days following, on Thanksgiving Day, and on the Monday closest to December 2 and for ~~11~~ hunting 12 days following.

It shall be lawful to hunt turkeys on the Saturday prior to the last Monday in October and for ~~11 consecutive hunting~~ 13 days following, on Thanksgiving Day, and on the Monday closest to December 2 and for ~~11 hunting~~ 12 days following in the counties of Accomack, Buchanan, Charles City, Gloucester, Isle of Wight, James City, King George, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, York (except on Camp Peary), and the City of Suffolk.

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 ~~30 consecutive hunting~~ 35 days following, both dates inclusive, from 1/2 hour before sunrise to 12:00 noon prevailing time during the first ~~19 hunting~~ 23 days and from 1/2 hour before sunrise to sunset during the last ~~12 hunting~~ 13 days of the spring season.

B. Turkey hunters 15 years of age and ~~under younger~~ holders of an apprentice hunting license may hunt on the first Saturday in April 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 ~~that~~ who is exempt from purchasing a hunting license. Adult hunters accompanying youth hunters or apprentice license holders on this day may assist with calling but they shall not carry or discharge weapons.

C. Bearded turkeys may be hunted by calling.

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

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

VA.R. Doc. No. R14-4043; Filed May 14, 2014, 10:25 a.m.

Proposed Regulation

Title of Regulation: **4VAC15-320. Fish: Fishing Generally (amending 4VAC15-320-25, 4VAC15-320-60, 4VAC15-320-120; repealing 4VAC15-320-150).**

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) adjust or establish the freshwater fishing creel (i.e., possession) and length limits that are allowable in various waters of the state; (ii) add Clinch Mountain and Crooked Creek fee fishing areas to the list of those areas in which children 12 years and younger may fish without a permit if under the direct supervision of a permitted adult, with the daily creel limit for both adult and child or children combined to be six trout; (iii) prohibit stocking blue catfish and their hybrids into privately owned ponds and lakes; and (iv) repeal the authority to shoot fish using a rifle in Scott County.

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

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

Type of fish	Subtype or location	Creel and length limits	Geographic exceptions	Creel or length limits for exceptions
largemouth bass, smallmouth bass, spotted bass		5 per day in the aggregate <u>(combined)</u> ; No statewide length limits	Lakes	
			Briery Creek Lake	No bass 16 to 24 inches, only 1 per day longer than 24 inches
			Buggs Island (Kerr)	Only 2 of 5 bass less than 14 inches
			Claytor Lake	No bass less than 12 inches
			Flannagan Reservoir	No bass less than 12 inches
			Lake Gaston	Only 2 of 5 bass less than 14 inches
			Leesville Reservoir	Only 2 of 5 bass less than 14 inches
			Lake Moomaw	No bass less than 12 inches
			Philpott Reservoir	No bass less than 12 inches
			Quantico Marine Base waters	No bass 12 to 15 inches
			Smith Mt. Lake and its tributaries below Niagara Dam	Only 2 of 5 bass less than 14 inches
			Rivers	
			Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell counties	No bass 11 to 14 inches <u>less than 20 inches</u> , only 1 bass <u>per day longer than 20 inches</u>
			Dan River and tributaries down stream <u>downstream</u> from the Union Street Dam, Danville	Only 2 of 5 bass less than 14 inches
			James River – Confluence of the Jackson and Cowpasture rivers (Botetourt County) downstream to the 14th Street Bridge in Richmond	No bass 14 to 22 inches, only 1 per day longer than 22 inches

Regulations

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

Regulations

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

Regulations

striped bass	landlocked striped bass and landlocked striped bass x white bass hybrids	4 per day in the aggregate; No fish less than 20 inches	Buggs Island (Kerr) reservoir including the Staunton River to Leesville Dam and the Dan River to Union Street Dam (Danville)	October 1 - May 31: 2 per day in the aggregate; No striped bass or hybrid striped bass less than 24 inches; June 1 - September 30: 4 per day in the aggregate; No length limit
			Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam	2 per day in the aggregate; November 1 - May 31: No striped bass 26 30 to 36 40 inches; June 1 - October 31: No length limit
			Lake Gaston	4 per day in the aggregate October 1 - May 31: No striped bass or hybrid striped bass less than 20 inches June 1 - September 30: No length limit
	anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be set by the Virginia Marine Resources Commission for recreational fishing in tidal waters		

Regulations

	anadromous (coastal) in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay	2 per day; No striped bass less than 18 inches		
white bass		5 per day; No statewide length limits		
walleye		5 per day <u>in the aggregate</u> ; No walleye or saugeye less than 18 inches	New River upstream of Buck Dam in Carroll County	No walleye less than 20 inches
			Claytor Lake and the New River upstream of Claytor Lake Dam to Buck Dam in Carroll County	February 1 - May 31: 2 walleye per day; no walleye 19 to 28 inches; June 1 - January 31: 5 walleye per day; no walleye less than 20 inches
sauger		2 per day; No statewide length limits		
yellow perch		No statewide daily limit; No statewide length limits	Lake Moomaw	10 per day
chain pickerel		5 per day; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs	No daily limit
northern pike		2 per day; No pike less than 20 inches		
muskellunge		2 per day; No muskellunge less than 30 inches	New River - Fields Dam (Grayson County) downstream to the VA - WV state line, including Claytor Lake	1 per day No muskellunge less than 42 inches

Regulations

bluegill (bream) and other sunfish excluding crappie, rock bass (redeye) and Roanoke bass		50 per day in the aggregate; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
crappie (black or white)		25 per day in the aggregate; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County	No daily limit
			Flannagan and South Holston reservoirs	No crappie less than 10 inches
rock bass (redeye)		25 per day; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County.	No daily limit
			Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with Roanoke bass; No rock bass less than 8 inches
Roanoke bass		No statewide daily limit; No statewide length limits	Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with rock bass; No Roanoke bass less than 8 inches
trout	See 4VAC15-330. Fish: Trout Fishing.			
catfish	channel, white, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit

Regulations

	blue catfish	20 per day, only 1 blue catfish per day longer than 32 inches	All rivers below the fall line	No daily limit, except only 1 blue catfish per day longer than 32 inches
	yellow, brown, and black bullheads	No daily limit; No length limits		
American shad and hickory shad	James River above the fall line (14th Street Bridge), the Meherrin River above Emporia Dam, the Chickahominy River above Walkers Dam, the Appomattox River above Harvell Dam, the Pamunkey River and the Mattaponi River above the Rt. 360 bridge, and the Rappahannock River above the Rt. 1 bridge, and Virginia waters of Lake Gaston and Buggs Island (Kerr) Reservoir and tributaries to include the Dan and Staunton rivers	No possession (catch and release only)		
	(below the fall line) in tidal <u>Above and below the fall line in all coastal rivers of the Chesapeake Bay</u>	Creel and length limits shall be <u>the same</u> as those set by the Virginia Marine Resources Commission <u>for these species in tidal rivers</u>		
	Meherrin River below Emporia Dam, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest rivers, and their tributaries plus Back Bay	10 per day in the aggregate No length limits		

Regulations

anadromous (coastal) alewife and blueback herring	Above and below the fall line in all coastal rivers of the Chesapeake Bay	Creel and length limits shall be <u>the same as</u> those set by the Virginia Marine Resources Commission <u>for these species in tidal rivers</u>		
	Meherrin River, Nottoway River, Blackwater River (Chowan Drainage), North Landing and Northwest rivers, and their tributaries plus Back Bay	No possession		
red drum	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	1 per day; No drum less than 18 inches or greater than 27 inches		
spotted sea trout (speckled trout)	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	4 per day; No sea trout less than 14 inches		
grey trout (weakfish)	Back Bay and tributaries including Lake Tecumseh and North Landing River and its tributaries	1 per day; No grey trout less than 12 inches		
southern flounder	Back Bay and tributaries including Lake Tecumseh and the North Landing River and its tributaries	6 per day; No flounder less than 15 inches		

<p><u>northern snakehead</u></p>	<p><u>Anglers may possess snakeheads taken from Virginia waters if they immediately kill the fish and notify the headquarters or a regional office of the department; notification may be made by telephoning (804) 367-2925</u></p> <p><u>No statewide daily limit</u></p> <p><u>No statewide length limits</u></p>		
<p>other native or naturalized nongame fish</p>	<p>See 4VAC15-360-10. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish. Taking aquatic invertebrates, amphibians, reptiles and nongame fish for private use.</p>		
<p>endangered or threatened fish</p>	<p>See 4VAC15-20-130. Definitions and Miscellaneous: In General. Endangered and threatened species; adoption of federal list; additional species enumerated.</p>		
<p>nonnative (exotic) fish</p>	<p>See 4VAC15-30-40. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals. Importation requirements, possession and sale of nonnative (exotic) animals.</p>		

4VAC15-320-60. Approval required to stock fish into inland waters.

It shall be unlawful to stock any species of fish into any inland waters of the Commonwealth, without first obtaining written approval to do so from the department. Nothing in this section shall be construed as restricting the use of native and naturalized species of fish in privately-owned ponds and lakes, except blue catfish and their hybrids may not be stocked.

4VAC15-320-120. Special daily permit for fishing in Clinch Mountain Wildlife Management Area, Douthat State Park Lake and Crooked and Wilson Creeks.

It shall be unlawful to fish in the Clinch Mountain Wildlife Management Area (except in Little Tumbling Creek and Laurel Bed Lake), in Douthat State Park Lake and in Wilson Creek both above the lake to the park boundary and downstream to the lower USFS boundary, and in the Crooked Creek fee fishing area in Carroll County without having first paid to the department for such privilege a daily use fee. Such daily use fee shall be in addition to all other license fees provided by law. Upon payment of the daily use fee the department shall issue a special permit ~~which that~~ shall be signed and carried by the person fishing. This fee will be required from the first Saturday in April through September 30 at Clinch Mountain Wildlife Management Area (except Little Tumbling Creek and Laurel Bed Lake) and at Crooked Creek fee fishing area in Carroll County, and from the first

Saturday in April through June 15 and from September 15 through October 31 at Douthat State Park Lake and Wilson Creek, except that the director may temporarily suspend fee requirements if conditions cause suspension of trout stocking. During the remainder of the year, these waters will revert to designated stocked trout waters and a trout license will be required except as provided in 4VAC15-20-190. No fishing is permitted in these waters for five days preceding the opening day. Fishing shall begin at 9 a.m. on opening day at all fee areas. After opening day, fishing times will be as posted at each fee area. The department may recognize clearly marked "children only" fishing areas within any department fee fishing area. Within these "children only" areas, children 12 years old or ~~less~~ younger may fish without the daily use fee if accompanied by a fully licensed adult who has purchased a valid daily permit. No person ~~over~~ older than 12 years of age may fish in these children-only areas. Also, children 12 years of age and ~~under~~ younger can fish without a permit in ~~the entire Douthat Fee Fishing Area~~ all three fee fishing areas if under the direct supervision of a permitted adult. However, the combined daily creel limit for both adult and child/children in such a party shall not exceed six trout. During the fee fishing season these waters will be subject to 4VAC15-330-60, 4VAC15-330-80, and 4VAC15-330-90, as it relates to designated stocked trout waters.

Regulations

4VAC15-320-150. Shooting certain fish in Clinch River in Scott County. (Repealed.)

~~It shall be lawful for any person holding a current license to fish to shoot suckers, redhorse and carp with a rifle, during the hours of sunrise to sunset, from April 15 to May 31, both inclusive, in the waters of the Clinch River within the limits of Scott County; except, that it shall be unlawful to shoot fish on Sunday, or within the limits of any town, or from any bridge. No more than 20 such fish may be so taken during any one day. All persons engaged in the shooting or the retrieval of fish pursuant to this section shall have in their possession a current fishing license.~~

VA.R. Doc. No. R14-4052; Filed May 14, 2014, 10:26 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-330. Fish: Trout Fishing (amending 4VAC15-330-150).

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments add certain sections of streams to the list of catch and release trout stream waters in which it is lawful to fish for trout using only artificial lures with single hooks year-round.

4VAC15-330-150. Special provision applicable to Stewarts Creek Trout Management Area; certain portions of the Dan, Rapidan, South Fork Holston and Staunton rivers, the Brumley Creek, East Fork of Chestnut Creek, Little Stony Creek, Little Tumbling Creek, North Creek, Roaring Fork, North Creek, Spring Run, Stony Creek, Venrick Run, Brumley Creek, and their tributaries.

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

1. The Stewarts Creek Trout Management Area in Carroll County; ~~in the~~
2. The Rapidan and Staunton rivers and their tributaries upstream from a sign at the Lower Shenandoah National Park boundary in Madison County; ~~in the~~
3. The Dan River and its tributaries between the Townes Dam and the Pinnacles Hydroelectric Project powerhouse in Patrick County; ~~in the~~
4. The East Fork of Chestnut Creek (Farmer's Creek) and its tributaries upstream from the Blue Ridge Parkway in Grayson and Carroll Counties; ~~in~~

5. Roaring Fork and its tributaries upstream from the southwest boundary of Beartown Wilderness Area in Tazewell County ~~and in that~~

6. That section of the South Fork Holston River and its tributaries from the concrete dam at Buller Fish Culture Station downstream to the lower boundary of the Buller Fish Culture Station in Smyth County; ~~and in~~

7. North Creek and its tributaries upstream from a sign at the George Washington National Forest North Creek Campground in Botetourt County; ~~in~~

8. Spring Run from it confluence with Cowpasture River upstream to a posted sign at the discharge for Coursey Springs Hatchery in Bath County; ~~in~~

9. Venrick Run and its tributaries within the Big Survey Wildlife Management Area and Town of Wytheville property in Wythe County; ~~and in~~

10. Brumley Creek and its tributaries from the Hidden Valley Wildlife Management Area boundary upstream to the Hidden Valley Lake Dam in Washington County.

11. Stony Creek (Mountain Fork) and its tributaries within the Jefferson National Forest in Wise and Scott Counties from the outlet of High Knob Lake downstream to the confluence of Chimney Rock Fork and Stony Creek.

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

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

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

VA.R. Doc. No. R14-4053; Filed May 14, 2014, 10:19 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-340. Fish: Seines and Nets (amending 4VAC15-340-40, 4VAC15-340-60).

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments prohibit the use of seines, traps, and nets in certain waters and replace the obsolete

nomenclature "game wardens" with "conservation police officers."

4VAC15-340-40. Dip nets; generally.

A. Authorization to take fish with dip nets. A county dip net permit shall authorize the holder to take shad, herring, mullet, and suckers (daily creel (possession) limits for shad and herring are found in 4VAC15-320-25, there is no limit for mullet, and subsection D of this section provides limits for suckers), in the county named on the face of the permit with a dip net in inland waters, except where otherwise prohibited by local legislation or by the sections appearing in this chapter.

B. Persons required to have permit; inspection by ~~game wardens~~ conservation police officers. A dip net permit, or valid fishing license, shall be required for all persons using or assisting in the use of a dip net and permits, or licenses, shall be carried at all times while using such nets and shall be subject to inspection by ~~game wardens~~ conservation police officers.

C. Release of certain fish netted. All fish, except shad, herring, mullet, suckers and carp, when taken with a dip net shall be returned to the water alive with as little injury as possible.

