



# Virginia Register of Regulations

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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 12 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. **26:20 VA.R. 2510-2515 June 7, 2010**, refers to Volume 26, Issue 20, pages 2510 through 2515 of the *Virginia Register* issued on June 7, 2010.

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; **Bill Janis**, Vice Chairman; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Patricia L. West**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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## PUBLICATION SCHEDULE AND DEADLINES

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

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### April 2011 through June 2012

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
27:17	April 6, 2011	April 25, 2011
27:18	April 20, 2011	May 9, 2011
27:19	May 4, 2011	May 23, 2011
27:20	May 18, 2011	June 6, 2011
27:21	June 1, 2011	June 20, 2011
27:22	June 15, 2011	July 4, 2011
27:23	June 29, 2011	July 18, 2011
27:24	July 13, 2011	August 1, 2011
27:25	July 27, 2011	August 15, 2011
27:26	August 10, 2011	August 29, 2011
28:1	August 24, 2011	September 12, 2011
28:2	September 7, 2011	September 26, 2011
28:3	September 21, 2011	October 10, 2011
28:4	October 5, 2011	October 24, 2011
28:5	October 19, 2011	November 7, 2011
28:6	November 2, 2011	November 21, 2011
28:7	November 15, 2011 ( <b>Tuesday</b> )	December 5, 2011
28:8	November 30, 2011	December 19, 2011
28:9	December 13, 2011 ( <b>Tuesday</b> )	January 2, 2012
28:10	December 27, 2011 ( <b>Tuesday</b> )	January 16, 2012
28:11	January 11, 2012	January 30, 2012
28:12	January 25, 2012	February 13, 2012
28:13	February 8, 2012	February 27, 2012
28:14	February 22, 2012	March 12, 2012
28:15	March 7, 2012	March 26, 2012
28:16	March 21, 2012	April 9, 2012
28:17	April 4, 2012	April 23, 2012
28:18	April 18, 2012	May 7, 2012
28:19	May 2, 2012	May 21, 2012
28:20	May 16, 2012	June 4, 2012

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 2. AGRICULTURE

### PESTICIDE CONTROL BOARD

#### Initial Agency Notice

**Title of Regulation: 2VAC20-51. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act.**

**Statutory Authority: § 3.2-3906 of the Code of Virginia.**

**Name of Petitioner: Jerryanne Bier.**

**Nature of Petitioner's Request: The petitioner is requesting that the Pesticide Control Board exempt gypsy moth trappers working under the auspices of the Virginia Department of Agriculture and Consumer Services from having to hold or obtain pesticide applicator or registered technician certification.**

**Agency's Plan for Disposition of Request: The Pesticide Control Board will consider this request at its next quarterly meeting following the public comment period.**

**Public Comment Deadline: May 16, 2011.**

**Agency Contact: Liza Fleeson, Department of Agriculture and Consumer Services, Oliver Hill Building, 102 Governor Street, Richmond, VA 23219, telephone (804) 371-6559, or email [liza.fleeson@vdacs.virginia.gov](mailto:liza.fleeson@vdacs.virginia.gov).**

VA.R. Doc. No. R11-29; Filed April 5, 2011, 3:02 p.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider amending the following regulations: **12VAC5-510, Guidelines for General Assembly Nursing Scholarships.** The purpose of the proposed action is to amend the regulation to reflect (i) changes regarding the name of the office that administers this program, (ii) the address where applicants should send their applications, and (iii) application processes and procedures.

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

Statutory Authority: §§ 32.1-12 and 32.1-122.6:01 of the Code of Virginia.

Public Comment Deadline: May 25, 2011.

Agency Contact: Michael Royster, MD, Director, Office of Minority Health and Health Equity, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7435, FAX (804) 864-7440, or email michael.royster@vdh.virginia.gov.

VA.R. Doc. No. R11-2804; Filed April 5, 2011, 4:24 p.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 Board of Health intends to consider amending the following regulation: **12VAC5-620, Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells.** The purpose of the proposed action is to revise the regulations by incorporating the relevant provisions of the Code of Virginia that have been added or amended since the existing regulation became effective and by incorporating by reference the provisions of the 2010-2012 Biennium Appropriation Act or its successors (Item 287 of the 2010 Appropriation Act). Further, the board intends to incorporate other amendments, authorized by the Code of Virginia and the Appropriation Act, that are consistent with the Virginia Department of Health's current policies and practices and will better enable the board to carry out its responsibilities for the safe and sanitary treatment and disposal of sewage so as to protect public health and the environment.

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

Statutory Authority: §§ 32.1-164 and 32.1-176.4 of the Code of Virginia.

Public Comment Deadline: May 25, 2011.

Agency Contact: Jim Bowles, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7475, or email jim.bowles@vdh.virginia.gov.

VA.R. Doc. No. R11-2718; Filed April 5, 2011, 4:29 p.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### CEMETERY BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Cemetery Board intends to consider amending the following regulation: **18VAC47-20, Cemetery Board Rules and Regulations.** The purpose of the proposed action is to adjust licensing fees for regulants of the Cemetery Board. The board must establish fees adequate to support the costs of the board operations and a proportionate share of the department's operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

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

Statutory Authority: §§ 54.1-201 and 54.1-2313 of the Code of Virginia.

Public Comment Deadline: May 25, 2011.

Agency Contact: Christine Martine, Executive Director, Cemetery Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email cemetery@dpor.virginia.gov.

VA.R. Doc. No. R11-2767; Filed April 5, 2011, 9:21 a.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 exempt 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).

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

**Public Hearing Information:**

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed amendments will (i) add a resident bear hunting license, with a fee of \$25, to the list of license and permit fees; (ii) add a nonresident bear hunting license, with a fee of \$150, to the list of license and permit fees; (iii) eliminate bear from the resident bear, deer, and turkey hunting license for licensees 16 years of age or older; (iv) eliminate bear from the resident junior bear, deer, and turkey hunting license for licensees under 16 years of age; and (v) eliminate bear from the nonresident bear, deer, and turkey hunting licenses.*

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

In accordance with the authority of the board under § 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
Resident License to Hunt, for licensees 16 years of age or older	\$17.00
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	\$10.00
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	\$6.00
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 during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)	\$102.00
Resident Junior Lifetime License to Hunt, for licensees under 12 years of age at the time of purchase	\$250.00
Resident Lifetime License to Hunt, for licensees at the time of purchase:	
through 44 years of age	\$255.00
45 through 50 years of age	\$205.00
51 through 55 years of age	\$155.00
56 through 60 years of age	\$105.00
61 through 64 years of age	\$55.00
65 years of age and over	\$15.00

# Regulations

Totally and Permanently Disabled Resident Special Lifetime License to Hunt	\$10.00	Virginia Nonresident Licenses for Additional Hunting Privileges	
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	\$10.00	Type license or permit	Fee
		Nonresident <del>Bear, Deer, and Turkey</del> Hunting License, for licensees:	
		16 years of age or older	\$65.00
		12 through 15 years of age	\$15.00
		under 12 years of age	\$12.00
Virginia Resident Licenses for Additional Hunting Privileges		<u>Nonresident Bear Hunting License</u>	<u>\$150.00</u>
Type license or permit	Fee	Nonresident Archery License to Hunt with bow and arrow during archery hunting season	\$30.00
Resident <del>Bear, Deer, and Turkey</del> Hunting License, for licensees 16 years of age or older	\$17.00	Nonresident Crossbow License to Hunt with crossbow during archery hunting season	\$30.00
Resident Junior <del>Bear, Deer, and Turkey</del> Hunting License, for licensees under 16 years of age	\$7.50	Nonresident Muzzleloading License to Hunt during muzzleloading hunting season	\$30.00
<u>Resident Bear Hunting License</u>	<u>\$25.00</u>	Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve	\$17.00
Resident Archery License to Hunt with bow and arrow during archery hunting season	\$17.00	Nonresident Bonus Deer Permit	\$30.00
Resident Crossbow License to Hunt with crossbow during archery hunting season	\$17.00	Miscellaneous Licenses or Permits to Hunt	
Resident Muzzleloading License to Hunt during muzzleloading hunting season	\$17.00	Type license or permit	Fee
Resident Bonus Deer Permit	\$17.00	Waterfowl Hunting Stationary Blind in Public Waters License	\$22.50
Virginia Nonresident Licenses to Hunt		Waterfowl Hunting Floating Blind in Public Waters License	\$40.00
Type license	Fee	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
Nonresident License to Hunt, for licensees 16 years of age or older	\$85.00	Virginia Resident and Nonresident Licenses to Trap	
Nonresident Three-Day Trip License to Hunt	\$45.00	Type license	Fee
Nonresident Youth License to Hunt, for licensees:		Resident License to Trap, for licensees 16 years of age or older	\$40.00
under 12 years of age	\$12.00	County or City Resident License to Trap in County or City of Residence Only	\$15.00
12 through 15 years of age	\$15.00	Resident Junior License to Trap, for licensees under 16 years of age	\$10.00
Nonresident Youth Combination License to Hunt, and to hunt <del>bear, deer, and turkey</del> , 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	Resident Senior Citizen License to Trap, for licensees 65 years of age or older	\$6.00
Nonresident Lifetime License to Hunt	\$505.00		

# Regulations

Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older	\$15.00	Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:	
Totally and Permanently Disabled Resident Special Lifetime License to Trap	\$10.00	through 44 years of age	\$255.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap	\$10.00	45 through 50 years of age	\$205.00
		51 through 55 years of age	\$155.00
Nonresident License to Trap	\$155.00	56 through 60 years of age	\$105.00
		61 through 64 years of age	\$55.00
		65 years of age and over	\$15.00
<b>Virginia Resident Licenses to Fish</b>		Totally and Permanently Disabled Resident Special Lifetime License to Freshwater Fish	\$10.00
Type license	Fee	Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	\$10.00
Resident License to Freshwater Fish	\$17.00		
County or City Resident License to Freshwater Fish in County or City of Residence Only	\$10.00		
Resident License to Freshwater Fish, for licensees 65 years of age or older	\$6.00	<b>Virginia Nonresident Licenses to Fish</b>	
Resident License to Fish in Designated Stocked Trout Waters	\$17.00	Type license	Fee
Resident License to Freshwater and Saltwater Fish	\$29.00	Nonresident License to Freshwater Fish	\$35.00
Resident License to Freshwater Fish for Five Consecutive Days	\$10.00	Nonresident License to Freshwater Fish in Designated Stocked Trout Waters	\$35.00
Resident License to Freshwater and Saltwater Fish for Five Consecutive Days	\$15.00	Nonresident License to Freshwater and Saltwater Fish	\$47.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Hunt)	\$102.00	Nonresident License to Freshwater Fish for Five Consecutive Days	\$15.00
		Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days	\$20.00
Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:		Nonresident Special Lifetime License to Freshwater Fish	\$505.00
		Nonresident Special Lifetime License to Fish in Designated Stocked Trout Waters	\$505.00
through 44 years of age	\$255.00	<b>Miscellaneous Licenses or Permits to Fish</b>	
45 through 50 years of age	\$205.00	Type license or permit	Fee
51 through 55 years of age	\$155.00	Permit to Fish for One Day at Board-Designated Stocked Trout Fishing Areas with Daily Use Fees	\$3.50; effective January 1, 2007: \$5.50
56 through 60 years of age	\$105.00		
61 through 64 years of age	\$55.00		
65 years of age and over	\$15.00		



# Regulations

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	\$55.00

VA.R. Doc. No. R11-2791; Filed April 6, 2011, 11:08 a.m.

## Proposed Regulation

**Title of Regulation:** 4VAC15-20. Definitions and Miscellaneous: in General (amending 4VAC15-20-65; adding 4VAC15-20-66).

**Statutory Authority:** §§ 29.1-103, 29.1-305, 29.1-501 and 29.1-502 of the Code of Virginia.

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 14, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will (i) increase the fees for hunting, trapping, and fishing licenses and certain permits by the following amounts: Virginia resident annual and lifetime licenses, licenses for additional privileges, and certain permits - \$5.00 each; Virginia resident "sportsman's" licenses - \$30; nonresident annual and lifetime licenses, and licenses for additional privileges - \$50 each; nonresident license to freshwater and saltwater fish - \$63; and nonresident license to freshwater and saltwater fish for five consecutive days - \$55; and (ii) establish a daily fee of \$3.00 or an annual fee equal to the price of an annual basic state resident fishing or hunting license, for admittance, parking, or other use at department-owned wildlife management areas and public fishing lakes.*

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

In accordance with the authority of the board under § 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
Resident License to Hunt, for licensees 16 years of age or older	<del>\$17.00</del> <u>\$22.00</u>
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	<del>\$10.00</del> <u>\$15.00</u>
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	<del>\$6.00</del> <u>\$11.00</u>
Resident Junior License to Hunt, for licensees 12 through 15 years of age, optional for licensees under 12 years of age	<del>\$7.50</del> <u>\$12.50</u>
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	<del>\$15.00</del> <u>\$20.00</u>
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)	<del>\$102.00</del> <u>\$132.00</u>
Resident Junior Lifetime License to Hunt, for licensees under 12 years of age at the time of purchase	<del>\$250.00</del> <u>\$255.00</u>
Resident Lifetime License to Hunt, for licensees at the time of purchase:	
through 44 years of age	<del>\$255.00</del> <u>\$260.00</u>
45 through 50 years of age	<del>\$205.00</del> <u>\$210.00</u>
51 through 55 years of age	<del>\$155.00</del> <u>\$160.00</u>
56 through 60 years of age	<del>\$105.00</del> <u>\$110.00</u>
61 through 64 years of age	<del>\$55.00</del> <u>\$60.00</u>
65 years of age and over	<del>\$15.00</del> <u>\$20.00</u>

# Regulations

Totally and Permanently Disabled Resident Special Lifetime License to Hunt	\$10.00 <u>\$15.00</u>	Nonresident Lifetime License to Hunt	\$505.00 <u>\$555.00</u>
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	\$10.00 <u>\$15.00</u>	<b>Virginia Nonresident Licenses for Additional Hunting Privileges</b>	
<b>Virginia Resident Licenses for Additional Hunting Privileges</b>		Type license or permit	Fee
Type license or permit	Fee	Nonresident Bear, Deer, and Turkey Hunting License, for licensees:	
Resident Bear, Deer, and Turkey Hunting License, for licensees 16 years of age or older	\$17.00 <u>\$22.00</u>	16 years of age or older	\$65.00 <u>\$115.00</u>
Resident Junior Bear, Deer, and Turkey Hunting License, for licensees under 16 years of age	<del>\$7.50</del> <u>\$12.50</u>	12 through 15 years of age	\$15.00 <u>\$65.00</u>
Resident Archery License to Hunt with bow and arrow during archery hunting season	\$17.00 <u>\$22.00</u>	under 12 years of age	\$12.00 <u>\$62.00</u>
Resident Crossbow License to Hunt with crossbow during archery hunting season	\$17.00 <u>\$22.00</u>	Nonresident Archery License to Hunt with bow and arrow during archery hunting season	\$30.00 <u>\$80.00</u>
Resident Muzzleloading License to Hunt during muzzleloading hunting season	\$17.00 <u>\$22.00</u>	Nonresident Crossbow License to Hunt with crossbow during archery hunting season	\$30.00 <u>\$80.00</u>
Resident Bonus Deer Permit	\$17.00 <u>\$22.00</u>	Nonresident Muzzleloading License to Hunt during muzzleloading hunting season	\$30.00 <u>\$80.00</u>
<b>Virginia Nonresident Licenses to Hunt</b>		Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve	\$17.00 <u>\$67.00</u>
Type license	Fee	Nonresident Bonus Deer Permit	\$30.00 <u>\$80.00</u>
Nonresident License to Hunt, for licensees 16 years of age or older	<del>\$85.00</del> <u>\$135.00</u>	<b>Miscellaneous Licenses or Permits to Hunt</b>	
Nonresident Three-Day Trip License to Hunt	<del>\$45.00</del> <u>\$95.00</u>	Type license or permit	Fee
Nonresident Youth License to Hunt, for licensees:		Waterfowl Hunting Stationary Blind in Public Waters License	\$22.50 <u>\$27.50</u>
under 12 years of age	\$12.00 <u>\$62.00</u>	Waterfowl Hunting Floating Blind in Public Waters License	\$40.00 <u>\$45.00</u>
12 through 15 years of age	\$15.00 <u>\$65.00</u>	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 <u>\$22.00</u>
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 <u>\$80.00</u>	<b>Virginia Resident and Nonresident Licenses to Trap</b>	
		Type license	Fee
		Resident License to Trap, for licensees 16 years of age or older	\$40.00 <u>\$45.00</u>

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County or City Resident License to Trap in County or City of Residence Only	<del>\$15.00</del> <u>\$20.00</u>	through 44 years of age	<del>\$255.00</del> <u>\$260.00</u>
Resident Junior License to Trap, for licensees under 16 years of age	<del>\$10.00</del> <u>\$15.00</u>	45 through 50 years of age	<del>\$205.00</del> <u>\$210.00</u>
Resident Senior Citizen License to Trap, for licensees 65 years of age or older	<del>\$6.00</del> <u>\$11.00</u>	51 through 55 years of age	<del>\$155.00</del> <u>\$160.00</u>
Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older	<del>\$15.00</del> <u>\$20.00</u>	56 through 60 years of age	<del>\$105.00</del> <u>\$110.00</u>
Totally and Permanently Disabled Resident Special Lifetime License to Trap	<del>\$10.00</del> <u>\$15.00</u>	61 through 64 years of age	<del>\$55.00</del> <u>\$60.00</u>
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap	<del>\$10.00</del> <u>\$15.00</u>	65 years of age and over	<del>\$15.00</del> <u>\$20.00</u>
Nonresident License to Trap	<del>\$155.00</del> <u>\$205.00</u>	Resident Special Lifetime License to Fish in Designated Stocked Trout Waters, for licensees at the time of purchase:	
Virginia Resident Licenses to Fish		through 44 years of age	<del>\$255.00</del> <u>\$260.00</u>
Type license	Fee	45 through 50 years of age	<del>\$205.00</del> <u>\$210.00</u>
Resident License to Freshwater Fish	<del>\$17.00</del> <u>\$22.00</u>	51 through 55 years of age	<del>\$155.00</del> <u>\$160.00</u>
County or City Resident License to Freshwater Fish in County or City of Residence Only	<del>\$10.00</del> <u>\$15.00</u>	56 through 60 years of age	<del>\$105.00</del> <u>\$110.00</u>
Resident License to Freshwater Fish, for licensees 65 years of age or older	<del>\$6.00</del> <u>\$11.00</u>	61 through 64 years of age	<del>\$55.00</del> <u>\$60.00</u>
Resident License to Fish in Designated Stocked Trout Waters	<del>\$17.00</del> <u>\$22.00</u>	65 years of age and over	<del>\$15.00</del> <u>\$20.00</u>
Resident License to Freshwater and Saltwater Fish	<del>\$29.00</del> <u>\$34.00</u>	Totally and Permanently Disabled Resident Special Lifetime License to Freshwater Fish	<del>\$40.00</del> <u>\$15.00</u>
Resident License to Freshwater Fish for Five Consecutive Days	<del>\$10.00</del> <u>\$15.00</u>	Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	<del>\$40.00</del> <u>\$15.00</u>
Resident License to Freshwater and Saltwater Fish for Five Consecutive Days	<del>\$15.00</del> <u>\$20.00</u>	Virginia Nonresident Licenses to Fish	
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with bow and arrow during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, and to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Hunt)	<del>\$102.00</del> <u>\$132.00</u>	Type license	Fee
Resident Special Lifetime License to Freshwater Fish, for licensees at the time of purchase:		Nonresident License to Freshwater Fish	<del>\$35.00</del> <u>\$85.00</u>
		Nonresident License to Freshwater Fish in Designated Stocked Trout Waters	<del>\$35.00</del> <u>\$85.00</u>
		Nonresident License to Freshwater and Saltwater Fish	<del>\$47.00</del> <u>\$110.00</u>

Nonresident License to Freshwater Fish for Five Consecutive Days	<del>\$15.00</del> <u>\$65.00</u>
Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days	<del>\$20.00</del> <u>\$75.00</u>
Nonresident Special Lifetime License to Freshwater Fish	<del>\$505.00</del> <u>\$555.00</u>
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	<del>\$505.00</del> <u>\$555.00</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	<del>\$3.50;</del> effective January 1, 2007: <del>\$5.50</del> <u>\$10.50</u>
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Hunt)	<del>\$17.00</del> <u>\$22.00</u>
Special Guest Fishing License	<del>\$55.00</del> <u>\$60.00</u>

**4VAC15-20-66. Admittance, parking, or other use fee at certain department-owned facilities.**

Pursuant to the authority of the board under § 29.1-103 (14) of the Code of Virginia and in accordance with § 29.1-113 of the Code of Virginia, a daily fee of \$3.00 or an annual fee equal to the price of an annual basic state resident fishing or hunting license is established for admittance, parking, or other use at department-owned wildlife management areas and public fishing lakes. However, such fee shall not apply to (i) any person holding a valid hunting, trapping, or fishing license, or a current certificate of boat registration issued by the department, or (ii) persons 16 years of age or younger.

VA.R. Doc. No. R11-2803; Filed April 6, 2011, 11:09 a.m.

**Proposed Regulation**

**Title of Regulation:** **4VAC15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4VAC15-30-50).**

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

**Public Hearing Information:**

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed amendments will (i) authorize animal shelters or similar facilities to temporarily possess, confine, and euthanize wildlife when conducting these activities under contract with any county, city, or town with animal control responsibilities; (ii) provide a legal means for the public to transport wildlife to these facilities; and (iii) provide a legal provision for nonwildlife agencies and private contractors to assist with pickup, transport, and disposal of road-killed wildlife.*

**4VAC15-30-50. Possession, transportation, and release of wildlife by authorized persons.**

A. Department employees in the performance of their official duties; U.S. government agencies' employees whose responsibility includes fisheries and wildlife management; and county, city or town animal control officers in the performance of their official duties related to public health concerns or problem wildlife removal, and individuals operating under conditions of a commercial nuisance animal permit issued by the department pursuant to §§ 29.1-412 and 29.1-417 of the Code of Virginia will be deemed to be permitted pursuant to this section to capture, temporarily hold or possess, transport, release, and when necessary humanely euthanize wildlife, provided that the methods of and documentation for the capture, possession, transport, release and euthanasia shall be in accordance with board policy.

B. Local animal shelters operating under the authority of, or under contract with, any county, city, or town with animal control responsibilities shall be authorized to receive, temporarily confine, and humanely euthanize wildlife, except for state or federal threatened and endangered species; federally protected migratory bird species; black bear; white-tailed deer; and wild turkey, provided that the methods of and documentation for the possession, confinement, and euthanasia shall be in accordance with conditions defined by the agency director. Provided further that any person may legally transport wildlife, except for those species listed above, to these authorized animal shelter facilities.

~~B.~~ C. Employees or agents of other state wildlife agencies while in the performance of their official duty in transporting wildlife through the Commonwealth will be deemed to be permitted pursuant to this section, provided that a list of animals to be transported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a letter of authorization from both the forwarding and receiving state agencies are provided to the department 24 hours prior to the transporting of such animals,

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and further provided that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R11-2792; Filed April 6, 2011, 11:09 a.m.

## Proposed Regulation

**Title of Regulation:** 4VAC15-40. Game: in General (amending 4VAC15-40-200, 4VAC15-40-282, 4VAC15-40-285; adding 4VAC15-40-22, 4VAC15-40-275, 4VAC15-40-286).

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will (i) establish a special license to hunt bears for a fee of \$25 for residents and \$150 for nonresidents; (ii) increase the maximum size of body-gripping traps from 6-1/2" to 7-1/2" jaw spread that can be used within trap enclosures; (iii) authorize parts of legally taken and possessed furbearers to be sold at any time to fur dealers permitted by the department; (iv) define the term "person"; (v) broaden the range and enforceability of the prohibition on using food and other attractants to attract bears, so as to also prohibit allowing the placement of such attractants, and adding trash to the list of prohibited attractants; (vi) make it unlawful to feed deer year round in Virginia with the exception that attractants may be used during the month of July for the purpose of photographing deer with picture taking devices; and (vii) prohibit the feeding or attracting of wildlife when it causes property damage, endangers people, or creates a public health concern.*

### **4VAC15-40-22. Special license for hunting bear.**

There shall be a special license to hunt bears that shall be in addition to the state resident license to hunt or state nonresident license to hunt. The fee for the special bear license shall be \$25 for a resident and \$150 for a nonresident.

### **4VAC15-40-200. Restricted use of above ground body-gripping traps in excess of five inches.**

It shall be unlawful to set above the ground any body-gripping trap with a jaw spread in excess of five inches when using any bait, lure, or scent; provided, that baited body gripping traps with a jaw spread up to ~~6-1/2~~ 7-1/2 inches may be used when the trap is within an enclosure with openings no

greater than 60 square inches and the trap trigger is recessed at least 12 inches from all openings; provided further that such traps must be staked to prevent them from turning over and may only be used on private lands with written permission of the landowner.

### **4VAC15-40-275. Sale of furbearer parts.**

Carcasses, including portions of carcasses, of legally taken and possessed fur-bearing animals may be sold at any time to buyers permitted in accordance with § 29.1-400 through § 29.1-407 of the Code of Virginia.

### **4VAC15-40-282. Unauthorized feeding of bear.**

It shall be unlawful for any person as defined in § 1-230 of the Code of Virginia to place ~~or~~ distribute, or allow the placement of food, minerals, carrion, trash, or similar substances to feed or attract bear. Nor, upon ~~written~~ notification by department personnel, shall any person continue to place ~~or~~ distribute, or allow the placement of any food, mineral, carrion, trash, or similar substances for any purpose if the placement of these materials results in the presence of bear ~~in such numbers or circumstances to cause annoyance or inconvenience to any person, cause property damage, or endanger any person or wildlife.~~ After such notification, such person shall be in violation of this section if the placing, distribution, or presence of such food, minerals, carrion, trash, or similar substances continues. This section shall not apply to wildlife management activities conducted or authorized by the department.