D. Special provisions applicable only to suckers. The following special provisions shall apply only to the taking of suckers, with a dip net:

1. Not more than 20 may be taken by any person in one day;
2. The open season for taking same with a dip net shall be from February 15 through May 15, both dates inclusive; and
3. Dip nets for taking such fish shall not be more than six feet square.

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

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

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

VA.R. Doc. No. R14-4054; Filed May 14, 2014, 10:27 a.m.

Proposed Regulation

Title of Regulation: **4VAC15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, Etc. (amending 4VAC15-350-60).**

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) require removal of fishing lines from trotlines, juglines, and set poles when not in use and (ii) clarify that snapping turtles are the only type of turtles that may be taken with these methods.

4VAC15-350-60. Trotlines, juglines, or set poles.

A. Generally. Except as otherwise provided by local legislation and by subsections B and C of this section, and except on waters stocked with trout and within 600 feet of any dam, it shall be lawful to use trotlines, juglines (single hook, including one treble hook, and line attached to a float), or set poles for the purpose of taking nongame fish (daily creel (possession) and length limits for nongame fish are found in 4VAC15-320-25) and snapping turtles (limits for snapping turtles are found in 4VAC15-360-10), provided that no live bait is used. Notwithstanding the provisions of this section, live bait other than game fish may be used on trotlines to take catfish in the Clinch River in the Counties of Russell, Scott, and Wise. Any person setting or in possession of a trotline, jugline, or set pole shall have it clearly marked by permanent means with his name, address, and telephone number, and is required to check all lines at least once each day, ~~and~~ remove all fish and animals caught, and remove all lines when not in use. This requirement shall not apply to landowners on private ponds, nor to a bona fide tenant or lessee on private ponds within the bounds of land rented or leased, nor to anyone transporting any such device from its place of purchase.

B. Quantico Marine Reservation. It shall be unlawful to fish with trotlines in any waters within the confines of Quantico Marine Reservation.

C. Additional jugline requirements. Jugline sets (except as exempt under subsection A of this section) shall be restricted to 20 per angler and must be attended (within sight) by anglers at all times. Also, in addition to being labeled with the angler's name, address, and telephone number, jugs shall also be labeled with a reflective marker that encircles the jugs to allow for visibility at night.

VA.R. Doc. No. R14-4055; Filed May 14, 2014, 10:27 a.m.

Regulations

Proposed Regulation

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

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

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments establish a recreational harvest season for snapping turtles that coincides with the commercial harvest season of June 1 through September 30.

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, subdivision 8 of 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 no more than five individuals of any single native or naturalized (as defined in 4VAC15-20-50) species of amphibian and reptile 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 below:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, bowfin, longnose gar, 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.
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 sold pursuant to the provisions of 4VAC15-360-60 and 4VAC15-360-70. However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may 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 5. Snapping turtles shall only be taken from June 1st to September 30th. 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 in any number for private use: candy darter, eastern hellbender, diamondback terrapin, and spotted turtle.

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.

B. Methods of taking species in subsection A. 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 may only be taken by hand, hook and line, with a seine not exceeding four feet in depth by 10 feet in length, an umbrella type net not exceeding five by five feet square, small minnow traps with throat openings no larger than one inch in diameter, cast nets, and 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 fluviatilis*) 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.

VA.R. Doc. No. R14-4063; Filed May 14, 2014, 10:28 a.m.

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is claiming an exemption from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that the board shall promulgate regulations to supplement Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 (Boating Laws) of the Code of Virginia as prescribed in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia.

Title of Regulation: **4VAC15-450. Watercraft: Commercial Parasail Operations (amending 4VAC15-450-30).**

Statutory Authority: §§ 29.1-103, 29.1-701, and 29.1-735.3 of the Code of Virginia.

Public Hearing Information:

July 8, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: June 20, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) bring the Commonwealth into conformity with the current standards in the industry and (ii) reflect the change in the private organization that provides industry standards for commercial parasailing.

4VAC15-450-30. Commercial parasailing activities.

Commercial parasailing operators shall comply with the following provisions:

1. All commercial parasail operators shall have a valid Coast Guard License for carrying passengers for hire.
2. Vessels engaged in parasailing operations must be equipped with a rear ~~launch platform~~ launch platform and direct launch and recovery hydraulic winch system used to pay out and reel in the towline.
3. Prior to leaving the dock, all passengers and parasail participants shall be required to view a parasail safety briefing video and/or be given a written parasail safety briefing handout. Briefing materials shall be consistent

with information approved or provided by the ~~Professional Association of Parasail Operators (PAPO)~~ Water Sports Industry Association (WSIA).

4. Parasailing shall only be conducted from one-half hour before sunrise to one-half hour after sunset.

5. All parasail riders, when attached to the harness of a parasail canopy, shall wear a United States Coast Guard approved ~~Type I, II, or III~~ wearable, inherently buoyant, noninflatable personal flotation device that is in good and serviceable condition and of the proper size. The rider must be secured in a seat harness attached to an ascending type of parachute that is connected to the towline.

6. All parasailing operations shall include, in addition to the operator of the vessel, an observer 18 years or older at all times to monitor the progress of an airborne parasail rider and parachute.

7. All parasailing towing vessels when operating more than 1,000 feet from shore shall be equipped with a VHF radio that is in working order and tuned to Channel 16.

8. Parasailing shall be prohibited when there are sustained winds in excess of 20 mph/17.5 knots and/or seas in excess of six feet in the area of operation.

9. Parasail operation towlines shall not exceed 1,200 feet in total length on the vessel's winch drum or exceed 1,000 feet of towline from boat to canopy yoke while conducting parasail flight operations. All commercial towlines must have a minimum diameter of 3/8 inches, be a maximum length of 1,200 feet, and have a minimum tensile strength of 4,800 lbs. An in-service date shall be logged whenever new line is installed.

10. Parasail operators shall inspect the towline in its entirety daily for damage and/or wear and, if necessary, shall immediately replace the line. A minimum of two feet shall be trimmed from the towline bitter end within a maximum period of seven days or every ~~400~~ 100 flights or as may become necessary. The towline shall be kept clean and well maintained in accordance with manufacturers' specifications, requirements, and/or recommendations. A written log of such inspections and maintenance shall be kept at all times.

11. Parasail vessel operators shall at all times maintain a safe parasail chute distance from any surf-zone, shoreline, or fixed object when engaged in actual parasail operations. This includes all of the following: (i) the canopy shall not be allowed to pass within three times the length of the towline from shore or any structure, (ii) when the wind has ~~an~~ any onshore component, the canopy's minimum distance from shore ~~is a function of wind speed as follows: either 1,000 feet or a sliding distance based on wind speed (0-5 mph—600 feet, 6-10 mph—1,000 feet, 11-15 mph—1,800 feet, 16-20 mph—2,400 feet)~~ shall be 1500 feet.

12. Parasail operators shall only launch and land riders from the flight deck of the vessel. Spectators shall not be

Regulations

permitted on the launch/landing deck area while the vessel is engaged in actual parasail operations. At no time shall there be more than three passengers in any canopy. Multipassenger flights shall only be conducted after the vessel operator has made reasonable judgment regarding the flight safety prior to each flight and then only under the following conditions: (i) wind conditions must be adequate, stable, and persistent; (ii) sea conditions must be conducive to such activities; (iii) commercial equipment specifically designed and professionally manufactured for multipassenger flight operations must be utilized; (iv) all equipment manufacturers' specifications, requirements, and/or recommendations must be adhered to; and (v) the vessel's winch system must be equipped with a functional level-winder during all multipassenger flights.

13. A person may not operate or manipulate any vessel by which the direction or location of a parasail may be affected or controlled in such a way as to cause the parasail or any person thereon to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object.

14. The deliberate lowering of any person attached to the parasail to be in contact with the water's surface (toe dipping) shall only be conducted after the vessel operator has made reasonable judgment regarding the safety of the activity and his ability to control such an activity and then only when wind and sea conditions are conducive to such activity. Deliberate dipping above the ankles or allowing a participant to touch the water during his flight within 200 feet of another vessel or object or within 50 feet of the stern of the tow vessel is prohibited.

15. Commercial parasail operators shall notify the department's law-enforcement division dispatch office at least 14 days in advance of the commencement of annual operations.

VA.R. Doc. No. R14-4056; Filed May 14, 2014, 10:27 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Emergency Regulation

Titles of Regulations: **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-130).**

12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12VAC30-60-25).

12VAC30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending

12VAC30-70-201, 12VAC30-70-321; adding 12VAC30-70-415, 12VAC30-70-417).

12VAC30-80. Methods and Standards for Establishing Payment Rates; other Types of Care (amending 12VAC30-80-21).

12VAC30-130. Amount, Duration and Scope of Selected Services (amending 12VAC30-130-850, 12VAC30-130-890).

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

Effective Dates: July 1, 2014, through December 31, 2015.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

Preamble:

Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4. Item 307 CCC of Chapter 3 of the 2012 Acts of the Assembly, Special Session I, directs the Department of Medical Assistance Services (DMAS) to develop a prospective payment methodology to reimburse institutions treating mental disease (residential treatment centers and freestanding psychiatric hospitals) for services furnished by the facility and by others. Item 307 CCC of Chapter 806 of the 2013 Acts of the Assembly directs DMAS to require that institutions that treat mental diseases provide referral services to their inpatients when an inpatient needs ancillary services. The amendments conform regulation to these requirements.

12VAC30-50-130. ~~Skilled nursing~~ Nursing facility services, EPSDT, including school health services and family planning.

A. ~~Skilled nursing~~ Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

B. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such

services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service.

4. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and which are medically necessary, whether or not such services are covered under the State Plan and notwithstanding the limitations, applicable to recipients ages 21 and over, provided for by the Act § 1905(a).

5. Community mental health services.

a. Intensive in-home services to children and adolescents under age 21 shall be time-limited interventions provided typically but not solely in the residence of a child who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement due to a documented medical need of the child. These services provide crisis treatment; individual and family counseling; and communication skills (e.g., counseling to assist the child and his parents to understand and practice appropriate problem solving, anger management, and interpersonal interaction, etc.); case management activities and coordination with other required services; and 24-hour emergency response. These services shall be limited annually to 26 weeks. After an initial period, prior authorization is required for Medicaid reimbursement.

b. Therapeutic day treatment shall be provided two or more hours per day in order to provide therapeutic interventions. Day treatment programs, limited annually to 780 units, provide evaluation; medication; education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control, and appropriate peer relations, etc.); and individual, group and family psychotherapy.

c. Community-Based Services for Children and Adolescents under 21 (Level A).

(1) Such services shall be a combination of therapeutic services rendered in a residential setting. The residential services will provide structure for daily activities, psychoeducation, therapeutic supervision and psychiatric treatment to ensure the attainment of therapeutic mental health goals as identified in the individual service plan (plan of care). Individuals qualifying for this service must demonstrate medical necessity for the service arising from a condition due to mental, behavioral or emotional illness that results in significant functional impairments in major life activities in the home, school, at work, or in the community. The service must reasonably be expected to improve the child's condition or prevent regression so that the services will no longer be needed. DMAS will reimburse only for services provided in facilities or programs with no more than 16 beds.

(2) In addition to the residential services, the child must receive, at least weekly, individual psychotherapy that is provided by a licensed mental health professional.

(3) Individuals must be discharged from this service when other less intensive services may achieve stabilization.

(4) Authorization is required for Medicaid reimbursement.

(5) Room and board costs are not reimbursed. Facilities that only provide independent living services are not reimbursed.

(6) Providers must be licensed by the Department of Social Services, Department of Juvenile Justice, or Department of ~~Education under the Standards for Interdepartmental Regulation of Behavioral Health and Developmental Services according to Regulations for Children's Residential Facilities (22VAC42-10) (12VAC35-46).~~

(7) Psychoeducational programming must include, but is not limited to, development or maintenance of daily living skills, anger management, social skills, family living skills, communication skills, and stress management.

(8) The facility/group home must coordinate services with other providers.

d. Therapeutic Behavioral Services (Level B).

(1) Such services must be therapeutic services rendered in a residential setting that provides structure for daily activities, psychoeducation, therapeutic supervision and psychiatric treatment to ensure the attainment of therapeutic mental health goals as identified in the individual service plan (plan of care). Individuals qualifying for this service must demonstrate medical necessity for the service arising from a condition due to

Regulations

mental, behavioral or emotional illness that results in significant functional impairments in major life activities in the home, school, at work, or in the community. The service must reasonably be expected to improve the child's condition or prevent regression so that the services will no longer be needed. DMAS will reimburse only for services provided in facilities or programs with no more than 16 beds.

(2) Authorization is required for Medicaid reimbursement.

(3) Room and board costs are not reimbursed. Facilities that only provide independent living services are not reimbursed.

(4) Providers must be licensed by the Department of ~~Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) under the Standards for Interdepartmental Regulation of Behavioral Health and Developmental Services (DBHDS) according to the Regulations for Children's Residential Facilities (22VAC42-10) (12VAC35-46).~~

(5) Psychoeducational programming must include, but is not limited to, development or maintenance of daily living skills, anger management, social skills, family living skills, communication skills, and stress management. This service may be provided in a program setting or a community-based group home.

(6) The child must receive, at least weekly, individual psychotherapy and, at least weekly, group psychotherapy that is provided as part of the program.

(7) Individuals must be discharged from this service when other less intensive services may achieve stabilization.

6. Inpatient psychiatric services shall be covered for individuals younger than age 21 for medically necessary stays in inpatient psychiatric facilities described in 42 CFR 160(b)(1) and (b)(2) for the purpose of diagnosis and treatment of mental health and behavioral disorders identified under EPSDT when such services are rendered by: ~~a. A~~ (i) a psychiatric hospital or an inpatient psychiatric program in a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or a psychiatric facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children or the Council on Quality and Leadership. ~~b. Inpatient;~~ or (ii) inpatient psychiatric hospital admissions at general acute care hospitals and freestanding psychiatric hospitals shall also be subject to the requirements of 12VAC30-50-100, 12VAC30-50-105, and 12VAC30-60-25. Inpatient psychiatric admissions to residential treatment facilities shall also be subject to the requirements of Part XIV (12VAC30-130-850 et seq.) of this chapter 12VAC30-130.

a. The inpatient psychiatric services benefit for individuals younger than 21 years of age shall include services defined at 42 CFR 440.160, provided under the direction of a physician, pursuant to a certification of medical necessity and plan of care developed by an interdisciplinary team of professionals, and shall involve active treatment designed to achieve the child's discharge from inpatient status at the earliest possible time. The inpatient psychiatric services benefit shall include the following services provided under arrangement furnished by Medicaid enrolled providers other than the inpatient psychiatric facility: (i) arranges for and oversees the provision of all services; (ii) maintains all medical records of care furnished to the individual; and (iii) ensures that the services are furnished under the direction of a physician. Services provided under arrangement shall be documented by a written referral from the inpatient psychiatric facility. For purposes of pharmacy services, a prescription ordered by an employee or contractor of the facility who is licensed to prescribe drugs shall be considered the referral.

b. Eligible services provided under arrangement with the inpatient psychiatric facility shall vary by provider type as described in this section. For purposes of this section, emergency services means the same as is set out in 12VAC30-50-310 B.