### **4VAC15-40-285. Unauthorized feeding of deer.**

It shall be unlawful for any person to place or distribute food, salt, minerals or similar substances, to feed or attract deer ~~from September 1 through the first Saturday in January, both dates inclusive, except that substances may be placed or distributed during the month of July for the purpose of taking photographs, provided that such substances are present only when and where picture taking devices are present.~~ Nor, upon written notification by department personnel, shall any person continue to place or distribute any food, salt, mineral or similar substances for any purpose if the placement of these materials results in the attraction of and/or feeding of deer. After such notification, such person shall be in violation of this section if the placing, distribution, or presence of such food, salt, minerals or similar substances continues. No part of this regulation shall be construed to restrict bona fide agronomic plantings (including wildlife food plots), bona fide distribution of food to livestock or wildlife management activities conducted or authorized by the department.

### **4VAC15-40-286. Unauthorized feeding of wildlife.**

It shall be unlawful for any person as defined in § 1-230 of the Code of Virginia to place, distribute, or allow the placement of food, minerals, carrion, trash, or similar substances when it attracts any species of wildlife in such

numbers or circumstances to cause property damage, endanger any person or wildlife, or create a public health concern. Upon notification by department personnel, any such person shall be in violation of this section if the placing, distribution, or presence of such food, minerals, carrion, trash, or similar substances continues. This section shall not be construed to restrict bona fide agronomic plantings (including wildlife food plots), bona fide distribution of food to livestock, or wildlife management activities conducted or authorized by the department or U.S. government agencies with wildlife management responsibilities.

VA.R. Doc. No. R11-2793; Filed April 6, 2011, 11:09 a.m.

**Proposed Regulation**

**Title of Regulation:** 4VAC15-50. **Game:** Bear (amending 4VAC15-50-71, 4VAC15-50-81; adding 4VAC15-50-11; repealing 4VAC15-50-10, 4VAC15-50-20, 4VAC15-50-21, 4VAC15-50-22, 4VAC15-50-25).

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

**Public Hearing Information:**

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

**Summary:**

*The proposed amendments will (i) adjust bear hunting season in various counties; (ii) provide the most liberal fall bear hunting season within the incorporated limits of any city; (iii) establish a six-day muzzleloading gun bear hunting season statewide; and (iv) remove references to deer and turkey.*

**4VAC15-50-10. Open season; generally. (Repealed.)**

~~Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this chapter, it shall be lawful to hunt bear from the fourth Monday in November through the first Saturday in January, both dates inclusive, except in the counties of Accomack, Amelia, Appomattox, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Dinwiddie, Greensville, Halifax, Isle of Wight, Lunenburg, Mecklenburg, Northampton, Nottoway, Pittsylvania, Prince Edward, Prince George, Southampton, Surry, and Sussex.~~

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

A. It shall be lawful to hunt bears within:

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

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

<u>Essex County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Fairfax County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Fauquier County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Floyd County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Fluvanna County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Franklin County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Frederick County</u>	<u>Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Giles County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Gloucester County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Goochland County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Grayson County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Greene County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Greensville County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Halifax County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Hanover County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>

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<u>Henrico County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Henry County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Highland County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Isle of Wight County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>James City County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>King and Queen County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>King George County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>King William County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Lancaster County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Lee County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Loudoun County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Louisa County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Lunenburg County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Madison County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Mathews County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>

<u>Mecklenburg County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Middlesex County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Montgomery County (southeast of I-81)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Montgomery County (northwest of I-81)</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Nelson County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>New Kent County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Northampton County</u>	<u>Closed</u>
<u>Northumberland County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Nottoway County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Orange County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Page County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Patrick County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Pittsylvania County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Powhatan County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Prince George County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>



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<u>Prince William County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Pulaski County (southeast of I-81)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Pulaski County (northwest of I-81)</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Rappahannock County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Richmond County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Roanoke County</u>	<u>Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Rockbridge County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Rockingham County</u>	<u>Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Russell County (except on the Channels State Forest and Clinch Mountain WMA)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Russell County (on the Channels State Forest and Clinch Mountain WMA)</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Scott County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Shenandoah County</u>	<u>Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Smyth County (southeast of I-81)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Smyth County (northwest of I-81)</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>

<u>Southampton County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Spotsylvania County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Stafford County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Suffolk (City of)</u>	<u>October 1 through the first Saturday in January, both dates inclusive.</u>
<u>Surry County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Sussex County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Tazewell County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Virginia Beach (City of)</u>	<u>October 1 through the first Saturday in January, both dates inclusive.</u>
<u>Warren County</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Washington County (southeast of I-81)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Washington County (northwest of I-81 and east of Route 19)</u>	<u>Fourth Monday in November through the first Saturday in January, both dates inclusive.</u>
<u>Washington County (northwest of I-81 and west of Route 19)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Westmoreland County</u>	<u>Second Monday in December and for 5 consecutive hunting days following.</u>
<u>Wise County</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>
<u>Wythe County (southeast of I-81)</u>	<u>First Monday in December and for 17 consecutive hunting days following.</u>

Wythe County (northwest of I-81)	Fourth Monday in November through the first Saturday in January, both dates inclusive.
York County	Second Monday in December and for 5 consecutive hunting days following.

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.

**~~4VAC15-50-20. Open season; first Monday in December and for 11 consecutive hunting days following in certain counties or portions of counties. (Repealed.)~~**

~~It shall be lawful to hunt bear from the first Monday in December and for 11 consecutive hunting days following, both dates inclusive, in the counties of Buchanan, Campbell (west of Norfolk Southern Railroad), Carroll, Dickenson, Floyd, Franklin, Grayson, Henry, Lee, Montgomery (south of Interstate 81), Patrick, Pittsylvania (west of Norfolk Southern Railroad), Pulaski (south of Interstate 81), Russell, Scott, Smyth (south of Interstate 81), Washington (south of Interstate 81 and that part north of Interstate 81 that is west of Route 19), Wise, and Wythe (south of Interstate 81).~~

**~~4VAC15-50-21. Open season; second Monday in December and for five consecutive hunting days following in certain counties or portions of counties. (Repealed.)~~**

~~It shall be lawful to hunt bear from the second Monday in December and for five consecutive hunting days following in the counties of Amelia, Appomattox, Brunswick, Buckingham, Campbell (east of Norfolk Southern Railroad), Charlotte, Cumberland, Dinwiddie, Greensville, Halifax, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Pittsylvania (east of Norfolk Southern Railroad), Prince Edward, Prince George, Southampton, Surry, and Sussex.~~

**~~4VAC15-50-22. Open season; Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive, in certain counties or portions of counties. (Repealed.)~~**

~~It shall be lawful to hunt bear from the Saturday prior to the fourth Monday in November through the first Saturday in January, both dates inclusive, in the counties of Alleghany, Augusta (west of Interstate 81), Bath, Botetourt (west of Interstate 81), Highland, Roanoke (north of Interstate 81), Rockbridge (west of Interstate 81), Rockingham (west of Interstate 81), and Shenandoah (west of Interstate 81).~~

**~~4VAC15-50-25. Open season; cities of Chesapeake, Suffolk and Virginia Beach. (Repealed.)~~**

~~It shall be lawful to hunt bear from October 1 through the first Saturday in January, both dates inclusive, in the cities of Chesapeake, Suffolk and Virginia Beach.~~

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

~~A. Except as otherwise provided by specific exceptions in this chapter, 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 Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe counties and in the cities of Chesapeake, Suffolk, and Virginia Beach.~~

~~B. It shall be lawful to hunt bear during the 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 the counties (including the cities and towns within) of Accomack, Caroline, Charles City, Chesterfield, Culpeper, Essex, Fauquier, Fairfax, Fluvanna, Gloucester, Goochland, Hanover, Henrico, James City, King George, King William, King and Queen, Lancaster, Loudoun, Louisa, New Kent, Northampton, Northumberland, Orange, Powhatan, Prince William, Richmond, Spotsylvania, Stafford, Mathews, Middlesex, Westmoreland, and York and in the cities of Hampton, Newport News, Norfolk, and Portsmouth.~~

~~C. B. It shall be unlawful to hunt bear with dogs during any special season for hunting with muzzleloading guns.~~

~~D. 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).~~

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

**4VAC15-50-81. Validating tags and checking bear by licensee or permittee.**

A. Any person killing a bear shall, before removing the carcass from the place of kill, validate an appropriate tag on their special license for hunting bear, deer, and turkey or special permit by completely removing the designated notch area from the tag. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a bear tag from any special license for hunting bear, deer, and turkey or

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special permit prior to the killing of a bear. A bear tag that is mistakenly validated (notched) prior to the killing of a bear must be immediately voided by the licensee or permittee by writing, in ink, the word "VOID" on the line provided on the license tag.

B. Upon killing a bear and validating (notching) a license tag or special permit, as provided above, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the carcass and validated (notched) license tag or special permit to an authorized bear checking station or to an appropriate representative of the department in the county or adjoining county in which the bear was killed. Upon presentation of the carcass and validated (notched) license tag or special permit to the bear checking station, the licensee shall surrender or allow to be removed one premolar tooth from the carcass. At such time, the person checking the carcass will be given a game check card. The successful hunter shall then immediately record the game check card number, in ink, on the line provided adjacent to the license tag that was validated (notched) in the field. The game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass.

C. It shall be unlawful for any person to destroy the identity (sex) of any bear killed unless and until the license tag or special permit is validated (notched) and checked as required by this section. Successful bear hunters are allowed to dismember the carcass to pack it out from the place of kill, after an appropriate license tag has been validated (notched) as required above, as long as the sex of the animal remains identifiable and all the parts of the carcass are present when the bear is checked at an authorized bear checking station. Any bear found in the possession of any person without a validated (notched) license tag or documentation that the bear has been checked at an authorized bear checking station as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.

VA.R. Doc. No. R11-2794; Filed April 6, 2011, 11:10 a.m.

## Proposed Regulation

**Title of Regulation:** 4VAC15-90. **Game:** Deer (amending 4VAC15-90-23, 4VAC15-90-70, 4VAC15-90-80, 4VAC15-90-85, 4VAC15-90-90, 4VAC15-90-91, 4VAC15-90-231, 4VAC15-90-241, 4VAC15-90-293).

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposal will (i) remove the exceptions for Fairfax, Loudoun, and Prince William counties for the youth deer hunting day, making the youth day open statewide; (ii) allow additional urbanized counties and cities to participate in the urban archery deer season; (iii) allow the killing of deer of either sex during the entire late muzzleloading deer hunting season in the cities of Chesapeake, Virginia Beach, and Suffolk east of the Dismal Swamp line; (iv) prohibit the hunting of elk in Buchanan, Dickenson, and Wise counties, and require that elk legally killed outside the designated elk restoration area be made available for collection of biological specimens for disease testing; (v) adjust bag limits and season lengths for deer hunting seasons; (vi) require that deer killed after a certain date during the late deer hunting season be checked via telephone or Internet; (vii) allow deer hunters with proof of legal possession to possess unmarked parts of a deer carcass after it has been cut up; and (viii) limit deer carcass interstate importation and possession restrictions only to carcasses originating from counties included within or adjoining a designated chronic wasting disease containment area.*

### 4VAC15-90-23. Youth deer hunting day.

It shall be lawful for deer hunters 15 years of age and under, when in compliance with all applicable laws and license requirements, to hunt deer on the last Saturday in September when accompanied and directly supervised by an adult who has a valid Virginia hunting license on his person or is exempt from purchasing a hunting license ~~except in Fairfax, Loudoun, and Prince William counties~~. Deer of either-sex may be taken on this special youth deer hunting day. Adult hunters accompanying youth deer hunters on this day may not carry or discharge weapons. Blaze orange is required for all persons hunting any species or any person accompanying a hunter on this day unless otherwise exempted by state law. Deer hunting with dogs is prohibited.

### 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 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 U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), 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.

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 following the first Saturday in January through the last Saturday in March, both dates inclusive, within the incorporated limits of any city or town in the Commonwealth ~~(except in the cities of Chesapeake, Suffolk, and Virginia Beach) and the counties of Fairfax and York 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 bow and arrow from the first Saturday in September through the Friday prior to the first

Saturday in October, both dates inclusive, in Loudoun and Prince William counties, except on department-owned lands.

#### **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 consecutive hunting days immediately prior to and inclusive of 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 U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), 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, 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.

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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 U.S. Route 29 except on national forest lands), Bedford (except on national forest lands), Campbell (west of Norfolk Southern Railroad), Floyd, Franklin, Henry, Nelson (west of Route 151, except on national forest lands), and Patrick and on private lands in Carroll, Grayson, Montgomery, Roanoke 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 Dickenson (north of Route 83), Lee, Russell, Scott, Smyth, Tazewell, Washington, and Wise counties and on national forest lands in Alleghany, Amherst, Bedford, Botetourt, Frederick, Grayson, Nelson, Page, Rockingham, Shenandoah, and Warren counties, and on national forest and department-owned lands in Augusta, Bath, Highland, 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 ~~and in the cities of Chesapeake, Suffolk, and Virginia Beach.~~

G. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns.

H. 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).

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

## **4VAC15-90-85. ~~Hunting elk of either sex~~ Elk hunting.**

~~Elk of either sex may be taken during the general firearms deer season (as prescribed by 4VAC15-90-10, 4VAC15-90-20, 4VAC15-90-21, and 4VAC15-90-30), during the special archery seasons (as prescribed by 4VAC15-90-70), and~~

~~during the special muzzleloading seasons (as prescribed by 4VAC15-90-80) with bag limits and checking requirements as prescribed in 4VAC15-90-90, 4VAC15-90-230, and 4VAC15-90-240.~~

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

B. Open season. Except as otherwise provided by this chapter, it shall be lawful to hunt elk of either sex during (i) the general firearms deer seasons (as prescribed by 4VAC15-90-10, 4VAC15-90-20, 4VAC15-90-21, 4VAC15-90-22, 4VAC15-90-23, and 4VAC15-90-30), (ii) the special archery seasons (as prescribed by 4VAC15-90-70), and (iii) the special muzzleloading seasons (as prescribed by 4VAC15-90-80) with bag limits as prescribed in 4VAC15-90-90.

C. Validating tags and checking elk by licensee or permittee. Upon killing an elk, any licensed or permitted hunter shall validate a tag, bonus deer permit, or special permit and check the elk in accordance with 4VAC15-90-231. At the time of checking, the hunter must call 1-804-367-1258 to schedule an inspection of the carcass and the site of kill for the collection of biological samples for disease testing.

D. Checking elk by persons exempt from license requirements or holding a license authorization number. Upon killing an elk, any person (i) exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339, (iii) holding a permanent license issued pursuant to § 29.1-301 E, or (iv) holding a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B shall check the elk in accordance with 4VAC15-90-241. At the time of checking, the hunter must call 1-804-367-1258 to schedule an inspection of the carcass and the site of kill for the collection of biological samples for disease testing.

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

A. The bag limit for deer east of the Blue Ridge Mountains (except on national forest lands in Amherst, Bedford, and Nelson counties) is two per day (except for the counties of Fairfax, Loudoun, and Prince William where the daily bag limit is unlimited), six per license year, three of which must be antlerless.

B. The bag limit for deer west of the Blue Ridge Mountains and on national forest lands in Amherst, Bedford, and Nelson counties is one per day, five per license year, three of which must be antlerless. Only one antlered buck taken in the county of Shenandoah County or Rockingham per license year may have less than four antler points one inch or longer on one side of the antlers.

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

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

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

F. Earn a buck. At least one antlerless deer must be taken on private lands in Bedford, Fairfax, Fauquier, Franklin, Loudoun, Patrick, Prince William, or Roanoke counties before the second antlered deer of the license year may be taken on private lands in any of these counties. Furthermore, at least two antlerless deer must have been taken on private lands in Bedford, Fairfax, Fauquier, Franklin, Loudoun, Patrick, or Prince William counties before the third antlered deer of the license year may be taken on private lands in any of these counties. Earn a buck (EAB) areas include all private lands in the counties (including private lands in the cities and towns within) of Bedford, Fairfax, Fauquier, Franklin, Loudoun, Patrick, Prince William, and Roanoke. In EAB areas at least one antlerless deer must be taken on private lands in an EAB area before the second antlered deer of the license year may be taken on private lands in an EAB area. Furthermore, at least two antlerless deer must have been taken on private lands in an EAB area before the third antlered deer of the license year may be taken on private lands in an EAB area.

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

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

Accomack County: full season.

Albemarle County: full season.

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

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

Amherst County (east of U.S. Route 29): the second, third, and fourth Saturdays and the last 24 hunting days.

Amherst County (west of U.S. Route 29): full season.

-National forest lands: the last hunting day.

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

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

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

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-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 days.

Campbell County (east of Norfolk Southern Railroad): the second, third, and fourth Saturdays and the last 24 hunting days.

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

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

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

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

Chesapeake (City of): full season.

Chesterfield County: full season.

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 days~~ the second, third, and fourth Saturdays and the last 24 hunting 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 days.

Essex County: full season.

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 days.

Franklin County: full season.

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

~~-Turkeycock Mountain WMA: the second and third Saturdays and the last six hunting days~~ 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: full season.

~~Goochland County (east of U.S. Route 522): the second, third, and fourth Saturdays and the last 24 hunting days.~~

~~Goochland County (west of U.S. Route 522): the second and third Saturdays and last 12 hunting days.~~

Grayson County: full season.

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

Greene County: full season.

Greensville County: full season.

~~Halifax County: the second, third, and fourth Saturdays and the last 24 hunting days~~ full season.

~~Hanover County: the second, third, and fourth Saturdays and the last 24 hunting days~~ full season.

Henrico County: full season.

Henry County: full season.

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

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

Highland County: ~~the second Saturday and the last two hunting days~~ 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: full season.

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

King William County: the second, third, and fourth Saturdays and the last 24 hunting 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 and third Saturdays and the last 12 hunting days~~ the second, third, and fourth Saturdays and the last 24 hunting days.

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

Madison County: full season.

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

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

Mecklenburg County: the second and third Saturdays and the last 12 hunting 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 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 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: full season.

Northumberland County: full season.

Nottoway County: ~~the second and third Saturdays and the last 12 hunting days~~ the second, third, and fourth Saturdays and the last 24 hunting days.

Orange County: full season.

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

-National forest lands: the last hunting day.

Patrick County: full season.

-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 days.

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

Powhatan County: the second, third, and fourth Saturdays and the last 24 hunting 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 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 days.

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

Prince George County: ~~the second, third, and fourth Saturdays and the last 24 hunting days~~ full season.

Prince William County: full season.

Pulaski County: full season.

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



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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: the last hunting day.

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: the last hunting day.

Southampton County: full season.

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

Stafford County: ~~the second, third, and fourth Saturdays and the last 24 hunting days~~ 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, Clinch Mountain WMA, and Hidden Valley WMA: the last hunting day.

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: the last hunting day.

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.

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

A. Any person killing a deer shall, before removing the carcass from the place of kill, validate an appropriate tag on his special license for hunting ~~bear,~~ deer, and turkey, bonus deer permit, or special permit by completely removing the designated notch area from the tag. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a deer tag from any special license for hunting ~~bear,~~ deer, and turkey, bonus deer permit, or special permit prior to the killing of a deer. A deer tag that is mistakenly validated (notched) prior to the killing of a deer must be immediately voided by the licensee or permittee by writing, in ink, the word "VOID" on the line provided on the license tag.

B. Upon killing a deer and validating (notching) a license tag, bonus deer permit or special permit, as provided above, the licensee or permittee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the carcass and validated (notched) license tag, bonus deer permit or special permit to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the deer was killed or report the kill through the department's automated harvest reporting system. All deer killed after the first Saturday in January (as prescribed in 4VAC15-90-22 and 4VAC15-90-70 H) must be checked by telephone or Internet. At such time, the person checking or reporting the carcass will be given a game check

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

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

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

A. Upon killing a deer, any person (i) exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, (ii) issued a complimentary license as prescribed in § 29.1-339, (iii) holding a permanent license issued pursuant to § 29.1-301 E, or (iv) holding a Virginia license authorization number issued by a telephone or electronic media agent pursuant to § 29.1-327 B shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the carcass to an authorized checking station or to any appropriate representative of the department in the county or adjoining county in which the deer was killed or report the

kill through the department's automated harvest reporting system. All deer killed after the first Saturday in January (as prescribed in 4VAC15-90-22 and 4VAC15-90-70 H) must be checked by telephone or Internet. At such time, the person checking or reporting the carcass shall be given a game check card furnished by the department or a confirmation number from the automated reporting system. If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass. If the kill is reported using the automated harvest reporting system, the successful hunter shall immediately create written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number. This written documentation must be kept in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a deer killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, information necessary to properly establish legal possession must be furnished immediately.

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

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

A. No person shall import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating from any county that includes or adjoins a county that is part of a designated Chronic Wasting Disease containment area in 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;

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3. Hides or capes with no skull attached;
4. Clean (no meat or tissue attached) skull plates with 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.

B. 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.

VA.R. Doc. No. R11-2795; Filed April 6, 2011, 11:10 a.m.

## Proposed Regulation

Title of Regulation: **4VAC15-170. Game: Otter (amending 4VAC15-170-20; repealing 4VAC15-170-21).**

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will eliminate the mandatory carcass submission requirement for otters trapped west of the Blue Ridge Mountains.*

**4VAC15-170-20. Open season for trapping in counties east of Blue Ridge Mountains; generally; season bag limit west of the Blue Ridge Mountains.**

A. It shall be lawful to trap otter ~~in all counties east of the Blue Ridge Mountains~~ from December 1 through the last day of February, both dates inclusive.

B. The season bag limit for trapping otter shall be two per trapper in counties west of the Blue Ridge Mountains.

**~~4VAC15-170-21. Open season for trapping in counties west of the Blue Ridge Mountains; carcass presented to department agent; season bag limit. (Repealed.)~~**

~~A.~~ It shall be lawful to trap otter in all counties west of the Blue Ridge Mountains from December 1 through the last day of February, both dates inclusive.

~~B.~~ The entire skinned carcass of all otters trapped in counties west of the Blue Ridge Mountains must be presented to an agent of the department within three days of capture.

~~C.~~ The season bag limit for trapping otter shall be two per trapper in counties west of the Blue Ridge Mountains.

VA.R. Doc. No. R11-2796; Filed April 6, 2011, 11:10 a.m.

## Proposed Regulation

Title of Regulation: **4VAC15-200. Game: Rabbit and Hares (amending 4VAC15-200-30).**

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will (i) allow lawfully captured rabbits to be transported for release or restocking purposes and (ii) prohibit such rabbits' release on to the lands of another without permission.*

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

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

VA.R. Doc. No. R11-2797; Filed April 6, 2011, 11:10 a.m.

## Proposed Regulation

Title of Regulation: **4VAC15-210. Game: Raccoon (amending 4VAC15-210-10; repealing 4VAC15-210-20).**

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments will (i) establish a continuous open season for chasing raccoons with dogs statewide except on department-controlled lands west of the Blue Ridge Mountains and on national forest lands, and (ii) allow raccoon chase with dogs during bear hound training season on additional national forest and department-owned lands west of the Blue Ridge Mountains.*

Part I  
Chasing

**4VAC15-210-10. Open season; ~~counties east of Route 29~~ raccoon chase on areas open to bear hound training; possession of certain devices unlawful.**

A. Except as otherwise specifically provided in the sections appearing in this chapter, there shall be a continuous open season for chasing raccoon with dogs, without capturing or taking, in all counties and portions of counties east of Route 29 and in the counties of Loudoun (east of Route 15) and Prince William (east of Route 15). It shall be unlawful to have in possession a firearm, bow, axe, saw, or any tree climbing device while hunting during this chase season. The meaning of "possession" for the purpose of this section shall include, but not be limited to, having these devices in or on one's person, vehicle or conveyance while engaged in the act of chasing except on department-controlled lands west of the Blue Ridge Mountains and on national forest lands.

B. It shall be lawful to chase raccoon with dogs, without capturing or taking, on department-controlled lands west of the Blue Ridge Mountains and on national forest lands where bear hound training is permitted during the season dates specified in 4VAC15-50-120.

C. It shall be unlawful to have in possession a firearm, bow, crossbow, axe, saw, or any tree climbing device while hunting during this chase season. The meaning of "possession" for the purpose of this section shall include, but not be limited to, having these devices in or on one's person, vehicle, or conveyance while engaged in the act of chasing.

**4VAC15-210-20. Open season; ~~counties west of Route 29; possession of certain devices unlawful. (Repealed.)~~**

A. It shall be lawful to chase raccoon with dogs, without capturing or taking, on private lands in all counties and portions of counties west of Route 29 and in the counties of

~~Loudoun (west of Route 15); Prince William (west of Route 15); and on Fairystone Farms, G. Richard Thompson, Rapidan, and Turkeycock Wildlife Management Areas from August 1 through May 31, both dates inclusive.~~

~~B. It shall be lawful to chase raccoon with dogs, without capturing or taking, on national forest and department-controlled lands in the counties of Bland, Buchanan, Craig, Dickenson, Giles, Lee, Montgomery (north of Interstate 81), Pulaski (north of Interstate 81), Russell, Scott, Smyth (north of Interstate 81), Tazewell, Washington (north of Interstate 81), Wise, and Wythe (north of Interstate 81) from the second Saturday in August through the last Saturday in September.~~

~~C. It shall be unlawful to have in possession a firearm, bow, crossbow, axe, saw, or any tree climbing device while hunting during this chase season. The meaning of "possession" for the purpose of this section shall include, but not be limited to, having these devices in or on one's person, vehicle, or conveyance while engaged in the act of chasing.~~

VA.R. Doc. No. R11-2798; Filed April 6, 2011, 11:10 a.m.