(1) State freestanding psychiatric hospitals shall arrange for, maintain records of, and ensure that physicians order these services: (i) pharmacy services and (ii) emergency services.

(2) Private freestanding psychiatric hospitals shall arrange for, maintain records of, and ensure that physicians order these services: (i) medical and psychological services including those furnished by physicians, licensed mental health professionals, and other licensed or certified health professionals (i.e., nutritionists, podiatrists, respiratory therapists, and substance abuse treatment practitioners); (ii) physical therapy, occupational therapy, and therapy for individuals with speech, hearing, or language disorders; (iii) laboratory and radiology services; (iv) vision services; (v) dental, oral surgery, and orthodontic services; (vi) transportation services; and (vii) emergency services.

(3) Residential treatment facilities shall arrange for, maintain records of, and ensure that physicians order these services: (i) medical and psychological services, including those furnished by physicians, licensed mental health professionals, and other licensed or certified health professionals (i.e., nutritionists, podiatrists, respiratory therapists, and substance abuse treatment practitioners); (ii) pharmacy services; (iii) physical therapy, occupational therapy, and therapy for individuals with

speech, hearing, or language disorders; (iv) laboratory and radiology services; (v) durable medical equipment; (vi) vision services; (vii) dental, oral surgery, and orthodontic services; (viii) transportation services; and (ix) emergency services.

c. Inpatient psychiatric services are reimbursable only when the treatment program is fully in compliance with 42 CFR Part 441 Subpart D, as contained in 42 CFR 441.151 (a) and (b) and 441.152 through 441.156. Each admission must be preauthorized and the treatment must meet DMAS requirements for clinical necessity.

7. Hearing aids shall be reimbursed for individuals younger than 21 years of age according to medical necessity when provided by practitioners licensed to engage in the practice of fitting or dealing in hearing aids under the Code of Virginia.

C. School health services.

1. School health assistant services are repealed effective July 1, 2006.

2. School divisions may provide routine well-child screening services under the State Plan. Diagnostic and treatment services that are otherwise covered under early and periodic screening, diagnosis and treatment services, shall not be covered for school divisions. School divisions to receive reimbursement for the screenings shall be enrolled with DMAS as clinic providers.

a. Children enrolled in managed care organizations shall receive screenings from those organizations. School divisions shall not receive reimbursement for screenings from DMAS for these children.

b. School-based services are listed in a recipient's Individualized Education Program (IEP) and covered under one or more of the service categories described in § 1905(a) of the Social Security Act. These services are necessary to correct or ameliorate defects of physical or mental illnesses or conditions.

3. Service providers shall be licensed under the applicable state practice act or comparable licensing criteria by the Virginia Department of Education, and shall meet applicable qualifications under 42 CFR Part 440. Identification of defects, illnesses or conditions and services necessary to correct or ameliorate them shall be performed by practitioners qualified to make those determinations within their licensed scope of practice, either as a member of the IEP team or by a qualified practitioner outside the IEP team.

a. Service providers shall be employed by the school division or under contract to the school division.

b. Supervision of services by providers recognized in subdivision 4 of this subsection shall occur as allowed under federal regulations and consistent with Virginia law, regulations, and DMAS provider manuals.

c. The services described in subdivision 4 of this subsection shall be delivered by school providers, but may also be available in the community from other providers.

d. Services in this subsection are subject to utilization control as provided under 42 CFR Parts 455 and 456.

e. The IEP shall determine whether or not the services described in subdivision 4 of this subsection are medically necessary and that the treatment prescribed is in accordance with standards of medical practice. Medical necessity is defined as services ordered by IEP providers. The IEP providers are qualified Medicaid providers to make the medical necessity determination in accordance with their scope of practice. The services must be described as to the amount, duration and scope.

4. Covered services include:

a. Physical therapy, occupational therapy and services for individuals with speech, hearing, and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth at 42 CFR 440.110. This coverage includes audiology services;

b. Skilled nursing services are covered under 42 CFR 440.60. These services are to be rendered in accordance to the licensing standards and criteria of the Virginia Board of Nursing. Nursing services are to be provided by licensed registered nurses or licensed practical nurses but may be delegated by licensed registered nurses in accordance with the regulations of the Virginia Board of Nursing, especially the section on delegation of nursing tasks and procedures. ~~the~~ The licensed practical nurse is under the supervision of a registered nurse.

(1) The coverage of skilled nursing services shall be of a level of complexity and sophistication (based on assessment, planning, implementation and evaluation) that is consistent with skilled nursing services when performed by a licensed registered nurse or a licensed practical nurse. These skilled nursing services shall include, but not necessarily be limited to dressing changes, maintaining patent airways, medication administration/monitoring and urinary catheterizations.

(2) Skilled nursing services shall be directly and specifically related to an active, written plan of care developed by a registered nurse that is based on a written order from a physician, physician assistant or nurse practitioner for skilled nursing services. This order shall be recertified on an annual basis.

c. Psychiatric and psychological services performed by licensed practitioners within the scope of practice are defined under state law or regulations and covered as physicians' services under 42 CFR 440.50 or medical or other remedial care under 42 CFR 440.60. These outpatient services include individual medical psychotherapy, group medical psychotherapy coverage,

Regulations

and family medical psychotherapy. Psychological and neuropsychological testing are allowed when done for purposes other than educational diagnosis, school admission, evaluation of an individual with ~~mental retardation~~ intellectual disability prior to admission to a nursing facility, or any placement issue. These services are covered in the nonschool settings also. School providers who may render these services when licensed by the state include psychiatrists, licensed clinical psychologists, school psychologists, licensed clinical social workers, professional counselors, psychiatric clinical nurse specialist, marriage and family therapists, and school social workers.

d. Personal care services are covered under 42 CFR 440.167 and performed by persons qualified under this subsection. The personal care assistant is supervised by a DMAS recognized school-based health professional who is acting within the scope of licensure. This practitioner develops a written plan for meeting the needs of the child, which is implemented by the assistant. The assistant must have qualifications comparable to those for other personal care aides recognized by the Virginia Department of Medical Assistance Services. The assistant performs services such as assisting with toileting, ambulation, and eating. The assistant may serve as an aide on a specially adapted school vehicle that enables transportation to or from the school or school contracted provider on days when the student is receiving a Medicaid-covered service under the IEP. Children requiring an aide during transportation on a specially adapted vehicle shall have this stated in the IEP.

e. Medical evaluation services are covered as physicians' services under 42 CFR 440.50 or as medical or other remedial care under 42 CFR 440.60. Persons performing these services shall be licensed physicians, physician assistants, or nurse practitioners. These practitioners shall identify the nature or extent of a child's medical or other health related condition.

f. Transportation is covered as allowed under 42 CFR 431.53 and described at State Plan Attachment 3.1-D (12VAC30-50-530). Transportation shall be rendered only by school division personnel or contractors. Transportation is covered for a child who requires transportation on a specially adapted school vehicle that enables transportation to or from the school or school contracted provider on days when the student is receiving a Medicaid-covered service under the IEP. Transportation shall be listed in the child's IEP. Children requiring an aide during transportation on a specially adapted vehicle shall have this stated in the IEP.

g. Assessments are covered as necessary to assess or reassess the need for medical services in a child's IEP and shall be performed by any of the above licensed practitioners within the scope of practice. Assessments

and reassessments not tied to medical needs of the child shall not be covered.

5. DMAS will ensure through quality management review that duplication of services will be monitored. School divisions have a responsibility to ensure that if a child is receiving additional therapy outside of the school, that there will be coordination of services to avoid duplication of service.

D. Family planning services and supplies for individuals of child-bearing age.

1. Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

2. Family planning services shall be defined as those services that delay or prevent pregnancy. Coverage of such services shall not include services to treat infertility nor services to promote fertility.

12VAC30-60-25. Utilization control: freestanding psychiatric hospitals.

A. Psychiatric services in freestanding psychiatric hospitals shall only be covered for eligible persons younger than 21 years of age and older than 64 years of age.

B. Prior authorization required. DMAS shall monitor, consistent with state law, the utilization of all inpatient freestanding psychiatric hospital services. All inpatient hospital stays shall be preauthorized prior to reimbursement for these services. Services rendered without such prior authorization shall not be covered.

C. In each case for which payment for freestanding psychiatric hospital services is made under the State Plan:

1. A physician must certify at the time of admission, or at the time the hospital is notified of an individual's retroactive eligibility status, that the individual requires or required inpatient services in a freestanding psychiatric hospital consistent with 42 CFR 456.160.

2. The physician, physician assistant, or nurse practitioner acting within the scope of practice as defined by state law and under the supervision of a physician, must recertify at least every 60 days that the individual continues to require inpatient services in a psychiatric hospital.

3. Before admission to a freestanding psychiatric hospital or before authorization for payment, the attending physician or staff physician must perform a medical evaluation of the individual and appropriate professional personnel must make a psychiatric and social evaluation as cited in 42 CFR 456.170.

4. Before admission to a freestanding psychiatric hospital or before authorization for payment, the attending physician or staff physician must establish a written plan of care for each recipient patient as cited in 42 CFR 441.155 and 456.180. The plan shall also include a list of services provided under arrangement with the freestanding

psychiatric hospital (see 12VAC30-50-130) that will be furnished to the patient through the freestanding psychiatric hospital's referral to an employed or contracted provider, including the prescribed frequency of treatment and the circumstances under which such treatment shall be sought.

D. If the eligible individual is 21 years of age or older, then, in order to qualify for Medicaid payment for this service, he must be at least 65 years of age.

E. If younger than 21 years of age, it shall be documented that the individual requiring admission to a freestanding psychiatric hospital is under 21 years of age, that treatment is medically necessary, and that the necessity was identified as a result of an early and periodic screening, diagnosis, and treatment (EPSDT) screening. Required patient documentation shall include, but not be limited to, the following:

1. An EPSDT physician's screening report showing the identification of the need for further psychiatric evaluation and possible treatment.
2. A diagnostic evaluation documenting a current (active) psychiatric disorder included in the DSM-III-R that supports the treatment recommended. The diagnostic evaluation must be completed prior to admission.
3. For admission to a freestanding psychiatric hospital for psychiatric services resulting from an EPSDT screening, a certification of the need for services as defined in 42 CFR 441.152 by an interdisciplinary team meeting the requirements of 42 CFR 441.153 or 441.156 and ~~the~~ The Psychiatric Inpatient Treatment of Minors Act (§ 16.1-335 et seq. of the Code of Virginia).

F. If a Medicaid eligible individual is admitted in an emergency to a freestanding psychiatric hospital on a Saturday, Sunday, holiday, or after normal working hours, it shall be the provider's responsibility to obtain the required authorization on the next work day following such an admission.

G. The absence of any of the required documentation described in this subsection shall result in DMAS' denial of the requested preauthorization and coverage of subsequent hospitalization.

H. To determine that the DMAS enrolled mental hospital providers are in compliance with the regulations governing mental hospital utilization control found in the 42 CFR 456.150, an annual audit will be conducted of each enrolled hospital. This audit may be performed either on site or as a desk audit. The hospital shall make all requested records available and shall provide an appropriate place for the auditors to conduct such review if done on site. The audits shall consist of review of the following:

1. Copy of the mental hospital's Utilization Management Plan to determine compliance with the regulations found in the 42 CFR 456.200 through 456.245.

2. List of current Utilization Management Committee members and physician advisors to determine that the committee's composition is as prescribed in the 42 CFR 456.205 and 456.206.

3. Verification of Utilization Management Committee meetings, including dates and list of attendees to determine that the committee is meeting according to their utilization management meeting requirements.

4. One completed Medical Care Evaluation Study to include objectives of the study, analysis of the results, and actions taken, or recommendations made to determine compliance with 42 CFR 456.241 through 456.245.

5. Topic of one ongoing Medical Care Evaluation Study to determine the hospital is in compliance with 42 CFR 456.245.

6. From a list of randomly selected paid claims, the freestanding psychiatric hospital must provide a copy of the certification for services, a copy of the physician admission certification, a copy of the required medical, psychiatric, and social evaluations, and the written plan of care for each selected stay to determine the hospital's compliance with §§ 16.1-335 through 16.1-348 of the Code of Virginia and 42 CFR 441.152, 456.160, 456.170, 456.180 and 456.181. If any of the required documentation does not support the admission and continued stay, reimbursement may be retracted.

7. The freestanding psychiatric hospital shall not receive a per diem reimbursement for any day that:

a. The comprehensive plan of care fails to include, within one calendar day of the initiation of the service provided under arrangement, all services that the individual needs while at the freestanding psychiatric hospital and that will be furnished to the individual through the freestanding psychiatric hospital's referral to an employed or contracted provider of services under arrangement;

b. The comprehensive plan of care fails to include within one calendar day of the initiation of the service the prescribed frequency of such service or includes a frequency that was exceeded;

c. The comprehensive plan of care fails to list the circumstances under which the service provided under arrangement shall be sought;

d. The referral to the service provided under arrangement was not present in the patient's freestanding psychiatric hospital record or the record of the provider of services under arrangement;

e. The medical records from the provider of services under arrangement (i.e., any admission and discharge documents, treatment plans, progress notes, treatment summaries, and documentation of medical results and findings) were not present in the patient's freestanding psychiatric hospital record or had not been requested in

Regulations

writing by the freestanding psychiatric hospital within seven days of completion of the service or services provided under arrangement; or

f. The freestanding psychiatric hospital did not have a fully executed contract or an employee relationship with a provider of services under arrangement in advance of the provision of such services. For emergency services, the freestanding psychiatric hospital shall have a fully executed contract with the emergency services provider prior to submission of the emergency services provider's claim for payment.

8. The provider of services under arrangement shall be required to reimburse DMAS for the cost of any such service billed prior to receiving a referral from the freestanding psychiatric hospital or in excess of the amounts in the referral.

I. The hospitals may appeal in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) any adverse decision resulting from such audits which results in retraction of payment. The appeal must be requested ~~within 30 days of the date of the letter notifying the hospital of the retraction~~ pursuant to the requirements of 12VAC30-20-500 et seq.

Part V

Inpatient Hospital Payment System

Article 1

Application of Payment Methodologies

12VAC30-70-201. Application of payment methodologies.

A. The state agency will pay for inpatient hospital services in general acute care hospitals, rehabilitation hospitals, and freestanding psychiatric facilities licensed as hospitals under a prospective payment methodology. This methodology uses both per case and per diem payment methods. Article 2 (12VAC30-70-221 et seq.) describes the prospective payment methodology, including both the per case and the per diem methods.

B. Article 3 (12VAC30-70-400 et seq.) describes a per diem methodology that applied to a portion of payment to general acute care hospitals during state fiscal years 1997 and 1998, and that will continue to apply to patient stays with admission dates prior to July 1, 1996. Inpatient hospital services that are provided in long stay hospitals shall be subject to the provisions of Supplement 3 (12VAC30-70-10 through 12VAC30-70-130).

C. Inpatient hospital facilities operated by the Department of Behavioral Health and Developmental Services (DBHDS) shall be reimbursed costs except for inpatient psychiatric services furnished under early and periodic screening, diagnosis, and treatment (EPSDT) services for individuals younger than age 21. These inpatient services shall be reimbursed according to 12VAC30-70-415 and shall be provided according to the requirements set forth in 12VAC30-50-130 and 12VAC30-60-25 H. Facilities may

also receive disproportionate share hospital (DSH) payments. The criteria for DSH eligibility and the payment amount shall be based on subsection F of 12VAC30-70-50. If the DSH limit is exceeded by any facility, the excess DSH payments shall be distributed to all other qualifying DBHDS facilities in proportion to the amount of DSH they otherwise receive.