**Proposed Regulation**

Title of Regulation: **4VAC15-230. Game: Squirrel (amending 4VAC15-230-21, 4VAC15-230-61).**

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

Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments will open the spring hunting season for (i) gray and red squirrels on all lands except national forest lands and (ii) fox squirrels on all lands on which there is a regular season for fox squirrels, with the exception of national forest lands.*

**4VAC15-230-21. Spring season for gray and red squirrel.**

It shall be lawful to hunt gray and red squirrels from the first Saturday in June through the third Saturday in June, both dates inclusive, on private lands and on Amelia Wildlife Management Area, Big Survey Wildlife Management Area, Briery Creek Wildlife Management Area, Chickahominy Wildlife Management Area, Dick Cross Wildlife Management Area, Dismal Swamp Wildlife Management Area, Fairystone Wildlife Management Area (including Fairystone State Park and Philpott Reservoir), Featherfin Wildlife Management Area, Goshen Wildlife Management

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~~Area, Hardware River Wildlife Management Area, Havens Wildlife Management Area, Hog Island Wildlife Management Area (Carlisle Tract only), Horsepen Wildlife Management Area, James River Wildlife Management Area, Little North Mountain Wildlife Management Area, Merrimac Farms Wildlife Management Area, Pettigrew Wildlife Management Area, Phelps Wildlife Management Area, Powhatan Wildlife Management Area (including the Goochland Tract), Rapidan Wildlife Management Area, Thompson Wildlife Management Area, Turkeycock Mountain Wildlife Management Area, and White Oak Mountain Wildlife Management Area except on national forest lands.~~

## **4VAC15-230-61. Spring season for fox squirrel.**

It shall be lawful to hunt fox squirrels from the first Saturday in June through the third Saturday in June, both dates inclusive, on ~~private all~~ lands in all counties open to fox squirrel hunting during the regular squirrel season, ~~and on Big Survey Wildlife Management Area, Goshen Wildlife Management Area, Havens Wildlife Management Area, Little North Mountain Wildlife Management Area, Merrimac Farms Wildlife Management Area, Phelps Wildlife Management Area, Rapidan Wildlife Management Area, and Thompson Wildlife Management Area except on national forest lands.~~

VA.R. Doc. No. R11-2799; Filed April 6, 2011, 11:10 a.m.

### **Proposed Regulation**

Title of Regulation: **4VAC15-240. Game: Turkey (amending 4VAC15-240-10, 4VAC15-240-20, 4VAC15-240-31, 4VAC15-240-81, 4VAC15-240-91; repealing 4VAC15-240-11).**

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

#### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

Public Comment Deadline: April 15, 2011.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

#### Summary:

*The proposed amendments will (i) simplify the fall turkey hunting season dates by uniformly opening the December segment on the Monday nearest December 2 and closing it on the last Saturday in December; (ii) establish a new two-week January hunting season segment that includes three Saturdays; (iii) lengthen the fall turkey hunting season from two weeks to four weeks duration for seven eastern counties and the City of Suffolk, lengthen the same season from two weeks to six weeks duration for*

*Buchanan County, and shorten the fall turkey hunting season for 11 western counties from six weeks to two weeks duration; and (iv) revise requirements for checking turkeys by providing the option for fall turkey hunters to check game killed before the proposed January segment at a check station in addition to the option of checking via the automated harvest reporting system.*

## **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 days following; on Thanksgiving Day; and on the Monday nearest December 9 ~~2~~ through the ~~first last~~ Saturday in ~~January~~ December, both dates inclusive; and on the second Saturday in January and for 12 consecutive hunting days following.

~~**4VAC15-240-11. Open season; certain counties and areas; Saturday prior to the last Monday in October and for 11 hunting days following, on Thanksgiving Day, and on the Monday closest to December 2 through the last Saturday in December, both dates inclusive. (Repealed.)**~~

~~Except as otherwise specifically provided in the sections appearing in this chapter, it shall be lawful to hunt turkeys in counties, cities and towns east of the Blue Ridge Mountains except Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad) from the Saturday prior to the last Monday in October and for 11 consecutive hunting days following, on Thanksgiving Day, and on the Monday nearest December 2 through the last Saturday in December, both dates inclusive.~~

**4VAC15-240-20. Open season; certain counties and areas; Saturday prior to the last Monday in October and for 11 hunting 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 days following, and on Thanksgiving Day in the counties of ~~Aceomack, Buchanan, Isle of Wight, Northampton, Prince George, Southampton, Surry, and Sussex and the City of Suffolk~~ 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 days following, on Thanksgiving Day, and on the Monday closest to December 2 and for 11 hunting days following.**

It shall be lawful to hunt turkeys on the Saturday prior to the last Monday in October and for 11 consecutive hunting days following, on Thanksgiving Day, and on the Monday closest

to December 2 and for 11 hunting days following in the counties of Accomack, Charles City, Gloucester, Isle of Wight, James City, King George, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, and York (except on Camp Peary) and the City of Suffolk.

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

A. Any person killing a turkey shall, before removing the carcass from the place of kill, validate an appropriate tag on his special license for hunting ~~bear~~, deer, and turkey by completely removing the designated notch area from the tag. Place of kill shall be defined as the location where the animal is first reduced to possession. It shall be unlawful for any person to validate (notch) a turkey tag from any special license for hunting ~~bear~~, deer, and turkey prior to the killing of a turkey. A turkey tag that is mistakenly validated (notched) prior to the killing of a turkey must be immediately voided by the licensee by writing, in ink, the word "VOID" on the line provided on the tag.

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

unattended, this written documentation must be securely attached to the carcass.

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

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

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

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in possession with the carcass until the carcass is processed. If the automated harvest reported carcass is transferred to the possession of another individual, the written documentation must be transferred with the carcass to the individual and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass.

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

VA.R. Doc. No. R11-2800; Filed April 6, 2011, 11:11 a.m.

## Proposed Regulation

**Title of Regulation:** **4VAC15-260. Game: Waterfowl and Waterfowl Blinds (amending 4VAC15-260-90; adding 4VAC15-260-180).**

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

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will (i) allow public waterfowl hunting from floating blinds in waters adjacent to the Saxis Wildlife Management Area; (ii) identify the area of Michael Marsh in Accomack County closed to waterfowl hunting; and (iii) require a permit to hunt Tundra Swans.*

**4VAC15-260-90. Blinds and hunting prohibited in sections of Accomack County.**

A. The waters adjacent to the Free School and Michael marshes in the vicinity of the Town of Saxis in Accomack County shall be closed to ~~stake and floating waterfowl blinds~~

~~stationary blinds as defined by 4VAC15-260-10, starting from a stake on the north shore of Back Creek S 230° 37' E for a distance of 7560' more or less to a point 1500' more or less west of South Point, then S 58° 00' E for a distance of 9380' more or less to the center of the mouth of Cattail Creek. The waters of Messongo Creek shall be closed to ~~stake and floating stationary blinds~~ from the above-described line to Mill Creek. The waters of Cattail Creek shall be closed to ~~stake and floating stationary blinds~~ from its mouth following the center of the creek to the southeast corner stake of Michael's marsh~~ Michael Marsh.

B. In the section known as Michael Marsh, waterfowl hunting is prohibited in all marsh above mean high tide and in the creeks running into the marsh.

## 4VAC15-260-180. Tundra Swan hunting permit.

Only persons with a valid Tundra Swan hunting permit will be allowed to take Tundra Swans during the prescribed season in Virginia. Tundra Swan hunting permits are nontransferable and are valid for use only by the person to whom issued. Permits must be in the immediate possession of the permit holder while swan hunting. Immediately at the time and place of kill, successful permittees must permanently record the month and day of kill on their permit and attach the permit to the swan as instructed.

VA.R. Doc. No. R11-2801; Filed April 6, 2011, 11:11 a.m.

## Proposed Regulation

**Title of Regulation:** **4VAC15-270. Game: Firearms (adding 4VAC15-270-95).**

**Statutory Authority:** §§ 29.1-103, 29.1-501, 29.1-502, and 29.1-528.1 of the Code of Virginia.

### Public Hearing Information:

May 3, 2011 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA

**Public Comment Deadline:** April 15, 2011.

**Agency Contact:** Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

### Summary:

*The proposed amendments will establish model local government ordinances for governance of archery deer hunting, as mandated by § 29.1-528.1 of the Code of Virginia.*

**4VAC15-270-95. Model ordinances related to archery deer hunting.**

Pursuant to § 29.1-528.1 A of the Code of Virginia, the following model ordinances related to hunting deer with bow and arrow (including crossbows) may be adopted by those

counties and cities where there is an overabundance of the deer population, which is creating conflicts between humans and deer, including safety hazards to motorists. In accordance with § 29.1-528.1 B of the Code of Virginia, no such ordinance shall be enforceable unless the governing body of the locality notifies the director by registered mail prior to May 1 of the year in which the ordinance is to take effect.

Model Ordinance 1:

The times at which hunting shall commence and end each day shall be in accordance with the provisions of § 29.1-520 of the Code of Virginia.

Model Ordinance 2:

The number of deer that can be taken shall be in accordance with bag limits established by the Board of Game and Inland Fisheries pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Model Ordinance 3:

No person shall discharge a bow and arrow from, over, or across any street, sidewalk, alley, roadway, or toward any building or dwelling in such a manner that an arrow may strike it. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

Model Ordinance 4:

It shall be unlawful to discharge a bow and arrow in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. Any person who violates the provisions of this ordinance shall be guilty of a Class 3 misdemeanor.

VA.R. Doc. No. R11-2802; Filed April 6, 2011, 11:11 a.m.



**TITLE 9. ENVIRONMENT**

**STATE AIR POLLUTION CONTROL BOARD**

**Final Regulation**

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **9VAC5-20. General Provisions (amending 9VAC5-20-21).**

**9VAC5-30. Ambient Air Quality Standards (amending 9VAC5-30-30).**

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Effective Date: May 25, 2011.

Agency Contact: Gary E. Graham, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4510, or email gary.graham@deq.virginia.gov.

Summary:

*9VAC5-30 contains the national ambient air quality standards (NAAQS) for the specific criteria pollutants set out in 40 CFR Part 50. Incorporation of the NAAQS into the state regulations is necessary to provide a legally enforceable means by which the state prepares attainment and maintenance plans, and determines whether a new source will affect the NAAQS. The primary standard for sulfur dioxide (SO<sub>2</sub>) was revised to add a new 1-hour annual standard of 75 parts per billion (ppb) and to add testing and monitoring requirements for the new standard.*

**9VAC5-20-21. Documents incorporated by reference.**

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (2010) in effect July 1, 2010. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 629



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East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

## 1. Code of Federal Regulations.

a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50-National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A-1 -- Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method).

~~(a) Appendix A~~ — (b) Appendix A-2 -- Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

~~(b) (c)~~ Appendix B -- Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

~~(c) (d)~~ Appendix C -- Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

~~(d) (e)~~ Appendix D -- Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

~~(e) (f)~~ Appendix E -- Reserved.

~~(f) (g)~~ Appendix F -- Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

~~(g) (h)~~ Appendix G -- Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

~~(h) (i)~~ Appendix H -- Interpretation of the National Ambient Air Quality Standards for Ozone.

~~(i) (j)~~ Appendix I -- Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone.

~~(j) (k)~~ Appendix J -- Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere.

~~(k) (l)~~ Appendix K -- Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

~~(l) (m)~~ Appendix L - Reference Method for the Determination of Fine Particulate Matter as PM<sub>2.5</sub> in the Atmosphere.

~~(m) (n)~~ Appendix M - Reserved.

~~(n) (o)~~ Appendix N - Interpretation of the National Ambient Air Quality Standards for PM<sub>2.5</sub>.

~~(o) (p)~~ Appendix O - Reference Method for the Determination of Coarse Particulate Matter as PM in the Atmosphere.

~~(p) (q)~~ Appendix P - Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone.

~~(q) (r)~~ Appendix Q - Reference Method for the Determination of Lead in Suspended Particulate Matter as PM<sub>10</sub> Collected from Ambient Air.

~~(r) (s)~~ Appendix R - Interpretation of the National Ambient Air Quality Standards for Lead.

~~(s) (t)~~ Appendix S - Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide).

(u) Appendix T - Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide).

(2) 40 CFR Part 51 -- Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

(a) Appendix M -- Recommended Test Methods for State Implementation Plans.

(b) Appendix S -- Emission Offset Interpretive Ruling.

(c) Appendix W -- Guideline on Air Quality Models (Revised).

(d) Appendix Y - Guidelines for BART Determinations Under the Regional Haze Rule.

(3) 40 CFR Part 55 -- Outer Continental Shelf Air Regulations.

(4) 40 CFR Part 58 -- Ambient Air Quality Surveillance.

Appendix A - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring.

(5) 40 CFR Part 59 -- National Volatile Organic Compound Emission Standards for Consumer and Commercial Products.

(a) Subpart C - National Volatile Organic Compound Emission Standards for Consumer Products.

(b) Subpart D - National Volatile Organic Compound Emission Standards for Architectural Coatings, Appendix A -- Determination of Volatile Matter Content of

Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings.

(6) 40 CFR Part 60 -- Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9VAC5-50-400 et seq.) of Part II of 9VAC5-50 (New and Modified Sources).

(7) 40 CFR Part 61 -- National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9VAC5-60-60 et seq.) of Part II of 9VAC5-60 (Hazardous Air Pollutant Sources).

(8) 40 CFR Part 63 -- National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9VAC5-60-90 et seq.) of Part II of 9VAC5-60 (Hazardous Air Pollutant Sources).

(9) 40 CFR Part 64, Compliance Assurance Monitoring.

(10) 40 CFR Part 72, Permits Regulation.

(11) 40 CFR Part 73, Sulfur Dioxide Allowance System.

(12) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.

(13) 40 CFR Part 75, Continuous Emission Monitoring.

(14) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.

(15) 40 CFR Part 77, Excess Emissions.

(16) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.

(17) 40 CFR Part 152 Subpart I, Classification of Pesticides.