D. Transplant services shall not be subject to the provisions of this part. Reimbursement for covered liver, heart, and bone marrow/stem cell transplant services and any other medically necessary transplantation procedures that are determined to not be experimental or investigational shall be a fee based upon the greater of a prospectively determined, procedure-specific flat fee determined by the agency or a prospectively determined, procedure-specific percentage of usual and customary charges. The flat fee reimbursement will cover procurement costs; all hospital costs from admission to discharge for the transplant procedure; and total physician costs for all physicians providing services during the hospital stay, including radiologists, pathologists, oncologists, surgeons, etc. The flat fee reimbursement does not include pre-hospitalization and post-hospitalization for the transplant procedure or pretransplant evaluation. If the actual charges are lower than the fee, the agency shall reimburse the actual charges. Reimbursement for approved transplant procedures that are performed out of state will be made in the same manner as reimbursement for transplant procedures performed in the Commonwealth. Reimbursement for covered kidney and cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in 12VAC30-50-540 through 12VAC30-50-580.

E. Reduction of payments methodology.

1. For state fiscal years 2003 and 2004, the Department of Medical Assistance Services (DMAS) shall reduce payments to hospitals participating in the Virginia Medicaid Program by \$8,935,825 total funds, and \$9,227,815 total funds respectively. For purposes of distribution, each hospital's share of the total reduction amount shall be determined as provided in this subsection.

2. Determine base for revenue forecast.

a. DMAS shall use, as a base for determining the payment reduction distribution for hospitals Type I and Type II, net Medicaid inpatient operating reimbursement and outpatient reimbursed cost, as recorded by DMAS for state fiscal year 1999 from each individual hospital settled cost reports. This figure is further reduced by 18.73%, which represents the estimated statewide HMO average percentage of Medicaid business for those hospitals engaged in HMO contracts, to arrive at net baseline proportion of non-HMO hospital Medicaid business.

b. For freestanding psychiatric hospitals, DMAS shall use estimated Medicaid revenues for the six-month period (January 1, 2001, through June 30, 2001), times two, and adjusted for inflation by 4.3% for state fiscal

year 2002, 3.1% for state fiscal year 2003, and 3.7% for state fiscal year 2004, as reported by DRI-WEFA, Inc.'s, hospital input price level percentage moving average.

3. Determine forecast revenue.

a. Each Type I hospital's individual state fiscal year 2003 and 2004 forecast reimbursement is based on the proportion of non-HMO business (see subdivision 2 a of this subsection) with respect to the DMAS forecast of SFY 2003 and 2004 inpatient and outpatient operating revenue for Type I hospitals.

b. Each Type II, including freestanding psychiatric, hospital's individual state fiscal year 2003 and 2004 forecast reimbursement is based on the proportion of non-HMO business (see subdivision 2 of this subsection) with respect to the DMAS forecast of SFY 2003 and 2004 inpatient and outpatient operating revenue for Type II hospitals.

4. Each hospital's total yearly reduction amount is equal to their respective state fiscal year 2003 and 2004 forecast reimbursement as described in subdivision 3 of this subsection, times 3.235857% for state fiscal year 2003, and 3.235857%, for the first two quarters of state fiscal year 2004 and 2.88572% for the last two quarters of state fiscal year 2004, not to be reduced by more than \$500,000 per year.

5. Reductions shall occur quarterly in four amounts as offsets to remittances. Each hospital's payment reduction shall not exceed that calculated in subdivision 4 of this subsection. Payment reduction offsets not covered by claims remittance by May 15, 2003, and 2004, will be billed by invoice to each provider with the remaining balances payable by check to the Department of Medical Assistance Services before June 30, 2003, or 2004, as applicable.

F. Consistent with 42 CFR 447.26 and effective July 1, 2012, the Commonwealth shall not reimburse inpatient hospitals for provider-preventable conditions (PPCs), which include:

1. Health care-acquired conditions (HCACs). HCACs are conditions occurring in any hospital setting, identified as a hospital-acquired condition (HAC) by Medicare other than deep vein thrombosis (DVT)/pulmonary embolism (PE) following total knee replacement or hip replacement surgery in pediatric and obstetric patients.

2. Other provider preventable conditions (OPPCs) as follows: (i) wrong surgical or other invasive procedure performed on a patient; (ii) surgical or other invasive procedure performed on the wrong body part; or (iii) surgical or other invasive procedure performed on the wrong patient.

12VAC30-70-321. Hospital specific operating rate per day.

A. The hospital specific operating rate per day shall be equal to the labor portion of the statewide operating rate per day, as determined in subsection A of 12VAC30-70-341, times the hospital's Medicare wage index plus the nonlabor portion of the statewide operating rate per day.

B. For rural hospitals, the hospital's Medicare wage index used in this section shall be the Medicare wage index of the nearest metropolitan wage area or the effective Medicare wage index, whichever is higher.

C. Effective July 1, 2008, and ending after June 30, 2010, the hospital specific operating rate per day shall be reduced by 2.683%.

~~D. The hospital specific rate per day for freestanding psychiatric cases shall be equal to the hospital specific operating rate per day, as determined in subsection A of this section plus the hospital specific capital rate per day for freestanding psychiatric cases.~~

~~E. The hospital specific capital rate per day for freestanding psychiatric cases shall be equal to the Medicare geographic adjustment factor for the hospital's geographic area, times the statewide capital rate per day for freestanding psychiatric cases times the percentage of allowable cost specified in 12VAC30-70-271.~~

~~F. The statewide capital rate per day for freestanding psychiatric cases shall be equal to the weighted average of the GAF standardized capital cost per day of freestanding psychiatric facilities licensed as hospitals.~~

~~G. The capital cost per day of freestanding psychiatric facilities licensed as hospitals shall be the average charges per day of psychiatric cases times the ratio total capital cost to total charges of the hospital, using data available from Medicare cost report.~~

12VAC30-70-415. Reimbursement for freestanding psychiatric hospital services under EPSDT.

A. The freestanding psychiatric hospital specific rate per day for psychiatric cases shall be equal to the hospital specific operating rate per day, as determined in subsection A of 12VAC30-70-321 plus the hospital specific capital rate per day for freestanding psychiatric cases.

B. The freestanding psychiatric hospital specific capital rate per day for psychiatric cases shall be equal to the Medicare geographic adjustment factor (GAF) for the hospital's geographic area times the statewide capital rate per day for freestanding psychiatric cases times the percentage of allowable cost specified in 12VAC30-70-271.

C. The statewide capital rate per day for psychiatric cases shall be equal to the weighted average of the GAF-standardized capital cost per day of facilities licensed as freestanding psychiatric hospitals.

Regulations

D. The capital cost per day of facilities licensed as freestanding psychiatric hospitals shall be the average charges per day of psychiatric cases times the ratio total of capital cost to total charges of the hospital, using data available from Medicare cost report.

E. Effective July 1, 2013, services provided under arrangement, as defined in subdivisions B 6 a and B 6 b of 12VAC30-50-130, shall be reimbursed directly by DMAS, according to the reimbursement methodology prescribed for each provider in 12VAC30-80 or elsewhere in the State Plan, to a provider of services under arrangement if all of the following are met:

1. The services are included in the active treatment plan of care developed and signed as described in section 12VAC30-60-25 C 4 and
2. The services are arranged and overseen by the freestanding psychiatric hospital treatment team through a written referral to a Medicaid enrolled provider that is either an employee of the freestanding psychiatric hospital or under contract for services provided under arrangement.

12VAC30-70-417. Reimbursement for inpatient psychiatric services in residential treatment facilities (Level C) under EPSDT.

A. Effective January 1, 2000, the state agency shall pay for inpatient psychiatric services in residential treatment facilities provided by participating providers under the terms and payment methodology described in this section.

B. Effective January 1, 2000, payment shall be made for inpatient psychiatric services in residential treatment facilities using a per diem payment rate as determined by the state agency based on information submitted by enrolled residential psychiatric treatment facilities. This rate shall constitute direct payment for all residential psychiatric treatment facility services, excluding all services provided under arrangement that are reimbursed in the manner described in subsection D of this section.

C. Enrolled residential treatment facilities shall submit cost reports on uniform reporting forms provided by the state agency at such time as required by the agency. Such cost reports shall cover a 12-month period. If a complete cost report is not submitted by a provider, the program shall take action in accordance with its policies to assure that an overpayment is not being made.

D. Effective July 1, 2013, services provided under arrangement, as defined in subdivisions B 6 a and B 6 b of 12VAC30-50-130, shall be reimbursed directly by DMAS, according to the reimbursement methodology prescribed for these providers elsewhere in the State Plan, to a provider of services provided under arrangement if all of the following are met:

1. The services provided under arrangement are included in the active written treatment plan of care developed and signed as described in section 12VAC30-130-890 and

2. The services provided under arrangement are arranged and overseen by the residential treatment facility treatment team through a written referral to a Medicaid enrolled provider that is either an employee of the residential treatment facility or under contract for services provided under arrangement.

12VAC30-80-21. Inpatient psychiatric services in residential treatment facilities (under EPSDT). Reimbursement for services furnished individuals residing in a freestanding psychiatric hospital or residential treatment center (Level C).

A. Effective January 1, 2000, the state agency shall pay for inpatient psychiatric services in residential treatment facilities provided by participating providers, under the terms and payment methodology described in this section.

B. Methodology. Effective January 1, 2000, payment will be made for inpatient psychiatric services in residential treatment facilities using a per diem payment rate as determined by the state agency based on information submitted by enrolled residential psychiatric treatment facilities. This rate shall constitute payment for all residential psychiatric treatment facility services, excluding all professional services.

C. Data collection. Enrolled residential treatment facilities shall submit cost reports on uniform reporting forms provided by the state agency at such time as required by the agency. Such cost reports shall cover a 12-month period. If a complete cost report is not submitted by a provider, the Program shall take action in accordance with its policies to assure that an overpayment is not being made.

Reimbursement for all services furnished to individuals who are residing in a freestanding psychiatric hospital or residential treatment center (Level C) shall be based on the freestanding psychiatric hospital reimbursement described in 12VAC30-70-415 and the residential treatment center (Level C) reimbursement described in 12VAC30-70-417 and reimbursement of services provided under arrangement described in 12VAC30-80 or elsewhere in the State Plan.

Part XIV

Residential Psychiatric Treatment for Children and Adolescents

12VAC30-130-850. Definitions.

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

"Active treatment" means implementation of a professionally developed and supervised individual plan of care that must be designed to achieve the recipient's discharge from inpatient status at the earliest possible time.

"Certification" means a statement signed by a physician that inpatient services in a residential treatment facility are or were needed. The certification must be made at the time of admission, or, if an individual applies for assistance while in

a mental hospital or residential treatment facility, before the Medicaid agency authorizes payment.

"Comprehensive individual plan of care" or "CIPOC" means a written plan developed for each recipient in accordance with 12VAC30-130-890 to improve his condition to the extent that inpatient care is no longer necessary.

"Emergency services" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

"Initial plan of care" means a plan of care established at admission, signed by the attending physician or staff physician, that meets the requirements in 12VAC30-130-890.

"Recertification" means a certification for each applicant or recipient that inpatient services in a residential treatment facility are needed. Recertification must be made at least every 60 days by a physician, or physician assistant or nurse practitioner acting within the scope of practice as defined by state law and under the supervision of a physician.

"Recipient" or "recipients" means the child or adolescent younger than 21 years of age receiving this covered service.

12VAC30-130-890. Plans of care; review of plans of care.

A. For Residential Treatment Services (Level C) (RTS-Level C), an initial plan of care must be completed at admission and a Comprehensive Individual Plan of Care (CIPOC) must be completed no later than 14 days after admission.

B. Initial plan of care (Level C) must include:

1. Diagnoses, symptoms, complaints, and complications indicating the need for admission;
2. A description of the functional level of the recipient;
3. Treatment objectives with short-term and long-term goals;
4. Any orders for medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet, and special procedures recommended for the health and safety of the ~~patient~~ individual and a list of services provided under arrangement (see 12VAC30-50-130 for eligible services provided under arrangement) that will be furnished to the individual through the RTC-Level C's referral to an employed or contracted provider of services under arrangement, including the prescribed frequency of treatment and the circumstances under which such treatment shall be sought;
5. Plans for continuing care, including review and modification to the plan of care;

6. Plans for discharge; and
7. Signature and date by the physician.

C. The CIPOC for Level C must meet all of the following criteria:

1. Be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the recipient's situation and must reflect the need for inpatient psychiatric care;
2. Be developed by an interdisciplinary team of physicians and other personnel specified under subsection F of this section, who are employed by, or provide services to, patients in the facility in consultation with the recipient and his parents, legal guardians, or appropriate others in whose care he will be released after discharge;
3. State treatment objectives that must include measurable short-term and long-term goals and objectives, with target dates for achievement;
4. Prescribe an integrated program of therapies, activities, and experiences designed to meet the treatment objectives related to the diagnosis; ~~and~~
5. Include a list of services provided under arrangement (described in 12VAC30-50-130) that will be furnished to the individual through referral to an employee or contracted provider of services under arrangement, including the prescribed frequency of treatment and the circumstances under which such treatment shall be sought; and
6. Describe comprehensive discharge plans and coordination of inpatient services and post-discharge plans with related community services to ensure continuity of care upon discharge with the recipient's family, school, and community.

D. Review of the CIPOC for Level C. The CIPOC must be reviewed every 30 days by the team specified in subsection F of this section to:

1. Determine that services being provided are or were required on an inpatient basis; and
2. Recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

E. The development and review of the plan of care for Level C as specified in this section satisfies the facility's utilization control requirements for recertification and establishment and periodic review of the plan of care, as required in 42 CFR 456.160 and 456.180.

F. Team developing the CIPOC for Level C. The following requirements must be met:

1. At least one member of the team must have expertise in pediatric mental health. Based on education and experience, preferably including competence in child psychiatry, the team must be capable of all of the following:

Regulations

- a. Assessing the recipient's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities;
 - b. Assessing the potential resources of the recipient's family;
 - c. Setting treatment objectives; and
 - d. Prescribing therapeutic modalities to achieve the plan's objectives.
2. The team must include, at a minimum, either:
- a. A board-eligible or board-certified psychiatrist;
 - b. A clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy; or
 - c. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who has been certified by the state or by the state psychological association.
3. The team must also include one of the following:
- a. A psychiatric social worker;
 - b. A registered nurse with specialized training or one year's experience in treating mentally ill individuals;
 - c. An occupational therapist who is licensed, if required by the state, and who has specialized training or one year of experience in treating mentally ill individuals; or
 - d. A psychologist who has a master's degree in clinical psychology or who has been certified by the state or by the state psychological association.
- G. All Medicaid services are subject to utilization review review/audit. ~~Absence of any of the required documentation may result in denial or retraction of any reimbursement.~~
1. The RTC-Level C shall not receive a per diem reimbursement for any day that:
 - a. The initial or comprehensive written plan of care fails to include, within one calendar day of the initiation of the service provided under arrangement, all services that the individual needs while residing at the residential treatment facility and that will be furnished to the individual through the RTC-Level C's referral to an employed or contracted provider of services under arrangement;
 - b. The initial or comprehensive written plan of care fails to include within one calendar day of the initiation of the service provided under arrangement the prescribed frequency of treatment of such service, or includes a frequency that was exceeded;
 - c. The initial or comprehensive written plan of care fails to list the circumstances under which the service provided under arrangement shall be sought;
 - d. The referral to the service provided under arrangement was not present in either the individual's RTC-Level C record or the record of the provider of services under arrangement;
 - e. The medical records from the provider of services under arrangement (i.e., any admission and discharge documents, treatment plans, progress notes, treatment summaries, and documentation of medical results and findings) were not present in the individual's RTC-Level C record, or had not been requested in writing by the RTC-Level C within seven days of discharge from or completion of the service or services provided under arrangement; or
 - f. The RTC-Level C did not have a fully executed contract or employee relationship with an independent provider of services under arrangement in advance of the provision of such services. For emergency services, the RTC-Level C shall have a fully executed contract with the emergency services provider prior to submission of the emergency service provider's claim for payment.
2. Absence of any of the required documentation may result in denial or retraction of any per diem reimbursement to the RTC-Level C for any day during which the requirement was not met.
3. The provider of services under arrangement shall be required to reimburse DMAS for the cost of any such service provided under arrangement that was (i) furnished prior to receiving a referral or (ii) in excess of the amounts in the referral. Providers of services under arrangement shall be required to reimburse DMAS for the cost of any such services provided under arrangement that were rendered in the absence of an employment or contractual relationship.
- H. For Therapeutic Behavioral Services for Children and Adolescents under 21 (Level B), the initial plan of care must be completed at admission by the licensed mental health professional (LMHP) and a CIPOC must be completed by the LMHP no later than 30 days after admission. The assessment must be signed and dated by the LMHP.
- I. For Community-Based Services for Children and Adolescents under 21 (Level A), the initial plan of care must be completed at admission by the QMHP and a CIPOC must be completed by the QMHP no later than 30 days after admission. The individualized plan of care must be signed and dated by the program director.
- J. Initial plan of care for Levels A and B must include:
1. Diagnoses, symptoms, complaints, and complications indicating the need for admission;
 2. A description of the functional level of the child;
 3. Treatment objectives with short-term and long-term goals;
 4. Any orders for medications, treatments, restorative and rehabilitative services, activities, therapies, social services,

diet, and special procedures recommended for the health and safety of the patient;

5. Plans for continuing care, including review and modification to the plan of care; and
6. Plans for discharge.

K. The CIPOC for Levels A and B must meet all of the following criteria:

1. Be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the child's situation and must reflect the need for residential psychiatric care;
2. The CIPOC for both levels must be based on input from school, home, other ~~healthcare~~ health care providers, the child and family (or legal guardian);
3. State treatment objectives that include measurable short-term and long-term goals and objectives, with target dates for achievement;
4. Prescribe an integrated program of therapies, activities, and experiences designed to meet the treatment objectives related to the diagnosis; and
5. Describe comprehensive discharge plans with related community services to ensure continuity of care upon discharge with the child's family, school, and community.

L. Review of the CIPOC for Levels A and B. The CIPOC must be reviewed, signed, and dated every 30 days by the QMHP for Level A and by the LMHP for Level B. The review must include:

1. The response to services provided;
2. Recommended changes in the plan as indicated by the child's overall response to the plan of care interventions; and
3. Determinations regarding whether the services being provided continue to be required.

Updates must be signed and dated by the service provider.

M. All Medicaid services are subject to utilization review. Absence of any of the required documentation may result in denial or retraction of any reimbursement.

V.A.R. Doc. No. R14-3714; Filed May 5, 2014, 12:21 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Department of Medical Assistance Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC30-141. Family Access to Medical Insurance Security Plan (amending 12VAC30-141-100).

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

Effective Date: July 3, 2014.

Agency Contact: Brian McCormick, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or email brian.mccormick@dmas.virginia.gov.

Summary:

The amendment eliminates the uninsured waiting period for children applying for Family Access to Medical Insurance Security (FAMIS) as required by Chapters 9 and 183 of the 2014 Acts of Assembly.

Part III

Eligibility Determination and Application Requirements

12VAC30-141-100. Eligibility requirements.

A. This section shall be used to determine eligibility of children for FAMIS.

B. FAMIS shall be in effect statewide.

C. Eligible children must:

1. Be determined ineligible for Medicaid by a local department of social services or be screened by the FAMIS central processing unit and determined not Medicaid likely;
2. Be under 19 years of age;
3. Be residents of the Commonwealth;
4. Be either U.S. citizens, U.S. nationals or qualified noncitizens;
5. Be uninsured, that is, not have comprehensive health insurance coverage;
6. Not be a member of a family eligible for subsidized dependent coverage, as defined in 42 CFR 457.310(c)(1)(ii) under any Virginia state employee health insurance plan on the basis of the family member's employment with a state agency; and
7. Not be an inpatient in an institution for mental diseases (IMD), or an inmate in a public institution that is not a medical facility.

D. Income.

1. Screening. All child health insurance applications received at the FAMIS central processing unit must be screened to identify applicants who are potentially eligible for Medicaid. Children screened and found potentially eligible for Medicaid cannot be enrolled in FAMIS until there has been a finding of ineligibility for Medicaid. Children who do not appear to be eligible for Medicaid shall have their eligibility for FAMIS determined. Children determined to be eligible for FAMIS will be enrolled in the

Regulations

FAMIS program. Child health insurance applications received at a local department of social services shall have a full Medicaid eligibility determination completed. Children determined to be ineligible for Medicaid due to excess income will have their eligibility for FAMIS determined. If a child is found to be eligible for FAMIS, the local department of social services will enroll the child in the FAMIS program.

2. Standards. Income standards for FAMIS are based on a comparison of countable income to 200% of the federal poverty level for the family size, as defined in the State Plan for Title XXI as approved by the Centers for Medicare & Medicaid Services. Children who have income at or below 200% of the federal poverty level, but are ineligible for Medicaid due to excess income, will be income eligible to participate in FAMIS.

3. Grandfathered CMSIP children. Children who were enrolled in the Children's Medical Security Insurance Plan at the time of conversion from CMSIP to FAMIS and whose eligibility determination was based on the requirements of CMSIP shall continue to have their income eligibility determined using the CMSIP income methodology. If their income exceeds the FAMIS standard, income eligibility will be based on countable income using the same income methodologies applied under the Virginia State Plan for Medical Assistance for children as set forth in 12VAC30-40-90. Income that would be excluded when determining Medicaid eligibility will be excluded when determining countable income for the former CMSIP children. Use of the Medicaid income methodologies shall only be applied in determining the financial eligibility of former CMSIP children for FAMIS and for only as long as the children meet the income eligibility requirements for CMSIP. When a former CMSIP child is determined to be ineligible for FAMIS, these former CMSIP income methodologies shall no longer apply and income eligibility will be based on the FAMIS income standards.

4. Spenddown. Deduction of incurred medical expenses from countable income (spenddown) shall not apply in FAMIS. If the family income exceeds the income limits described in this section, the individual shall be ineligible for FAMIS regardless of the amount of any incurred medical expenses.

E. Residency. The requirements for residency, as set forth in 42 CFR 435.403, will be used when determining whether a child is a resident of Virginia for purposes of eligibility for FAMIS. A child who is not emancipated and is temporarily living away from home is considered living with his parents, adult relative caretaker, legal guardian, or person having legal custody if the absence is temporary and the child intends to return to the home when the purpose of the absence (such as education, medical care, rehabilitation, vacation, visit) is completed.

F. U.S. citizen or nationality. Upon signing the declaration of citizenship or nationality required by § 1137(d) of the Social Security Act, the applicant or recipient is required under

§ 2105(c)(9) to furnish satisfactory documentary evidence of U.S. citizenship or nationality and documentation of personal identity unless citizenship or nationality has been verified by the Commissioner of Social Security or unless otherwise exempt.

G. Qualified noncitizen. The requirements for qualified aliens set out in Public Law 104-193, as amended, and the requirements for noncitizens set out in subdivisions 3 b, c, and e of 12VAC30-40-10 will be used when determining whether a child is a qualified noncitizen for purposes of FAMIS eligibility.

H. Coverage under other health plans.

1. Any child covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Services Act (42 USC § 300gg-91(a) and (b)(1)), shall not be eligible for FAMIS.

2. No substitution for private insurance.

a. Only uninsured children shall be eligible for FAMIS. A child is not considered to be insured if the health insurance plan covering the child does not have a network of providers in the area where the child resides. Each application for child health insurance shall include an inquiry about health insurance ~~the child currently has or had within the past four months. If the child had health insurance coverage that was terminated in the past four months, inquiry as to why the health insurance was terminated is made.~~ Each redetermination of eligibility shall also document inquiry about current health insurance ~~or health insurance the child had within the past four months. If the child has been covered under a health insurance plan within four months of application for or receipt of FAMIS services, the child will be ineligible, unless the child is pregnant at the time of application, or, if age 18 or if under the age of 18, the child's parent, caretaker relative, guardian, legal custodian or authorized representative demonstrates good cause for discontinuing the coverage.~~

b. Health insurance does not include Medicare, Medicaid, FAMIS, or insurance for which DMAS paid premiums under Title XIX through the Health Insurance Premium Payment (HIPP) Program or under Title XXI through the SCHIP premium assistance program.

~~e. Good cause. A child shall not be ineligible for FAMIS if health insurance was discontinued within the four-month period prior to the month of application if one of the following good cause exceptions is met.~~

~~(1) The family member who carried insurance, changed jobs, or stopped employment, and no other family member's employer contributes to the cost of family health insurance coverage.~~

~~(2) The employer stopped contributing to the cost of family coverage and no other family member's employer contributes to the cost of family health insurance coverage.~~

~~(3) The child's coverage was discontinued by an insurance company for reasons of uninsurability, e.g., the child has used up lifetime benefits or the child's coverage was discontinued for reasons unrelated to payment of premiums.~~

~~(4) Insurance was discontinued by a family member who was paying the full cost of the insurance premium under a COBRA policy and no other family member's employer contributes to the cost of family health insurance coverage.~~

~~(5) Insurance on the child was discontinued by someone other than the child (if 18 years of age) or if under age 18, the child's parent or stepparent living in the home, e.g., the insurance was discontinued by the child's absent parent, grandparent, aunt, uncle, godmother, etc.~~

~~(6) Insurance on the child was discontinued because the cost of the premium exceeded 10% of the family's monthly~~

~~income or exceeded 10% of the family's monthly income at the time the insurance was discontinued.~~

~~(7) Other good cause reasons may be established by the DMAS director.~~

I. Eligibility of newborns. If a child otherwise eligible for FAMIS is born within the three months prior to the month in which a signed application is received, the eligibility for coverage is effective retroactive to the child's date of birth if the child would have met all eligibility criteria during that time. A child born to a mother who is enrolled in FAMIS, under either the XXI Plan or a related waiver (such as FAMIS MOMS), on the date of the child's birth shall be deemed eligible for FAMIS for one year from birth unless the child is otherwise eligible for Medicaid.

VA.R. Doc. No. R14-3980; Filed May 12, 2014, 1:43 p.m.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Suspension of Regulatory Process and Additional Comment Period

Title of Regulation: **13VAC5-51. Virginia Statewide Fire Prevention Code.**

Statutory Authority: § 27-97 of the Code of Virginia.

Public Comment Deadline: July 2, 2014.

Notice is hereby given that, pursuant to § 2.2-4007.06 of the Code of Virginia, the Board of Housing and Community Development is suspending the addition of the new "Permissible fireworks" row in Table 5003.1.1(1) of 13VAC5-51-145 E of the final Virginia Statewide Fire Prevention Code published in [30:16 VA.R. 2027-2070 April 7, 2014](#), and is soliciting additional comments. The subsection containing the specific provision regarding permissible fireworks that is being suspended is set out below. The provision regarding consumer fireworks is not suspended.

E. Change the "Consumer fireworks" row and add a new "Permissible fireworks" row to Table 5003.1.1(1) to read:

<u>Consumer fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{e,1}</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Permissible fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{d,e,1}</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

The additional 30-day comment period ends on July 2, 2014. Written comment regarding the permissible fireworks provision may be submitted to the agency contact listed below.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R12-3161; Filed May 7, 2014, 10:39 a.m.

Notice of Suspension of Regulatory Process and Additional Comment Period

Title of Regulation: **13VAC5-63. Virginia Uniform Statewide Building Code.**

Statutory Authority: § 36-98 of the Code of Virginia.

Public Comment Deadline: July 2, 2014.

Notice is hereby given that, pursuant to § 2.2-4007.06 of the Code of Virginia, the Board of Housing and Community Development is suspending the addition of the new "Permissible fireworks" row in Table 307.1(1) of 13VAC5-63-210 C of the final Virginia Uniform Statewide Building Code published in [30:16 VA.R. 2071-2229 April 7, 2014](#), and is soliciting additional comments. The subsection containing the specific provision regarding permissible fireworks that is being suspended is set out below. The provision regarding consumer fireworks is not suspended.

C. Change the "Consumer fireworks" row and add a new "Permissible fireworks" row to Table 307.1(1) of the IBC to read:

Regulations

<u>Consumer fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{e,l}</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Permissible fireworks</u>	<u>1.4G</u>	<u>H-3</u>	<u>125^{d,e,l}</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

The additional 30-day comment period ends on July 2, 2014. Written comment regarding the permissible fireworks provisions may be submitted to the agency contact listed below.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

VA.R. Doc. No. R12-3159; Filed May 7, 2014, 10:38 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Proposed Regulation

Titles of Regulations: **18VAC65-20. Regulations of the Board of Funeral Directors and Embalmers (amending 18VAC65-20-70, 18VAC65-20-154).**

18VAC65-40. Regulations for the Funeral Service Internship Program (amending 18VAC65-40-40).

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

Public Hearing Information:

June 17, 2014 - 9 a.m. - Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor Conference Center, Hearing Room #3, Henrico, VA

Public Comment Deadline: August 1, 2014.

Agency Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4424, FAX (804) 527-4637, or email lisa.hahn@dhp.virginia.gov.

Basis: Regulations for the Funeral Service Intern Program are promulgated under the general authority of Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia, which establishes the general powers and duties of health regulatory boards, including the responsibility to promulgate regulations in accordance with the Administrative Process Act that are reasonable and necessary and the authority to levy and collect fees that are sufficient to cover all expenses for the administration of a regulatory program.

The proposed regulation is mandated by § 54.1-113 of the Code of Virginia; however the board must exercise some discretion in the amount and type of fees that will be increased in order to comply with the statute.