(18) 49 CFR Part 172, Hazardous Materials Table. Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements, Subpart E, Labeling.

(19) 29 CFR Part 1926 Subpart F, Fire Protection and Prevention.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

(3) "Guidelines for Determining Capture Efficiency" (GD-35), Emissions Monitoring and Analysis Division, Office of Air Quality Planning and Standards, January 9, 1995.

b. Copies of the document identified in subdivision E 2 a (1) of this subdivision, and Volume I and Supplements A through C of the document identified in subdivision E 2 a (2) of this subdivision, may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E of the document identified in subdivision E 2 a (2) of this subdivision may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/index.html>. Copies of the document identified in subdivision E 2 a (3) of this subdivision are only available online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/emc/guidlnd.html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

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(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).

(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).

(18) D86-04b, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure" (2004).

(19) D4359-90, "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (reapproved 2000).

(20) E260-96, "Standard Practice for Packed Column Gas Chromatography" (reapproved 2001).

(21) D3912-95, "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants" (reapproved 2001).

(22) D4082-02, "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants."

(23) F852-99, "Standard Specification for Portable Gasoline Containers for Consumer Use" (reapproved 2006).

(24) F976-02, "Standard Specification for Portable Kerosine and Diesel Containers for Consumer Use."

(25) D4457-02, "Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph" (reapproved 2008).

(26) D3792-05, "Standard Test Method for Water Content of Coatings by Direct Injection Into a Gas Chromatograph."

(27) D2879-97, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope" (reapproved 2007).

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

## 5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

## 6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: 1991-1992 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

## 7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O.

Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1-1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.

9. American Hospital Association (AHA).

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

10. Bay Area Air Quality Management District (BAAQMD).

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

(1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).

(2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD).

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

(1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(3) Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

(4) Method 304-91, "Determination of Volatile Organic Compounds (VOC) in Various Materials," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(5) Method 316A-92, "Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings" in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(6) "General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems," October 3, 1989.

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB).

a. The following documents from the California Air Resources Board are incorporated herein by reference:

(1) Test Method 510, "Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(2) Test Method 511, "Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(3) Method 100, "Procedures for Continuous Gaseous Emission Stack Sampling" (July 28, 1997).

(4) Test Method 513, "Determination of Permeation Rate for Spill-Proof Systems" (July 6, 2000).

(5) Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products (Including Appendices A and B)" (May 5, 2005).

(6) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1, § 94503.5 (2003).

(7) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2, §§ 94509 and 94511 (2003).

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(8) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 4, §§ 94540-94555 (2003).

(9) "Certification Procedure 501 for Portable Fuel Containers and Spill-Proof Spouts, CP-501" (July 26, 2006).

(10) "Test Procedure for Determining Integrity of Spill-Proof Spouts and Spill-Proof Systems, TP-501" (July 26, 2006).

(11) "Test Procedure for Determining Diurnal Emissions from Portable Fuel Containers, TP-502" (July 26, 2006).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

## 13. American Architectural Manufacturers Association.

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).

(2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664.

## 14. American Furniture Manufacturers Association.

a. The following document from the American Furniture Manufacturers Association is incorporated herein by reference: Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (January 2001).

b. Copies may be obtained from: American Furniture Manufacturers Association, P.O. Box HP-7, High Point, NC 27261; phone (336) 884-5000.

## 9VAC5-30-30. Sulfur oxides (sulfur dioxide).

A. The primary ambient air quality standards are as follows:

1. The annual ambient air quality standard is 80 micrograms per cubic meter (0.030 parts per million) -- annual arithmetic mean not to be exceeded in a calendar year. The annual arithmetic mean shall be rounded to three decimal places (fractional parts equal to or greater than 0.0005 ppm shall be rounded up).

2. The 24-hour ambient air quality standard is 365 micrograms per cubic meter (0.14 parts per million) -- maximum 24-hour concentration not to be exceeded more than once per calendar year. The 24-hour averages shall be determined from successive nonoverlapping 24-hour blocks starting at midnight each calendar day and shall be rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm shall be rounded up).

3. The 1-hour annual ambient air quality standard is 75 parts per billion (ppb), measured in the ambient air as sulfur dioxide (SO<sub>2</sub>). The 1-hour primary standard is met when the three-year average of the annual (99th percentile) of the daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.

4. The annual and 24-hour ambient air quality standards set forth in subdivisions 1 and 2 of this subsection shall no longer apply to an area one year after the effective date of designation of that area pursuant to § 107 of the federal Clean Air Act for the 1-hour annual ambient air quality standard set forth in subdivision 3 of this subsection.

B. The secondary ambient air quality standard is 1,300 micrograms per cubic meter (0.50 parts per million) -- maximum three-hour concentration not to be exceeded more than once per calendar year. The 3-hour averages shall be determined from successive nonoverlapping 3-hour blocks starting at midnight each calendar day and shall be rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm shall be rounded up).

C. Sulfur dioxide shall be measured by the reference method described in Appendix A ~~A-1~~ or A-2 of 40 CFR Part 50, or other method designated as such, or by an equivalent method.

D. To demonstrate attainment of the annual and 24-hour primary ~~standard~~ standards set forth in subdivisions A 1 and 2 of this section, the annual arithmetic mean and the second-highest 24-hour averages must be based upon hourly data that are at least 75% complete in each calendar quarter. A 24-hour block average shall be considered valid if at least 75% of the hourly averages for the 24-hour period are available. In the event that only 18, 19, 20, 21, 22, or 23 hourly averages are available, the 24-hour block average shall be computed as the sum of the available hourly averages using 18, 19, and so on as the divisor. If fewer than 18 hourly averages are available, but the 24-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subdivision A 2 of this section, then this shall be considered a valid 24-hour average. In this case, the 24-hour block average shall be computed as the sum of the available hourly averages divided by 24. Data used for demonstrating attainment of the 1-hour annual primary standard set forth in subdivision A 3 of this section shall meet the requirements of Appendix T of 40 CFR Part 50.

E. To demonstrate attainment of the secondary standard, the second-highest 3-hour average must be based upon hourly data that are at least 75% complete in each calendar quarter. A 3-hour block average shall be considered valid only if all three hourly averages for the 3-hour period are available. If only one or two hourly averages are available, but the 3-hour average would exceed the level of the standard when zeros are substituted for the missing values, subject to the rounding rule of subsection B of this section, then this shall be considered a valid 3-hour average. In all cases, the 3-hour block average shall be computed as the sum of the hourly averages divided by three.

VA.R. Doc. No. R11-2700; Filed April 4, 2011, 12:12 p.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The following regulation filed by the State Air Pollution Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 9VAC5-520. Biomass Energy Generator General Permit for a Pilot Test Facility (Rev. Cg) (adding 9VAC5-520-10 through 9VAC5-520-230).

**Statutory Authority:** § 10.1-1308.1 of the Code of Virginia; § 110(a) of the federal Clean Air Act; 40 CFR Part 51.

**Effective Date:** May 25, 2011.

**Agency Contact:** Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email memajor@deq.virginia.gov.

**Summary:**

*The regulation creates a mechanism for sources to construct and test to determine the type and quantity of emissions from a qualified energy generator that meets the requirements of the regulation. It applies to qualified energy generators that generate no more than five megawatts of electricity, or produce the equivalent amount of energy in the form of fuel, steam, or other energy product per year from biomass. Biomass includes organic material available on a renewable or recurring basis, including:*

1. *Forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;*
2. *Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey, and lactose;*
3. *Animal waste, including manure and slaughterhouse and other processing waste;*
4. *Solid woody waste materials, including landscape trimmings, waste pallets, crates and manufacturing, construction, and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;*
5. *Crops and trees planted for the purpose of being used to produce energy;*
6. *Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts generated during the wastewater treatment process; and*
7. *Municipal solid waste, excluding tires and medical and hazardous waste.*

*The regulation does not require any owner to apply for coverage under the general permit but provides the opportunity for an owner to apply for coverage if the source meets the requirements of the regulation.*

*Since publication of the proposed regulation, the timeframe for completion of testing under 9VAC5-520-180 has been extended to 15 days. Other changes were made for clarification or technical correction.*

CHAPTER 520

BIOMASS ENERGY GENERATOR GENERAL PERMIT FOR A PILOT TEST FACILITY

Part I  
Definitions

**9VAC5-520-10. General.**

A. For the purpose of this chapter or any orders issued by the board, the words or terms shall have the meanings given them in 9VAC5-510-20.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in this chapter, terms used shall have the [meaning meanings] given them by 9VAC5-80-1110 (Permits for New and Modified Stationary Sources), 9VAC5-10-20 (Regulations for the Control and Abatement of Air Pollution), or 9VAC5-170-20 (Regulation for General

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Administration); or commonly ascribed to them by recognized authorities, in that order of priority.

## **9VAC5-520-20. Terms defined.**

"Agricultural processed co-products" means residual plant materials or products extracted from plant materials. This does not include products created as a result of a chemical reaction in which the plant materials have been intentionally chemically altered such as, but not limited to, biodiesel or glycerin.

"Biomass" means organic material that is available on a renewable or recurring basis, including:

1. Forest-related materials, including uncontaminated mill residues, logging residues, forest thinning, slash, brush, low-commercial value materials or undesirable species, and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;
2. Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey, and lactose;
3. Animal waste, including manure and slaughterhouse and other animal processing waste;
4. Solid woody waste materials, including landscape trimmings, waste pallets, crates and manufacturing, construction, and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes, and wood contaminated with plastic;
5. Crops and trees planted for the purpose of being used to produce energy;
6. Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts generated during the wastewater treatment process; and
7. Municipal solid waste, excluding tires and medical and hazardous waste.

"Biomass pilot test facility" means a facility that (i) is being operated [ using biomass as a fuel ] to obtain emissions testing data in order to determine if a source is subject to any new source review permit program, and (ii) includes the qualified energy generator and any fuel preparation, storage, and handling emission units.

"Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing, or distribution in accordance with 9VAC25-32 (Virginia Pollution Abatement Permit Program Regulation).

[ "Clean wood" means uncontaminated natural wood. Clean wood includes, but is not limited to, byproducts of harvesting

activities conducted for forest management or commercial logging, or uncontaminated mill residues consisting of bark, chips, edgings, sawdust, shavings, or slabs. It does not include wood that has been treated with glues, binders, or resins. ]

"Construct and test" means to construct a biomass pilot test facility and associated equipment including a qualified energy generator, and to then conduct appropriate testing in accordance with 9VAC5-520-180 in order to determine the uncontrolled emissions rate from the facility. If the facility is determined to be exempt from all new source review permit programs in accordance with 9VAC5-520-170, the biomass pilot test facility may continue to operate in accordance with the terms and conditions of 9VAC5-520-180 J 2.

"Construction wood waste" means solid wood waste that is produced or generated during construction, renovation, remodeling, or repair of houses, commercial buildings, and other structures.

[ ~~"Clean wood" means uncontaminated natural wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or uncontaminated mill residues consisting of bark, chips, edgings, sawdust, shavings, or slabs. It does not include wood that has been treated with glues, binders, or resins. ]~~

"Contaminated" means, in reference to wood, wood products, or wood residues, those that are painted, pigment-stained, chemically treated (other than with fungicide, glue, binder or resin), or pressure-treated with preservative compounds including, but not limited to, chromate copper arsenate, pentachlorophenol, or creosote.

"Criteria pollutants" means any pollutant for which an ambient air quality standard is established under 9VAC5-30 (Ambient Air Quality Standards).

"Demolition wood waste" means solid woody waste resulting from the destruction of structures and includes the same materials as construction wood waste.

"Exempt facility" means a biomass pilot test facility that has uncontrolled emissions below the permit emissions threshold values in 9VAC5-520-170 and is not required to obtain any new source review permit but must operate according to the terms and conditions set forth in 9VAC5-520-180 J 2.

"Garbage" means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.

"General permit" means, for a biomass pilot test facility, the terms and conditions in Part IV (9VAC5-520-160 et seq.) of this chapter that meet the requirements of Part II (9VAC5-520-30 et seq.) and Part III (9VAC5-520-90 et seq.) of this chapter and issued under the provisions of 9VAC5-80-1250.

"Hazardous waste" means a hazardous waste as defined in 9VAC20-60 (Hazardous Waste Management Regulations) [ or 40 CFR Part 261 ],

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill as defined in Part I (9VAC20-80-10 et seq.) of 9VAC20-80 (Solid Waste Management Regulations).

"Landscape trimmings" means trees, tree branches, bushes, shrubs, and clippings from tree branches, bushes, and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Landscape trimmings do not include collected leaves, grass, or grass clippings.

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 112, 165, and 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 1 (9VAC5-80-50 et seq.), Article 3 (9VAC5-80-360 et seq.), Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.), and Article 9 (9VAC5-80-2000 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources).

"Manufacturing wood waste" means uncontaminated solid woody waste and wood residue that is generated by one or more manufacturing processes. Such waste includes, but is not limited to, bark, sawdust, chips, scraps, slabs, millings, and shavings, but does not include process waste, byproduct, or co-product in which the wood or residue has been chemically treated, such as that resulting from pulp and paper production or from cellulose production.