Purpose: The issue to be addressed is the need of the Board of Funeral Directors and Embalmers to increase fees for applicants, registrants, and licensees to cover expenses for

essential functions of licensing, investigation of complaints against licensees and facilities, adjudication of disciplinary cases, and the inspections required for public safety and security in the Commonwealth. Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. By the close of the FY09 fiscal year, the Board of Funeral Directors and Embalmers had a surplus of \$19,797 and was projected to have a deficit of \$84 by the end of FY10. Because the board underspent its budget, it ended FY10 with a surplus of \$40,298. However, because of extraordinary increases in information technology services, increases in health care costs, building lease payments, anticipated cost-of-living increases, and other expenditures, current revenue is projected to be insufficient for expenditures. The board will have deficits through the fiscal years going forward. Since the fees from licensees will no longer generate sufficient funds to pay operating expenses for the board, consideration of a fee increase is essential in order to avoid spiraling shortfalls and to have sufficient funding for the operation of the board.

Substance: The proposed amendments increase almost all fees charged to applicants, registrants, and licensees. Renewal fees for funeral service licensee will increase from \$175 to \$225 and for funeral establishment licensees from \$300 to \$400. Application fees, reinstatement fees, and late fees will increase accordingly. The fee for initial registration of a funeral service internship will increase from \$100 to \$150, and the renewal fee will increase from \$100 to \$125.

Issues: The primary advantage to the public is that increased fees will produce adequate revenue to fund the licensing and disciplinary activities of the board. With a shortfall of \$432,195 projected in FY14, there could be significant delays in licensing, inspecting facilities, and adjudicating complaints against licensees. There are no disadvantages; increases in renewal fees of approximately \$50 for a funeral service licensee and \$100 for an establishment should not significantly impact the cost of funeral services for Virginians. If two establishments have fewer than 85 funeral calls per year, the Code of Virginia allows them to share a manager who is a funeral service licensee, so the increase in

fees would result in a very minimum increase in the cost per funeral call.

There are no disadvantages to the agency; the advantage would be that fees would be sufficient to cover expenditures, especially significant increases in information technology services, which are a requirement of the Code of Virginia.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Funeral Directors and Embalmers (Board) proposes to separate out one fee from its previous grouping (a fee for renewal of funeral service intern registration) and increase most fees paid by licensees and registrants that are subject to the Board's authority.

Result of Analysis. There is insufficient information to accurately gauge whether benefits are likely to outweigh costs for these proposed changes.

Estimated Economic Impact. The Board proposes to change most of its fees for funeral service providers and establishments, funeral directors, embalmers, surface transportation service establishments, crematories and funeral service interns. Below is a comparison table for current and proposed fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE	% INCREASE
Initial license to practice funeral services or as a funeral director or embalmer	\$275	\$325	18.18%
Initial funeral service establishment license	\$500	\$600	20%
Initial surface transportation and removal registration	\$300	\$325	8.3%
Initial courtesy card	\$275	\$325	18.18%
Initial crematory registration	\$200	\$250	25%
Renewal of license to practice funeral services or as a funeral director or embalmer	\$175	\$225	30%
Renewal of funeral service	\$300	\$400	33.33%

establishment license			
Renewal of surface transportation and removal registration	\$250	\$300	20%
Renewal of courtesy card	\$275	\$300	9.09%
Renewal of crematory registration	\$150	\$200	33.33%
Additional fee for late renewal of license to practice funeral services or as a funeral director or embalmer	\$60	\$75	25%
Additional fee for late renewal of funeral service establishment license	\$100	\$135	35%
Additional fee for late renewal of surface transportation and removal registration	\$85	\$100	17.65%
Additional fee for late renewal of courtesy card	\$90	\$100	11.11%
Additional fee for late renewal of crematory registration	\$50	\$75	50%
Reinstatement of license to practice funeral services or as a funeral director or embalmer	\$275	\$400	45.45%
Reinstatement of funeral service establishment license	\$500	\$635	27%

Regulations

Reinstatement of surface transportation and removal registration	\$350	\$425	21.43%
Reinstatement of courtesy card	\$275	\$425	54.55%
Reinstatement of crematory registration	\$225	\$275	22.22%
Reinstatement following Suspension	\$500	\$1,000	100%
Reinstatement following Revocation	\$1,000	\$2,000	100%
Change of manager or establishment name	\$75	\$100	33.33%
Duplicate license, registration or courtesy card	\$15	\$25	66.67%
Non-routine reinspection	\$300	\$400	33.33%
Application for renewal of continuing education provider	\$300	\$400	33.33%
Renewal fee for inactive licensure	\$90	\$115	27.78%
Additional fee for late renewal of an inactive license	\$30	\$40	33.33%
Funeral service intern registration	\$100	\$150	50%
Funeral services intern registration renewal	\$100	\$125	25%
Additional fee for late renewal of funeral services intern registration	\$35	\$45	28.57%

Registration of supervisor	\$25	\$35	40%
Change of supervisor	\$25	\$35	40%
Reinstatement fee	\$170	\$195	14.71%

Board staff reports that the Board had a surplus for FY 2009 of \$19,797 and a surplus of \$40,298 for FY2010 but expects to run a deficit of \$90,300 for FY2012 and every fiscal year thereafter. Board staff reports that these fee increases are needed because 1) the costs of health care for Board employees and lease payments for office space have increased, 2) some Board non-general funds were transferred in FY2010 to the General Fund to help close the budget gap and, so, won't be available to cover the cost of licensure services, 3) costs for information technology (IT) services have skyrocketed and 4) enforcement and adjudications costs have run well over budget.

The Department of Health Professions (DHP) reports that a large portion of the expected expenditure increases over their forecast horizon are needed to cover increased costs for services from the Virginia Information Technologies Agency (VITA). DHP reports that its VITA services costs have more than tripled from FY2005 to FY2011, from \$850,000 to \$3.6 million, and are expected to be \$4.4 million in FY2012. A large portion of the increase in costs, at least for FY 2010 and FY 2011, can be attributed to the planned move of DHP's licensing servers from DHP to Northrop Grumman. DHP anticipates that this will increase the costs for maintaining these servers by approximately \$80,000 per month (\$960,000 per year). This Board is and will be responsible for a proportional share of these costs. Although it is likely beyond the capacity of DHP to control the very rapid growth of these costs, licensees of this Board (and all other DHP Boards) would benefit from increased scrutiny of services provided to DHP through VITA.

Board Staff also reports that a portion of DHP's non-general fund bank account balances that would have partially offset the need for fee increases were instead moved to the General Fund by the Budget Bill of 2010 to help close the gap between revenue and expenditures. Staff reports that the Board's portion of this transfer was \$20,270. The General Assembly's budgets for FY2011 and FY2012 transferred additional funds: the Board's loss due to these transfers was \$4,808 in FY2011 and \$3,043 in FY2012. Staff further reports that there is a possibility that further transfers could be required in future budgets. Licensees likely are harmed by these transfers as funds that were collected from them (and the interest those funds earned) that would have been used to cover the costs of administering their licensure program are instead used to offset the need for an increase in general taxes or for further budget cuts.

Increasing fees will likely increase the cost of being licensed and, so, will likely slightly decrease the number of people who choose to work in the field of funeral services and/or will likely slightly decrease the income of individuals that choose to remain licensed. To the extent that the public benefits from the Board regulating these professional populations, they will also likely benefit from the Board's proposed action that will increase fees to support Board activities. There is insufficient information to ascertain whether benefits will outweigh costs.

Businesses and Entities Affected. Board staff reports that the Board currently regulates 500 funeral establishments, 1,450 funeral service licensees, 75 funeral directors, 5 embalmers, 145 funeral interns, 90 crematories, 85 courtesy card holders, 50 surface transportation companies and 25 continuing education providers. All of these entities, as well as any individuals or entities who may wish to become licensed or registered in the future, will be affected by these proposed regulations.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. Fee increases in this regulatory action will likely marginally decrease the number of individuals who choose to work in professional fields that are regulated by the Board. Individuals who work part time or whose earnings are only slightly higher in these licensed fields than they would be in other jobs that do not require licensure will be more likely to be affected.

Effects on the Use and Value of Private Property. To the extent that affected licensees are in private practice, fee increases will likely slightly decrease business profits and make their businesses slightly less valuable.

Small Businesses: Costs and Other Effects. Board staff reports that most of the firms regulated by the Board likely qualify as small businesses. Affected small businesses will bear the costs of proposed increased fees.

Small Businesses: Alternative Method that Minimizes Adverse Impact. There are several actions that the Board could take that might mitigate the necessity of raising fees overall. The Board could slightly lengthen the time that it takes to process both license applications and complaints so that staff costs could be cut. This option would benefit current licensees but would slightly delay licensure, and the ability to legally work, for new applicants. Affected small businesses would also likely benefit from increased scrutiny of the IT costs that are driving increases in both agency and Board expenditures.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the

Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to Economic Impact Analysis: The Board of Funeral Directors and Embalmers concurs with the analysis of the Department of Planning and Budget.

Summary:

The proposed amendments will increase almost all fees charged to applicants, registrants, and licensees regulated by the Board of Funeral Directors and Embalmers. Renewal fees for funeral service licensees will increase to \$225 and for funeral establishments to \$400. Application fees, reinstatement fees, and late fees will increase. The fee for initial registration of a funeral service internship will increase to \$150, and the renewal fee will increase to \$125.

18VAC65-20-70. Required fees.

A. The following fees shall apply for initial licensure or registration:

1. License to practice funeral service or as a funeral director or an embalmer	\$275 <u>\$325</u>
2. Funeral service establishment license	\$500 <u>\$600</u>
3. Surface transportation and removal service registration	\$300 <u>\$325</u>
4. Courtesy card	\$275 <u>\$325</u>
5. Crematory	\$200 <u>\$250</u>
6. Waiver of full-time manager requirement	\$150

Regulations

B. The following fees shall apply for renewal of licensure or registration:

1. License to practice funeral service or as a funeral director or an embalmer	\$175 <u>\$225</u>
2. Funeral service establishment license	\$300 <u>\$400</u>
3. Surface transportation and removal service registration	\$250 <u>\$300</u>
4. Courtesy card	\$275 <u>\$300</u>
5. Crematory	\$150 <u>\$200</u>
6. Waiver of full-time manager requirement	\$100

C. The following fees shall apply for late renewal of licensure or registration up to one year following expiration:

1. License to practice funeral service or as a funeral director or an embalmer	\$60 <u>\$75</u>
2. Funeral service establishment license	\$100 <u>\$135</u>
3. Surface transportation and removal service registration	\$85 <u>\$100</u>
4. Courtesy card	\$90 <u>\$100</u>
5. Crematory	\$50 <u>\$75</u>
6. Waiver of full-time manager requirement	\$35

D. The following fees shall apply for reinstatement of licensure or registration:

1. License to practice funeral service or as a funeral director or an embalmer	\$275 <u>\$400</u>
2. Establishment license	\$500 <u>\$635</u>
3. Surface transportation and removal service registration	\$350 <u>\$425</u>
4. Courtesy card	\$275 <u>\$425</u>
5. Crematory	\$225 <u>\$275</u>
6. Reinstatement following suspension	\$500 <u>\$1,000</u>
7. Reinstatement following revocation	\$1,000 <u>\$2,000</u>

E. Other fees.

1. Change of manager or establishment name	\$75 <u>\$100</u>
2. Verification of license or registration to another state	\$50

3. Duplicate license, registration, or courtesy card ~~\$15~~ \$25

4. Duplicate wall certificates \$60

5. Change of ownership \$100

6. Nonroutine reinspection (i.e., structural change to preparation room, change of location or ownership) ~~\$300~~ \$400

F. Fees for approval of continuing education providers.

1. Application or renewal for continuing education provider ~~\$300~~ \$400

2. Late renewal of continuing education provider approval \$100

3. Review of additional courses not included on initial or renewal application \$300

18VAC65-20-154. Inactive license.

A. A funeral service licensee, funeral director₂ or embalmer who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee of ~~\$90~~ \$115, be issued an inactive license. The fee for late renewal up to one year following expiration of an inactive license shall be ~~\$30~~ \$40.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice funeral service in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A funeral service licensee, funeral director₂ or embalmer who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

18VAC65-40-40. Fees.

A. The following fees shall be paid as applicable for registration:

1. Funeral service intern registration; ~~reinstatement or renewal~~ ~~\$100~~ \$150

2. Funeral service intern renewal \$125

~~3.~~ 3. Late fee for renewal up to one year after expiration \$35 \$45

3-4. Duplicate copy of intern registration	\$25
4-5. Returned check	\$35
5-6. Registration of supervisor	\$25 \$35
6-7. Change of supervisor	\$25 \$35
7-8. Reinstatement fee	\$170 \$195

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

VA.R. Doc. No. R10-2522; Filed May 15, 2014, 1:06 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Fast-Track Regulation

Title of Regulation: **22VAC40-35. Virginia Independence Program (amending 22VAC40-35-10, 22VAC40-35-30, 22VAC40-35-40, 22VAC40-35-80, 22VAC40-35-100).**

Statutory Authority: § 63.2-217 of the Code of Virginia; 45 CFR 261.22.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: July 2, 2014.

Effective Date: July 18, 2014.

Agency Contact: Mark Golden, Program Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7385, or email mark.golden@dss.virginia.gov.

Basis: Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for operation of all assistance programs. With regard to amendments to 22VAC40-35-80 specifically, federal regulations at 45 CFR 261.22(c)(1) give the state the option of how long, up to one year, to disregard a custodial parent from engaging in a work program.

Purpose: The purpose of the regulatory action is to amend the Virginia Independence Program regulation by (i) updating program names, such as "Food Stamps" to "SNAP"; some terminology, such as "day care" to "child care"; and definitions and (ii) conforming the regulation to amendments to § 63.2-609 of the Code of Virginia that limit the exemption for caring for a young child to 12 months in a lifetime, which will also bring the regulation into consistency with federal requirements (45 CFR 261.22), allowing for greater access to employment and training opportunities, thereby benefiting the health and welfare of participants.

Rationale for Using Fast-Track Process: During the public comment period of the periodic review process there were no

comments made about this regulation. The changes are minimal and expected to be noncontroversial.

Substance: The amendments (i) update the Virginia Independence Program regulation by (i) changing references from "food stamps" to the current "Supplemental Nutrition Assistance Program" or "SNAP," "day care" to "child care," and "Aid to Families with Dependent Children" or "AFDC" to "Temporary Assistance for Needy Families" or "TANF"; (ii) update associated definitions; and (iii) conform the regulation to § 63.2-609 of the Code of Virginia and limit the exemption for caring for a young child to 12 months in a lifetime, which will also bring the regulation into consistency with federal requirements (45 CFR 261.22).

Issues: The primary advantage to the public is that the terms and definitions will be current and correct. The regulation will no longer improperly refer to other programs using outdated program titles. In addition, the regulation will reflect the employment and training exemptions as stated in statute. There are no disadvantages to the public or the Commonwealth.

Small Business Impact Review Report of Findings: This regulatory action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The State Board of Social Services (Board) proposed to amend its regulations that govern the Virginia Independence Program to update obsolete language and to change a rule that outlines an exemption from Virginia Initiative for Employment not Welfare (VIEW) requirements for parents of infants under 12 months of age. The VIEW exemption language is being changed so that these regulations are consistent with § 63.2-609 of the Code of Virginia (as amended in 2011).

Result of Analysis. Benefits likely exceed costs for all proposed regulatory changes.