"Minor new source review (NSR) permit" means a permit issued under the minor new source review program.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for regulated air pollutants from new stationary sources or projects that are not subject to review under the major new source review program, (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9VAC5-80-1100 et seq.) of Part II of this chapter. The minor NSR program may also be used to implement the terms and conditions designated as state-only enforceable; however, those terms and conditions shall not be applicable federal requirements.

"Municipal solid waste" means household, commercial/retail, or institutional waste. Household waste includes garbage, trash, and refuse discarded by residential

dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes all solid waste discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes materials discarded by schools, hospitals (nonmedical), nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste. Household, commercial/retail, and institutional waste does not include used oil, sewage sludge, wood pallets, construction and demolition wastes, clean wood, industrial process or manufacturing wastes, medical waste, or motor vehicles (including motor vehicle parts or vehicle fluff).

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9VAC5-80-1100 et seq.), Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.), and Article 9 (9VAC5-80-2000 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources).

"Nitrogen oxides" or "NO<sub>x</sub>" means all oxides of nitrogen except nitrous oxide, as measured by the applicable reference method, or an equivalent or alternative method.

~~[ "Permit emission thresholds" means the value at which a permitting applicability determination can be made for a biomass pilot test facility based upon the quantity of emissions from that facility in accordance with the requirements of 9VAC5 520-170.~~

"Permittee" means the owner of an affected emissions unit covered under the general permit. ]

"Particulate matter" or "PM" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter (PM) emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method or an equivalent or alternative method.

[ "Permit emission thresholds" means the value at which a permitting applicability determination can be made for a biomass pilot test facility based upon the quantity of



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emissions from that facility in accordance with the requirements of 9VAC5-520-170.

"Permittee" means the owner of an affected emissions unit covered under the general permit. ]

"PM<sub>2.5</sub>" means fine particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by the applicable reference method or an equivalent method.

"PM<sub>2.5</sub> emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by the applicable reference method or an equivalent or alternative method.

"PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"PM<sub>10</sub> emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method or an equivalent or alternative method.

"Postmark" means an official mark on a piece of mail or date mark on electronic communications that records the date and place of mailing or origination of an electronic communication.

"Potential to emit" means an emission rate based on the maximum capacity of a biomass pilot test facility to emit a toxic pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit a toxic pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state or federally enforceable. Fugitive emissions shall be included in determining a biomass pilot test facility's potential to emit.

"Qualified energy generator" means a commercial facility located in the Commonwealth (i) with the capacity annually to generate no more than five megawatts (MW) of electricity, or that produces the equivalent amount of energy in the form of fuel, steam, or other energy product; (ii) that is generated or produced solely from biomass; and (iii) that is sold to an unrelated person or stationary source or used in a manufacturing process. For the purposes of this chapter the phrase "capacity annually to generate no more than 5 MW of electricity" shall mean a nameplate capacity equal to or less than 5 MW that is operated in conjunction with a biomass pilot test facility.

"Reasonable time" means business operating hours unless in response to a complaint.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in 9VAC5-30 (Ambient Air Quality Standards): The applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.

2. For emission standards in 9VAC5-40 (Existing Stationary Sources) and 9VAC5-50 (New and Modified Stationary Sources): Appendix M of 40 CFR Part 51 or Appendix A of 40 CFR Part 60.

3. For emission standards in 9VAC5-60 (Hazardous Air Pollutant Sources): Appendix B of 40 CFR Part 61 or Appendix A of 40 CFR Part 63.

"Refuse" means all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

[ "~~Sulfur dioxide~~" or "~~SO<sub>2</sub>~~" means a colorless gas at standard conditions having a molecular composition of one sulfur atom and two oxygen atoms as measured by the applicable reference method or an equivalent or alternative method. ]

"Solid woody waste" means waste consisting of uncontaminated wood and wood product, including tree stumps, trees, or tree limbs (any of which may be whole or cut). Solid woody waste does not include wood or wood products mixed with soil or other nonwood materials such as plastic, metal, cement, or mineral fibers.

[ "~~Sulfur dioxide~~" or "~~SO<sub>2</sub>~~" means a colorless gas at standard conditions having a molecular composition of one sulfur atom and two oxygen atoms as measured by the applicable reference method or an equivalent or alternative method. ]

"Uncontrolled emissions or uncontrolled emissions rate" means the emission rate from an emissions unit when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment that is not vital to its operation, except that its use enables the owner to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the emissions unit, unless the emissions unit or stationary source is subject to state and federally enforceable permit conditions that limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted, stored, or processed may be used in determining the uncontrolled emission rate of an emissions unit or stationary source. The

uncontrolled emission rate of a stationary source is the sum of the uncontrolled emission rates of the individual emissions units. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.

"Volatile organic compound" or "VOC" means volatile organic compound as defined in 9VAC5-10.

"Wood product" means manufactured wood such as plywood, particleboard, fiberboard, hardboard, oriented strand board, and engineered structural products made from clean wood with or without glue, binder, or resin. Wood product does not include products made with other nonwood materials such as plastic, metal, cement, or mineral fibers.

"Wood residue" means, in reference to logging, manufacturing or milling processes, woody waste that is generated by the cutting, chipping, grinding, shaping, or smoothing of wood or wood products. Wood residue includes bark, chips, edging sawdust, shavings, or slabs and may include small amounts of glue, binder, or resin from wood products. Wood residue does not include woody waste mixed with soil or other nonwood materials such as plastic, metal, cement, or mineral fibers.

"Yard waste" means collected leaves, grass, grass clippings, bushes, or shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

## Part II General Provisions

### 9VAC5-520-30. Basis.

This general permit is being issued under the authority of § 10.1-1308.1 of the Code of Virginia and 9VAC5-80-1250.

### 9VAC5-520-40. Applicability and designation of affected emissions unit.

A. The affected emissions unit to which the provisions of this chapter apply is each qualified energy generator that is a biomass pilot test facility for which testing is commenced on or after [ ~~(insert effective date of this chapter)~~ May 25, 2011 ].

B. This chapter applies throughout the Commonwealth of Virginia.

C. Any qualified energy generator, the construction or operation of which is subject to the major new source review program, shall not be eligible for the general permit.

D. Any qualified energy generator subject to § 129 of the federal Clean Air Act shall not be eligible for the general permit.

E. Any qualified energy generator that has initially applied for and received the authority to construct and operate under

the general permit may apply for the authority to construct and operate under the general permit again for a different biomass fuel if the initial biomass fuel was found to be exempt. Once a qualified energy generator is issued a new source review permit for a specified biomass fuel as required under 9VAC5-520-180 J 3, the qualified energy generator will be subject to the provisions of 9VAC5-80 (Permits for Stationary Sources).

### 9VAC5-520-50. General authorization; conditions requiring a new source review permit.

A. A biomass pilot test facility desiring authority to construct and test under the general permit shall comply with the requirements of the general permit, may be subject to applicable requirements of 9VAC5-80 (Permits for Stationary Sources), and shall register with the department as required under 9VAC5-20-160.

B. A biomass pilot test facility may continue to operate under the terms and conditions set forth in 9VAC5-520-180 J 2 provided the test results demonstrate the emissions are below the permit emission threshold limits of 9VAC5-520-170 and the facility is exempt from the minor source permitting requirements.

C. No general permit for a biomass pilot test facility will be issued until the department has received a submission that the facility is not a major source subject to the provisions of Article 1, 3, 7, 8, or 9 of Part II of 9VAC5-80 (Permits for Stationary Sources). Each submission shall include the following statement by the permittee or authorized representative: "I am authorized to make this submission on behalf of the owners and operators of the biomass pilot test facility for which the submission is made. I certify under penalty of law that the statements and information submitted in this document and all its attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I certify, based on my knowledge of the biomass pilot test facility and the attached mathematical or engineering demonstration or both, that the facility is not a major source [ ~~, or is not~~ ] located at a major source defined in this chapter, [ ~~nor is it~~ or is not ] subject to § 129 of the federal Clean Air Act. If information demonstrates that the facility is subject to the provisions of Article 1, 3, 7, 8, or 9 of Part II of 9VAC5-80 (Permits for Stationary Sources) or § 129 of the federal Clean Air Act, the facility will stop operation immediately. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

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D. The department may require a permittee that is authorized to construct and test under this general permit to apply for and obtain a minor NSR permit. Any interested person may request the board to take action under this subsection. Cases where an individual minor NSR permit may be required include the following:

1. The emissions are above the permit emission threshold limits of 9VAC5-520-170 for either criteria pollutants or hazardous air pollutants;
2. Circumstances have changed since the time of the request to be authorized to be exempt from permitting so that the emissions are no longer appropriately controlled under the terms and conditions of the exemption letter;
3. Either a temporary or permanent reduction or elimination of the emissions is necessary; or
4. Other relevant factors.

E. Permits may be required on a case-by-case basis. A biomass pilot test facility subject to an individual minor NSR permit according to 9VAC5-520-180 shall be notified of that decision and the reasons for it. The permittee must apply for a permit within 30 days of notice and is subject to the provisions of 9VAC5-520-180 J 3 a and b and 9VAC5-80 (Permits for Stationary Sources).

F. Any permittee authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual minor new source review permit. The permittee shall submit an application as required by 9VAC5-80 (Permits for Stationary Sources).

G. When an individual minor NSR permit is issued to a permittee, coverage under the general permit is automatically terminated on the effective date of the minor NSR permit.

## **9VAC5-520-60. Existence of permit no defense.**

The existence of a permit under this chapter shall not constitute a defense of a violation of the Virginia Air Pollution Control Law or the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances, and orders of the governmental entities having jurisdiction.

## **9VAC5-520-70. Circumvention.**

A. No owner shall cause or permit the installation or use of any device or any means that, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants that would otherwise violate this chapter.

B. This section does not prohibit the construction of a stack.

## **9VAC5-520-80. Enforcement of a general permit.**

The following general requirements apply:

1. Pursuant to § 10.1-1322 of the Code of Virginia, failure to comply with any term or condition of the general permit shall be considered a violation of the Virginia Air Pollution Control Law.

2. An owner who (i) violates or fails, neglects, or refuses to obey any provision of this chapter or the Virginia Air Pollution Control Law, any applicable requirement, or any permit term or condition; (ii) knowingly makes any false statement, representation, or certification in any form, notice, or report required by a permit; or (iii) knowingly renders inaccurate any required monitoring device or method shall be subject to the provisions of §§ 10.1-1307, 10.1-1309, 10.1-1316, 10.1-1318, and 10.1-1320 of the Virginia Air Pollution Control Law.

### Part III

#### General Permit Administrative Procedures

## **9VAC5-520-90. Requirements for granting an authorization to construct and test under the general permit.**

A. The department may grant an authorization to construct and test under the general permit for a biomass pilot test facility that meets the applicability criteria in 9VAC5-520-40 and the testing schedule in 9VAC5-520-180.

B. The general permit will be issued in accordance with § 2.2-4006 A 8 of the Administrative Process Act.

## **9VAC5-520-100. Applications for coverage under the general permit.**

A. Owners of a biomass pilot test facility that qualifies for the general permit may apply to the department for coverage under the terms and conditions of the general permit.

B. The application shall meet the requirements of this chapter and include all information necessary to determine qualification for and to assure compliance with the general permit.

C. Any application form, report, compliance certification, or other document required to be submitted to the department under this chapter shall meet the requirements of 9VAC5-20-230.

D. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in an application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

## **9VAC5-520-110. Required information for initial applications.**

A. The department will make application forms available to applicants. The information required by this section shall be determined and submitted according to procedures and methods acceptable to the department.

B. Each initial application for coverage under the general permit shall include, but not be limited to, the following:

1. Information specified in the appropriate permit application form for Biomass Pilot Test Facility General Permits as determined by the regional office.

2. A document certification with all applicable requirements completed by a responsible official.

### **9VAC5-520-120. Granting an authorization to construct and test under the general permit.**

A. The department may grant authorization to construct and test under the conditions and terms of the general permit to sources that meet the applicability criteria set forth in 9VAC5-520-40.

B. Granting an authorization to construct and test under the general permit to a facility covered by the general permit is not subject to the public participation procedures under 9VAC5-80-1170.

### **9VAC5-520-130. Transfer of authorizations to construct and test under the general permit.**

A. No person shall transfer an authorization to construct and test under the general permit from one biomass pilot test facility to another or from one piece of equipment to another.

B. In the case of a transfer of ownership of a biomass pilot test facility, the new owner shall comply with any permit issued or authorization to construct and test under the general permit granted to the previous owner. The new owner shall notify the department of the change in ownership within 30 days of the transfer.

C. In the case of a name change of a biomass pilot test facility source, the owner shall comply with any permit issued or authorization to construct and test under the general permit granted under the previous source name. The owner shall notify the department of the change in source name within 30 days of the name change.

## Part IV

### General Permit Terms and Conditions

#### **9VAC5-520-140. General permit.**

A. Any owner whose application is approved by the Director of Department of Environmental Quality shall receive this permit and shall comply with the requirements in it and be subject to all requirements of this chapter and the regulations of the board.

B. In compliance with the provisions of the Virginia Air Pollution Control Law and regulations adopted pursuant to it, owners of qualified energy generators are authorized to construct and test under the authority of this permit, except those where board regulations or policies prohibit such operation.