Estimated Economic Impact. Regulations for the Virginia Independence Program were last amended in 2009 and still contain references to the Aid for Families with Dependent Children (AFDC) program and to the food stamp program, both of which have been renamed/replaced with the Temporary Aid for Needy Families (TANF) program and the Supplemental Nutrition Assistance Program (SNAP), respectively. These regulations also have not been amended to make them consistent with a Code of Virginia change that was passed in 2011 which puts a limit on the number of months that parents of infants qualify for an exemption to work requirements that are normally mandatory in order to receive TANF benefits. The Board now proposes to amend these regulations to update terminology and make regulatory language consistent with controlling statutory language.

Regulations

No affected entity is likely to incur costs on account of these proposed regulations. To the extent that these changes remove obsolete language that may be confusing and clarify the rules that recipients are subject to, interested parties will benefit from these changes.

Businesses and Entities Affected. Board staff reports that there are approximately 62,250 low-income families that receive TANF benefits each month. All these families, as well as all future recipients will be affected by these proposed regulatory changes.

Localities Particularly Affected. No locality will be particularly affected by these proposed regulations.

Projected Impact on Employment. These proposed regulations are unlikely to have any impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. These proposed regulations are unlikely to have any effect on the use and value of any private property.

Small Businesses: Costs and Other Effects. No small businesses will be affected by these proposed regulations.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses will be affected by these proposed regulations.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to Economic Impact Analysis: The Department of Social Services concurs with the economic

impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments (i) update current references to "Aid to Families with Dependent Children" or "AFDC" to "Temporary Assistance for Needy Families" or "TANF," "Food Stamp Program" or "food stamps" to "Supplemental Nutrition Assistance Program" or "SNAP," and "child day care" or "day care" to "child care"; (ii) update definitions; and (iii) conform the regulation to § 63.2-609 of the Code of Virginia and federal regulations by including a 12-month lifetime limit on the exemption from participating in the employment and training program because of caring for a young child.

Part I

General Provisions

22VAC40-35-10. Definitions.

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

"Actively seeking employment" means satisfactorily participating in any assigned job-seeking activity while in the program.

"Adult portion" means the TANF amount paid on behalf of the parent or other caretaker-relative with whom the TANF child resides, including a minor parent. This amount is the difference in the standard of assistance for a family size, which includes the adult and the standard of assistance for a family size of one less person.

"Agreement" means the written individualized agreement of personal responsibility required by § 63.2-608 of the Code of Virginia.

"Allotment" means the monthly ~~food stamp~~ SNAP benefit given to a household.

"Applicant" means a person who has applied for TANF or TANF-UP benefits and the disposition of the application has not yet been determined.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive assistance.

"Caretaker-relative" means the natural or adoptive parent or other relative, as specified in 45 CFR 233.90(c)(1)(v), who is responsible for supervision and care of the needy child.

"Case management" means the process of assessing, coordinating, monitoring, delivering, or brokering activities and services necessary for VIEW participants to enter employment or employment-related activities as quickly as possible.

"Case management services" means services ~~which~~ that include, but are not limited to, job development and job

placement, community work experience, education, skills training, and support services.

"Case manager" means the worker designated by the local department of social services, a private-sector contractor or a private community-based organization including nonprofit entities, churches, or voluntary organizations that provide case management services.

"Child ~~day~~ care" means those services for which a participant is eligible pursuant to child ~~day~~ care services policy.

"Child ~~day~~ care services/program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of 13 (or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision) for less than a 24-hour period.

"Community work experience" means work for benefits in a public or private organization that serves a community/public function.

"Department" means the Virginia Department of Social Services.

"Diversionary cash assistance" means a one-time lump sum payment to an individual or third-party vendor to prevent long-term receipt of TANF.

"Division of Child Support Enforcement" or "DCSE" means that division of the Virginia Department of Social Services ~~which that~~ is responsible under Title IV-D of the Social Security Act (42 USC §§ 651-669) to locate noncustodial parents, establish paternity, establish child support and health care orders, enforce payment of delinquent support, and collect and distribute support payments.

"Employer tax credit" means a tax credit available to an employer pursuant to § 58.1-439.9 of the Code of Virginia.

"Family" means a TANF assistance unit.

~~"Food Stamp Program" means the program administered through the Virginia Department of Social Services through which a household can receive food stamps with which to purchase food products.~~

"Full Employment Program" or "FEP" means subsidized, training-oriented, employment ~~which that~~ replaces the TANF ~~and food stamp~~ benefits of a participant. This component of VIEW is designed to train the recipient for a specific job, increase his self-sufficiency, and improve his competitiveness in the labor market.

"Grant" means the monthly TANF benefit payment.

"Hardship exceptions" means prescribed reasons ~~which that~~, if applicable, would allow an extension of receipt of TANF benefits.

"He" means a male or female, as applicable.

"Hiring authority" means an individual with the authority to hire employees for a business.

"In loco parentis" means an adult relative or other adult who is acting in place of a parent.

"Incapacitated" means a medically verified condition which renders an individual unable to work.

"Job placement" means placing a participant in an unsubsidized or subsidized job.

"Job search" means a structured, time-limited period in which the participant is required to search for employment. The participant must complete a set number of hours searching for employment.

"Job skills training" means training in technical job skills or required knowledge in a specific occupational area in the labor market.

"Local agency" or "local department" means any one of the local social services or welfare agencies throughout the Commonwealth ~~which that~~ administers the VIP program.

"Minor parent" means any parent under 18 years of age.

"On-the-job training" means training ~~which that~~ is provided by an employer during routine performance of a job.

"Parent" means a mother or father, married or unmarried, natural, or adoptive following entry of an interlocutory order. The parent may be a minor parent.

"Participant" means a TANF or TANF-UP recipient who is participating in the VIEW program.

"Participating family" means an assistance unit including a parent who participates in the Virginia Initiative for Employment not Welfare (VIEW) Program.

"Part-time unsubsidized employment" means employment of at least 10 hours but less than 30 hours per week and for which no VIEW, ~~or TANF, or food stamp~~ funds are used to pay the individual's salary.

"Post-secondary education" means formal instruction at an institution of higher education or vocational school leading to the attainment of a certificate, an associate degree, or a baccalaureate degree.

"Recipient" means an individual who is presently receiving a TANF assistance payment or whose eligibility exists even though the assistance payment is zero.

"Recipient family" means an assistance unit in which the caretaker-relative is a parent of the eligible child and the parent's needs may or may not be included on the grant.

"Relative" means spouse, child, grandchild, parent, or sibling of ~~a qualified employer~~ an applicant or recipient.

"Sanction" means to reduce or suspend a participant's TANF grant ~~or food stamp allotment or both~~, where applicable, for noncompliance with these regulations or the statute.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth or (ii) any private or parochial

Regulations

school that offers instruction at any level or grade from kindergarten through grade 12.

"Supplemental Nutrition Assistance Program" or "SNAP" means the program administered through the Virginia Department of Social Services through which a household receives assistance to purchase food.

"Support services" means services such as child care or transportation provided to program participants to enable the participant to work or to receive training or education ~~which~~ that are intended to lead to employment.

"Temporary Assistance for Needy Families" or "TANF" means the program authorized in § 406 of the Social Security Act (42 USC § 606) and administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the program authorized in § 63.2-602 of the Code of Virginia and administered by the Virginia Department of Social Services, which provides aid to two-parent families with dependent children who are in financial need.

"Time limitations" means a specified period of time, under the statute, to receive TANF.

"Transitional support services" means child care, transportation, medical assistance or employment and training services provided to working participants whose TANF has been terminated either voluntarily, although still eligible for TANF, or involuntarily, due to time limitations.

"Truant" means a child who (i) fails to report to school for three consecutive school days, or for a total of five scheduled school days per month or an aggregate of seven scheduled school days per school calendar quarter, whichever occurs sooner, and no indication has been received by school personnel that the child's parent or guardian is aware of the child's absence, and a reasonable effort by school personnel to notify the parent or guardian has failed; or (ii) is not enrolled in school at any time during the month.

"Underemployed" means working at a job for less than the federal hourly minimum wage.

"Unsubsidized employment" means employment in which no government funds are used to subsidize directly the wages earned by a participant.

"Virginia Independence Program" or "VIP" means the program in the Commonwealth of Virginia ~~which~~ that is made up of the TANF Program and the Virginia Initiative for Employment not Welfare.

"Virginia Initiative for Employment not Welfare" or "VIEW" means the employment program for TANF recipients.

"Work activity" means participation in unsubsidized employment, FEP, part-time work, community work

experience, on-the-job training, job search, job readiness, community service, job skills training directly related to employment, satisfactory attendance at secondary school, or in a course of study leading to a certificate of general equivalence.

22VAC40-35-30. Cooperation in establishing paternity.

A. As a condition of eligibility, the caretaker-relative shall cooperate, as defined in 22VAC40-35-20, with the Division of Child Support Enforcement (DCSE) and the local department of social services in establishing paternity.

B. If the caretaker-relative does not cooperate, the adult portion of the grant shall be denied or terminated until the individual has disclosed the required information.

C. If, after six months of receipt of ~~AFDC~~ TANF, paternity has not been established and the local department determines that the caretaker-relative is not cooperating in establishing paternity, the local department shall terminate the entire grant for a minimum of one month and until cooperation has been achieved. An individual whose ~~AFDC~~ TANF case was terminated due to such noncooperation must cooperate and file a new application for ~~AFDC~~ TANF to receive further benefits.

22VAC40-35-40. Diversionary assistance program eligibility criteria.

A. An assistance unit shall be eligible to receive diversionary cash assistance if:

1. Verification is provided to the local department of social services that the assistance unit has a temporary loss of income or delay in starting to receive income resulting in an emergency;
2. The assistance unit meets ~~AFDC~~ TANF requirements specified in § 63.2-617 of the Code of Virginia; and
3. The local department of social services determines that diversionary assistance will resolve the emergency.

B. The amount of assistance provided shall be up to the maximum TANF amount for 120 days that the family would otherwise be eligible to receive. The amount of the payment is based on immediate needs of the applicant. Local agencies shall strive to provide the most cost-effective solution to the one-time emergency.

C. If an assistance unit receives a diversionary assistance payment, all assistance unit members shall be ineligible for TANF for 1.33 times the number of days for which assistance is granted, beginning with the date that the diversionary assistance is issued.

D. An assistance unit shall be eligible to receive diversionary assistance once in a 12-month period.

E. Receipt of diversionary assistance is voluntary.

F. Local social services agencies shall determine eligibility for diversionary assistance within five working days of the receipt of the final verification that substantiates eligibility, or

within 30 days of the date of the receipt of the signed application, whichever occurs first.

Part III

Virginia Initiative for Employment Not Welfare (VIEW)

22VAC40-35-80. Participant eligibility.

A. The following individuals shall be exempt from mandatory participation in VIEW:

1. Any individual, including all minor caretakers, under 16 years of age;
2. Any individual at least 16 but no more than 19 years of age who is enrolled full time in elementary or secondary school, including career and technical education programs. The career and technical education program must be equivalent to secondary school. Whenever feasible, such recipients should participate in summer work.
3. Any individual unable to participate because of a temporary medical condition that prevents entry into employment or training. Such individuals must provide to the local department a written statement from a physician to specify that he is incapacitated, the nature and scope of the incapacity, and the duration of the incapacity.
4. Any individual who is receiving Social Security Disability Benefits or Supplemental Security Income.
5. Any individual who is the sole caregiver of another member of the household who is incapacitated, and whose presence is essential for the care of the other member on a substantially continuous basis. Incapacity is determined by receipt of Social Security Disability Benefits, Supplemental Security Income, or a written medical statement from a physician.
6. Any individual who is age 60 or older.
7. A parent of a child under 12 months of age who personally provides care for the child. A parent exempt from mandatory participation in VIEW shall be exempt for no more than 12 months for this reason. Months during which a person is exempt may be consecutive or nonconsecutive. A parent of a child not considered part of the TANF public assistance unit due to the provisions listed in § 63.2-604 of the Code of Virginia may be granted a temporary exemption of not more than six weeks after the birth of such child.

B. Nonparents who receive TANF shall participate in VIEW if not otherwise exempt.

C. Pregnant women shall participate in VIEW if not otherwise exempt. Pregnant women shall be assigned to job readiness, training, and educational activities during the last trimester of pregnancy.

D. TANF recipients who meet an exemption from participation in VIEW may volunteer for the program.

22VAC40-35-100. VIEW activities.

A. VIEW recognizes that parents have the obligation to support their children through employment.

B. VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients. VIEW shall require an Agreement of Personal Responsibility and the obligation to seek and obtain employment. Refusal to sign the Agreement of Personal Responsibility shall result in termination of TANF. The Agreement of Personal Responsibility shall be written for each nonexempt participant specifying, among other applicable requirements, the following:

1. The participant's obligations and responsibilities:
 - a. That it is the participant's responsibility to seek employment to support his own family.
 - b. That it is the participant's responsibility to participate in assignments made by the case manager.
 - c. That it is the participant's responsibility to notify the case manager of any change in the participant's circumstances ~~which~~ that would impact the participant's ability to satisfactorily participate in the program.
 - d. That it is the participant's responsibility to accept offers of suitable employment. Refusal to accept offers of suitable employment will result in the loss of the participant household's TANF.
 - e. That it is the participant's responsibility to arrange and find transportation and ~~day~~ child care. The agency will provide for transportation and ~~day~~ child care, to the extent funding is available, only when the participant is unable to make his own arrangements.
2. Explanation of the two-year time limit.

C. Modification of the Agreement of Personal Responsibility shall not impact or change the two-year time limit for receipt of TANF benefits.

D. A VIEW participant who does not meet an exemption shall be required to participate in a work activity. The department shall ensure that participants are assigned to one of the following employment categories after TANF eligibility determination and entry into the VIEW program:

1. Unsubsidized private sector employment (full-time, part-time, or temporary) is the preferred employment category. A participant shall be required to accept any offers of suitable employment as defined in § 60.2-618 of the Virginia Unemployment Compensation Act.
2. Subsidized employment as follows:
 - a. The department shall conduct a work activity ~~which~~ that shall be known as the Full Employment Program (FEP), which shall replace TANF benefits with subsidized employment.
 - b. The local department, employer, and the full employment participant shall sign a written agreement. At the expiration of this full employment agreement or when the participant leaves FEP, he will be reassessed and a modified Activity and Service Plan will be

Regulations

developed to reassign the participant to an appropriate employment category.

c. The employer is reimbursed for the wages paid to the participant up to the value of the participant's TANF benefits as contained in the agreement signed between the department and the employer.

(1) The employer subsidy will be based on the actual hours the participant works.

(2) The value of the participant's TANF benefits will be based on the benefits received over the period of assignment to a Full Employment Program placement.

3. Community work experience.

a. The participant can be placed into community work experience. Job placements shall serve a useful public purpose as provided in § 482 (f) of the Social Security Act (42 USC § 682 F).

b. The department and local departments shall work with other state, regional, and local agencies and governments in developing job placements. Placements shall be selected to provide skills that will make the participant more employable and serve a public function. Participation in community work experience shall be for an initial period of six months. Program participants shall not displace regular workers.

c. At the expiration of the community work experience assignment or when the participant leaves community work experience, he will be reassessed and a modified Activity and Service Plan will be developed to reassign the participant to an appropriate employment category.

d. There shall be no sick leave benefit attached to this component since participants work in exchange for their TANF and ~~food stamp~~ SNAP benefits. Participants who are ill or incapacitated will continue to receive their benefits.

4. In order to be considered a work activity in VIEW, on-the-job training must be provided by an employer. This is typically employer-required unpaid training by an employer ~~which that~~ must be completed before an individual will be hired.

E. Other VIEW activities include:

1. Education.

a. Education may only be provided in conjunction with work-related activities during the participant's two-year time period.

(1) Educational activities can be substituted for community work experience hours during the participant's initial six-month placement in community work experience. The participant must be engaged in community work experience for at least 20 hours per week in addition to the educational activities. After six months of participation in community work experience, the number of hours required in the work activity can be

reduced to allow participation in education to further the participant's employability.

(2) Participants who enroll into education or training programs prior to coming in VIEW shall be required to meet the requirements of the program.

b. Post-secondary education. Participants assigned to post-secondary education should have demonstrated the capability to successfully complete the educational activity in the prescribed time period in an occupational area for which there is demand in the community.

2. Job skills training may only be provided in conjunction with work-related activities during the participant's two-year time period. The choice of occupational skills training offered will vary in each jurisdiction depending upon local labor market conditions. However, skills training must be related to the types of jobs ~~which that~~ are available or are likely to become available in the community.

3. Job search and job readiness.

4. Community service.

5. Vocational education.

VA.R. Doc. No. R14-3620; Filed May 6, 2014, 12:10 p.m.

Final Regulation

<p>REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.</p>
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Title of Regulation: 22VAC40-41. Neighborhood Assistance Tax Credit Program (amending 22VAC40-41-20).

Statutory Authority: §§ 58.1-439.20 and 63.2-217 of the Code of Virginia.

Effective Date: July 2, 2014.

Agency Contact: Wanda Stevenson, Neighborhood Assistance Program Technician, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7924, or email wanda.stevenson@dss.virginia.gov.

Background: The Neighborhood Assistance Act Program (NAP) is a state tax credit program that was established by the General Assembly in 1981. NAP uses tax credits as an incentive for businesses, trusts, and, with certain restrictions, individuals to make donations to eligible nonprofit organizations whose primary function is providing services to a low-income person or an eligible student with a disability.

Summary:

The amendments conform the regulation to legislation passed by the General Assembly in 2013 and 2014. Pursuant to Chapter 802 of the 2013 Acts of Assembly, the amendments require that neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended provide an audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended provide a compilation for such year performed by an independent certified public accountant and that all affiliates of the applicant neighborhood organization must provide such an audit, review, or compilation. Pursuant to Chapters 47 and 189 of the 2014 Acts of Assembly, the amendments allow a nonprofit organization to submit the audit, review, or compilation within 30 days immediately following the proposal deadline to be considered timely filed, as long as the proposal was otherwise complete by the deadline.

22VAC40-41-20. Purpose; procedure for becoming an approved organization; eligibility criteria; termination of approved organization; appeal procedure.

A. The purpose of the Neighborhood Assistance Program is to encourage business firms and individuals to make donations to neighborhood organizations for the benefit of low-income persons.

B. Neighborhood organizations that do not provide education services and that wish to become an approved organization must submit an application to the commissioner. Neighborhood organizations that provide education services must submit an application to the Superintendent of Public Instruction. The application submitted to the Superintendent of Public Instruction must comply with regulations or guidelines adopted by the Board of Education. The application submitted to the commissioner must contain the following information:

1. A description of ~~their~~ eligibility as a neighborhood organization, the programs being conducted, the low-income persons assisted, the estimated amount that will be donated to the programs, and plans for implementing the programs.
2. Proof of the neighborhood organization's current exemption from income taxation under the provisions of § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code, or the organization's eligibility as a community action agency as defined in the Economic Opportunity Act of 1964 (42 USC § 2701 et seq.) or housing authority as defined in § 36-3 of the Code of Virginia.
3. A copy of the neighborhood organization's current audit. For neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended, an

audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended, a compilation for such year performed by an independent certified public accountant; a copy of the organization's current federal form 990; a current brochure describing the organization's programs; and a copy of the annual report filed with the Department of Agriculture and Consumer Services' Division of Consumer Protection.

4. A statement of objective and measurable outcomes that are expected to occur and the method the organization will use to evaluate the program's effectiveness.

C. To be eligible for participation in the Neighborhood Assistance Program, the applicant and any of its affiliates must meet the following criteria:

1. Applicants must have been in operation as a viable entity, providing neighborhood assistance for low-income people, for at least 12 months.
2. Applicants must be able to demonstrate that at least 40% of the total people served and at least 50% of the total expenditures were for low-income persons or eligible students with disabilities.
3. Applicant's audit must not contain any significant findings or areas of concern for the ongoing operation of the neighborhood organization.
4. Applicants must demonstrate that at least 75% of total revenue received is expended to support their ongoing programs each year.

D. The application period will start no later than March 15 of each year. All applications must be received by the Department of Social Services no later than the first business day of May. An application filed without the required audit, review, or compilation will be considered timely filed provided that the audit, review, or compilation is filed within 30 days immediately following the deadline.

E. Those applicants submitting all required information and reports and meeting the eligibility criteria described in this section will be determined an approved organization. The program year will run from July 1 through June 30 of the following year.

F. The commissioner may terminate an approved organization's eligibility based on a finding of program abuse involving illegal activities or fraudulent reporting on contributions.

G. Any neighborhood organization that disagrees with the disposition of its application, or its termination as an approved organization, may appeal to the commissioner in writing for a reconsideration. Such requests must be made within 30 days of the denial or termination. The commissioner will act on the request and render a final decision within 30 days of the request for reconsideration.

VA.R. Doc. No. R14-4003; Filed May 6, 2014, 9:50 a.m.

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 1, 2014

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2013-00238

Ex Parte: In the matter of revising the
Rules Governing Long-term Care Insurance

ORDER SCHEDULING HEARING

On November 26, 2012, the State Corporation Commission ("Commission") initiated a proceeding to consider whether Chapter 200 of Title 14 of the Virginia Administrative Code, entitled Rules Governing Long-term Care Insurance, 14 VAC 5-200-10 et seq. ("Rules"),¹ should be revised. This proceeding follows a report filed by the Bureau of Insurance ("Bureau"), at the direction of the Commission, which studied the premium rate increases implemented by insurers writing long-term care insurance in Virginia on or after January 1, 2009 ("Report").² The Bureau's Report was filed on October 4, 2013.

Subsequently, the Commission found that it was appropriate to undertake a review of the Report and the Rules and consider proposing revisions to the Rules. The Commission therefore provided interested persons, including insurers writing long-term care insurance in Virginia, an opportunity to comment on the Report or propose amendments to the Rules on or before February 1, 2014.³

On January 13, 2014, the Commission entered an Amending Order requesting that additional notice of the opportunity to comment on the Report and propose amendments to the Rules be provided to the general public, as well as to specific individuals who filed written complaints or inquiries with the Bureau regarding long-term care premium rate increases within the last two years.⁴ The Commission also directed the Bureau to file a response to such comments or proposed amendments on or before May 1, 2014.

On or before March 14, 2014, the Bureau received filed comments from 171 residents of Virginia. The Bureau also received comments from Genworth Financial and jointly from two major trade associations: the American Council of Life Insurers and America's Health Insurance Plans.

The Bureau filed its Response on May 1, 2014 ("Response").

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that we should allow an opportunity for public oral comments regarding the Bureau's Response and other filings in this docket. We note that written comments already filed in this docket will remain under the Commission's consideration whether or not the commenter provides additional oral comments.

Accordingly, IT IS ORDERED THAT:

(1) On June 19, 2014, starting at 10 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, the Commission will receive comments on the Bureau's Response and other filings in this docket.

(2) The Commission's Division of Information Resources shall make a downloadable version of this Order Scheduling Hearing available for public access on the Commission's website at <http://www.scc.virginia.gov/case>. The Clerk of the Commission also shall make a copy of this Order Scheduling Hearing available, free of charge, in response to any written request for one.

(3) The Clerk of the Commission shall send a copy of this Order Scheduling Hearing to the Bureau in care of Deputy Commissioner Althelia P. Battle, who forthwith shall mail a copy of this Order Scheduling Hearing to: (i) all persons who have filed written complaints or inquiries with the Bureau regarding long-term care premium rate increases within the last two years; (ii) all insurance companies who reported Long-Term Care Insurance Earned Premium in the 2012 Long-Term Care Reporting Form; (iii) all persons who have filed comments in this docket; and (iv) all other interested persons.

(4) The Bureau shall file with the Clerk of the Commission, on or before May 21, 2014, an affidavit of compliance with the notice requirements set forth in Paragraph (3).

(5) The Division of Information Resources shall have the following public notice published as display advertising (not classified) on one (1) occasion by May 21, 2014, in a newspaper of general circulation published in each of the following cities: Richmond, Norfolk, Newport News, Roanoke, Winchester, Lynchburg, Danville, Bristol, Fredericksburg, and Alexandria:

NOTICE TO THE PUBLIC OF THE
OPPORTUNITY TO COMMENT ON THE
BUREAU OF INSURANCE'S RESPONSE TO
COMMENTS RECEIVED REGARDING LONG-
TERM CARE INSURANCE PREMIUM RATE
INCREASES

CASE NO. INS-2013-00238

Notice is hereby given to the public that the State Corporation Commission ("Commission") is seeking comments on the Bureau of Insurance's ("Bureau") response filed in Case No. INS-2013-00238 concerning long-term care insurance premium rate increases.

On November 25, 2012, the Commission initiated a proceeding to consider whether Chapter 200 of Title 14 of the Virginia Administrative Code, entitled Rules Governing Long-term Care Insurance, 14 VAC 5-200-10 et seq.

("Rules"), should be revised. This proceeding follows a report filed by the Bureau, at the direction of the Commission, which studied the premium rate increases implemented by insurers writing long-term care insurance in Virginia on or after January 1, 2009 ("Report"). The Bureau's Report was filed on October 4, 2013.

Subsequently, the Commission found that it was appropriate to undertake a review of the Report and the Rules and consider proposing revisions to the Rules. The Commission therefore provided, to the general public, interested persons, and specific individuals who filed written complaints or inquiries with the Bureau on long-term care premium rate increases within the last two years, an opportunity to comment on the Report or propose amendments to the Rules.

The Bureau has received these comments and, on May 1, 2014, filed its Response. The Commission now seeks comments on the Bureau's Response and other filings in Case No. INS-2013-00238.

A copy of the Bureau's Response and other filings in this docket may be found on the Commission's website: <http://www.scc.virginia.gov/case>, by selecting the "Docket Search" feature and searching for Case No. INS-2013-00238.

Any person who desires to comment on the Bureau's Response or other filings in this docket shall appear in the Commission's Courtroom at 9:45 a.m. on June 19, 2014, and contact the Commission's Bailiff. Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

The Commission's Rules of Practice and Procedure may be viewed at: <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and Procedure and an official copy of the Commission's Order Scheduling Hearing in this case may be obtained from Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

STATE CORPORATION COMMISSION

(6) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and to all persons who filed comments with regard to this matter. A copy also shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Althelia P. Battle, Deputy Commissioner.

¹ The Rules can be found at: <http://lis.virginia.gov/000/reg/TOC14005.HTM#C0200>.

² Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte: In the matter of investigating long-term care insurance premium rates, Case No. INS-2012-000282, Doc. Con. Cen. No. 121130186, Order Directing Report (Nov. 26, 2012).

³ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising the Rules Governing Long-term Care Insurance, Case No. INS-2013-00238, Doc. Con. Cen. No. 131130115, Order Initiating Proceeding (Nov. 25, 2013).

⁴ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising the Rules Governing Long-term Care Insurance, Case No. INS-2013-00238, Doc. Con. Cen. No. 140120003, Amending Order (Jan. 13, 2014).

DEPARTMENT OF LABOR AND INDUSTRY

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Labor and Industry has conducted a small business impact review of **16VAC15-30, Virginia Rules and Regulations Declaring Hazardous Occupations** and determined that this regulation should be retained in its current form. The Department of Labor and Industry is publishing its report of findings dated May 13, 2014, to support this decision in accordance with § 2.2-4007.1 G of the Code of Virginia.

There is a continuing need for this regulation because it is required by state law. No public comments were received on this regulation during the public comment period. This regulation is not overly complex. This regulation does not overlap, duplicate, or conflict with any federal or state law or regulations. There have not been any significant changes in technology, economic conditions, or other factors in the area affected by this regulation since it was amended in 2010. The department determined, consistent with the stated objectives of applicable law, this regulation does not have an adverse economic impact on small businesses, and that this regulation should be retained with no changes.

Contact Information: Reba O'Connor, Regulatory Coordinator, Virginia Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524, or email occonnor.reba@dol.gov.

STATE WATER CONTROL BOARD

Proposed Consent Order for Aqua Presidential, Inc.

An enforcement action has been proposed for Aqua Presidential, Inc. for violations of the State Water Control Law and regulations in King George County. The State Water Control Board proposes to issue a consent order resolving violations at the Presidential Lakes, Section 14 – Wastewater Treatment Plant. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Daniel

General Notices/Errata

Burstein will accept comments by email at daniel.burstein@deq.virginia.gov, FAX at (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 3, 2014, through July 3, 2014.

Proposed Consent Order for DuPont Teijin Films U.S. Limited Partnership

An enforcement action has been proposed for DuPont Teijin Films U.S. Limited Partnership for alleged violations at DuPont Teijin Films, Hopewell Site at 3600 Discovery Drive, Chesterfield, Virginia. The State Water Control Board proposes to issue a consent special order to DuPont Teijin Films U.S. Limited Partnership to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Gina Pisoni will accept comments by email at gina.pisoni@deq.virginia.gov, FAX at (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from June 2, 2014, through July 3, 2014.

Proposed Consent Order for Mountain Materials, Inc.

An enforcement action has been proposed for Mountain Materials, Inc. for violations in Grayson County. The proposed consent order addresses violations of the State Water Control Law and VPDES General Permit Registration No. VAG840011 at the Lyall Stone Plant, near Mouth of Wilson, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Ralph T. Hilt will accept comments by email at ralph.hilt@deq.virginia.gov, FAX at (276) 676-4899, or postal mail at Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, from June 3, 2014, through July 3, 2014.

Proposed Consent Order for Salvation Army

An enforcement action has been proposed for the Salvation Army. The consent order describes a settlement to resolve violations of State Water Control Law and the applicable regulations associated with the Salvation Army Camp Happyland Wastewater Treatment Plant located in Richardsville, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Daniel Burstein will accept comments by email at daniel.burstein@deq.virginia.gov, FAX at (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 3, 2014, through July 3, 2014.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/connect/commonwealth-calendar>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13VAC5-63. Virginia Uniform Statewide Building Code.**

Publication: 30:16 VA.R. 2071-2229 April 7, 2014

Correction to Final Regulation:

Page 2106, 13VAC5-63-210 S 52, Table R507.5, row 1, column 1, after "Species" replace superscript "a" with superscript "b"

Page 2155, 13VAC5-63-210 S 85, column 2, in N1102.4.1.3 (R402.4.1.3) Leakage rate (Prescriptive), after "air leakage rate" change "not exceeding" to "less than"

VA.R. Doc. No. R12-3159; Filed May 9, 2014 10:02 a.m.