C. The authorization to construct and test under this permit shall be in accordance with the cover letter to this permit, 9VAC5-520-150 (General terms and conditions), 9VAC5-520-160 (Process requirements), 9VAC5-520-170 (Permit emission thresholds), 9VAC5-520-180 (Testing schedule), 9VAC5-520-190 (Compliance determination and verification by emission testing), 9VAC5-520-200 (Recordkeeping requirements), 9VAC5-520-210 (Reporting requirements), 9VAC5-520-220 (Compliance), and 9VAC5-520-230 (Enforcement).

#### **9VAC5-520-150. General terms and conditions.**

A. The permittee is authorized to construct and test a biomass pilot test facility located within the boundaries of the Commonwealth of Virginia, in accordance with the approved permit application and conditions of this permit except where board regulations or policies prohibit such activities.

B. The permittee shall comply with the terms and conditions of this permit prior to commencing any physical or operational change or activity that will result in making the facility subject to the new source review program.

#### **9VAC5-520-160. Process requirements.**

A. Each biomass pilot test facility shall comply with visible emissions and fugitive dust/emissions standards of Article 1 (9VAC5-50-60 et seq.) of Part II of 9VAC5-50 (New and Modified Stationary Sources). No owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

B. Each biomass pilot test facility shall comply with the odor standards in Article 2 (9VAC5-50-130 et seq.) of Part II of 9VAC5-50 (New and Modified Stationary Sources). Under no circumstances shall the biomass qualified energy generator or associated raw material storage or handling cause an odor objectionable to individuals of ordinary sensibility.

C. Once per week, the permittee shall observe the biomass pilot test facility's fuel preparation and storage operations to determine if there are any visible emissions excluding stack emissions. The presence of visible emissions shall indicate the need for prompt corrective action. The applicant shall keep a log of the observations. The log shall include the name of the observer, the date and time of the observations, the presence of visible emissions or lack thereof, and the date, time, and description of corrective actions taken whenever visible emissions were observed.

#### **9VAC5-520-170. Permit emission threshold.**

A. In determining whether a biomass pilot test facility is exempt from all new minor source review permit programs, the facility must be determined to be exempt under the provisions of 9VAC5-80 (Permits for Stationary Sources) and both subdivisions 1 and 2 of this subsection.

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1. A biomass pilot test facility that measures uncontrolled emissions below the threshold values specified in Table 520-1 qualifies as an exempt facility. All biomass pilot test facilities and ancillary equipment shall be considered in the aggregate. A biomass pilot test facility that measures uncontrolled emissions at or above the permit emission threshold values specified in Table 520-1 provided it does not demonstrate it is a major source, shall obtain a permit according to the applicable provisions of 9VAC5-520-180 J.3.

**TABLE 520-1**  
**PERMIT EMISSION THRESHOLD VALUES**

<u>Pollutant</u>	<u>Combined Units (tons/year)</u>
<u>PM</u>	<u>25</u>
<u>PM<sub>10</sub></u>	<u>15</u>
<u>PM<sub>2.5</sub></u>	<u>10</u>
<u>NO<sub>x</sub></u>	<u>40</u>
<u>SO<sub>2</sub></u>	<u>40</u>
<u>CO</u>	<u>100</u>
<u>VOC</u>	<u>25</u>

a. The PM, PM<sub>10</sub>, and PM<sub>2.5</sub> values listed in Table 520-1 contain filterable and condensable particulates.

b. Permit emission threshold values for combined units listed in Table 520-1 include the qualified energy generator and any fuel preparation/storage emission units.

2. Any biomass pilot test facility with measurements that result in a potential to emit any toxic pollutant below threshold values specified in Article 5 (9VAC5-60-300 et seq.) of 9VAC5-60 (Hazardous Air Pollutant Sources) qualifies as an exempt facility. All biomass pilot test facilities and ancillary equipment shall be considered in the aggregate. Any biomass pilot test facility with measurements that result in a potential to emit any toxic pollutant at or above the threshold values specified in Article 5 (9VAC5-60-300 et seq.) of 9VAC5-60 (Hazardous Air Pollutant Sources) shall obtain a permit according to the applicable provisions of 9VAC5-520-180 J.3 [ of this chapter ].

B. No applicant shall cause or allow to be discharged into the atmosphere from any biomass pilot test facility any visible emissions in excess of 10% opacity as determined by Reference Method 9 (9VAC5-50-410) from any stack, vent or duct. This opacity standard shall apply at all times except during periods of startup, shutdown, and malfunction.

## **9VAC5-520-180. Testing schedule.**

A. All testing must be completed within [ ± 15 ] months from the actual startup date as determined under subsection E of this section.

B. Within 30 days after receipt of a biomass pilot test facility general permit application the regional office will notify the applicant of the status of the application with a review letter.

1. If a complete application is received, the review letter will state if the applicant is approved for the biomass pilot test facility general permit. If approved, the applicant has 18 months from the date of the review letter to commence construction of the biomass pilot test facility and its equipment.

2. If a complete application is not received, the applicant has 30 days to submit the additional information needed for a complete application. If the additional information is not received within 30 days, the application will be returned to the applicant and the application will be withdrawn. Within 30 days after receipt of the additional information, the department will respond with another review letter that will state if the applicant is approved for the biomass pilot test facility general permit. If approved, the provisions of subdivision A 1 of this subsection shall apply.

C. Within the approved 18 months, the applicant shall notify the regional office of the actual date on which construction of the biomass pilot test facility commenced within 30 days after such date.

1. The applicant may apply for another 18-month extension to commence construction on the biomass pilot test facility based upon a satisfactory demonstration that an extension is justified.

2. Only one extension is allowed and shall be limited to commencing construction on the biomass pilot test facility.

D. The applicant shall notify the regional office in writing or electronically of the anticipated startup date of the biomass pilot test facility postmarked not more than 60 days nor less than 30 days prior to such date.

E. The applicant shall notify the regional office in writing or electronically of the actual startup date of the biomass pilot test facility within 15 days after such date. The applicant shall operate and perform all testing needed to comply with this permit no later than [ ± 15 ] months from the actual startup date.

F. For each biomass fuel to be utilized, the applicant shall perform (or acquire) a certified fuel test as required by 9VAC5-520-190 A.

G. At least 30 days prior to testing, the applicant shall:

1. Notify the department in writing or electronically of the anticipated date of the performance tests of the biomass pilot test facility;

2. Submit a stack test protocol and visible emissions evaluation test protocol to the regional office; and

3. Submit the results of the certified fuel test or tests to the regional office.

H. The stack testing and visible emissions evaluation tests shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after startup of the permitted facility according to [ ~~9VAC5-520-190 B and C~~ 9VAC5-520-190 B, C, and D ] as appropriate.

I. All results shall be submitted to the regional office in writing or electronically no later than 45 days after test completion of the stack tests and visible emissions evaluation.

J. Within 60 days, the regional office will review the results and notify the applicant of the status of the biomass pilot test facility.

1. If test results demonstrate that the biomass pilot test facility is a major source, the facility shall cease operation immediately.

2. If test results demonstrate that the biomass pilot test facility is exempt from the minor source permitting requirements of all new source review programs, the regional office shall issue the applicant an exemption letter. The biomass pilot test facility will be authorized to operate under the terms and conditions set forth in the exemption letter and the biomass pilot test facility general permit will terminate. Any changes in the proposed operation of the facility may require a permit.

3. If testing demonstrates that the biomass pilot test facility is not exempt from the minor source permitting requirements of all new source review programs, the applicant shall obtain a permit as required by 9VAC5-80 (Permits for Stationary Sources).

a. An application for a new source review permit shall be submitted within 30 days of notification that the permit emission thresholds have been exceeded; if no application is received within the timeframe, the facility shall shut down.

b. The facility shall be authorized to continue to operate according to the terms and conditions of the biomass pilot test facility general permit application until such time as a new source review permit is issued. Once a new source review permit is issued, the facility shall operate according to the terms and conditions of the new source review permit and the authority to construct and operate under the biomass pilot test facility general permit will terminate.

c. All new source review permits will be issued within 90 days from receipt of a complete application.

## **9VAC5-520-190. Compliance determination and verification by emission testing.**

A. A certified fuel test is required.

1. The permittee shall have a sample analyzed for each type of biomass used during the pilot test period.

2. The results of the fuel analysis shall be used to identify specific constituents of the fuel requiring further emissions testing.

3. The results shall be submitted to the regional office in writing or electronically prior to testing. The submittal shall include:

a. Fuel analysis;

b. Name of company and individual collecting the sample;

c. Identification of sampling method used;

d. Sample (volume or mass);

e. Number of samples taken;

f. Date sample collected;

g. Location of fuel when sample was taken;

h. Date of analysis; and

i. Name of company and individual conducting the analysis.

B. A test protocol for a certified stack test shall be submitted at least 30 days prior to testing.

1. The test protocol shall include information necessary to evaluate the emissions from the biomass pilot test facility and include, but not be limited to, operating rates or production rates as appropriate.

2. The details of conducting the tests shall be arranged with the regional office.

C. A certified stack test or other alternative method of evaluation acceptable to the department shall be conducted for each qualified energy generator stack to determine the quantity of pollutants from each biomass fuel.

1. Performance tests shall be conducted for all criteria pollutants.

2. Performance tests shall be conducted for any toxic pollutants that were found to be contained in the biomass fuel as stated in the certified fuel test.

3. A biomass pilot test facility utilizing a combustion process shall test for any toxic pollutants that are created from combustion (including, but not limited to, acetaldehyde, acrolein, benzene, formaldehyde,

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hydrochloric acid, hydrogen fluoride, naphthalene, trichloroethylene, and xylene).

4. The tests shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility.

5. Test shall be conducted in accordance with reference methods or an alternative method approved by the department.

6. One copy of the test results shall be submitted to the regional office within 45 days after test completion and shall conform to the test report format in subsection E of this section.

D. A certified visible emissions evaluation shall be conducted.

1. Concurrently with the certified stack test, visible emission evaluations in accordance with Reference Method 9, shall also be conducted on each qualified energy generator.

2. Each test shall consist of 30 sets of 24 consecutive observations (at 15 second intervals) to yield a six minute average.

3. The details of the tests shall be arranged with the regional office.

4. The permittee shall submit a test protocol at least 30 days prior to testing.

5. The evaluation shall be performed, reported, and demonstrate compliance within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility.

6. Should conditions prevent concurrent opacity observations:

a. The regional office shall be notified in writing or electronically within seven days.

b. Visible emissions testing shall be rescheduled within 30 days.

c. Rescheduled testing shall be conducted under the same conditions (as possible) as the initial performance tests.

7. One copy of the test result shall be submitted to the regional office within 45 days after test completion and shall conform to the test report format in subsection F of this section.

E. The test report format for [~~nonvisible emissions evaluations~~ certified stack tests ] shall include the following:

1. A report cover containing:

a. The plant name;

b. The plant location;

c. Units tested at the source identified by the agency that have been issued reference numbers;

d. Test dates;

e. The name of the individual conducting the test;

f. The address of the individual conducting the test; and

g. The report date.

2. A certification, including the date certified, that has been signed by:

a. A test team leader or a certified observer;

b. The test reviewer; and

c. A responsible company official.

3. A copy of approved test protocol.

4. A summary including:

a. The reason for testing;

b. Test dates;

c. Identification of the unit tested including the maximum rated capacity for each unit;

d. For each emission unit, a table showing:

(1) The operating rate;

(2) Test methods;

(3) The pollutants tested; and

(4) Test results for each run, including the run average;

e. Process and control equipment data for each run and the average, as required by the test protocol;

f. A statement that the test was conducted in accordance with the test protocol, or identification and discussion of deviations, including the likely impact on results; and

g. Any other important information as determined by the regional office.

5. A description of source operation including:

a. A description of the process;

b. A description of control devices, if necessary;

c. A process and control equipment flow diagram; and

d. A description of sampling port location and a dimensioned cross section. A protocol shall be attached that includes a sketch of the stack (elevation view) showing sampling port locations, upstream and downstream flow disturbances and their distances from ports; and a sketch of stack (plan view) showing

sampling ports, ducts entering the stack and stack diameter or dimensions.

6. Test results, including:

- a. Detailed test results for each run;
- b. Sample calculations; and
- c. A description of collected samples, including audits, when applicable.

7. An appendix, including:

- a. Raw production data;
- b. Raw field data;
- c. Laboratory reports;
- d. Chain of custody records for laboratory samples;
- e. Calibration procedures and results;
- f. Project participants and contact information;
- g. Observers' names (including their industry and agency affiliation);
- h. Related correspondence; and
- i. Standard procedures.

F. The test report format for visible emissions evaluations shall include the following.

1. A report cover containing:

- a. The plant name;
- b. The plant location;
- c. Units tested at the source identified by the department that have been issued reference numbers;
- d. Test dates;
- e. The name of the individual conducting the test;
- f. The address of individual conducting test; and
- g. The report date.

2. A certification, including the date certified, that has been signed by:

- a. A test team leader or a certified observer; and
- b. A responsible company official.

3. Copy of approved test protocol.

4. A summary including:

- a. The reason for testing;
- b. Test dates;
- c. Identification of the unit tested including the maximum rated capacity for each unit;

d. Summarized process and control equipment data for each run and the average, as required by the test protocol;

e. A statement certifying that the test was conducted in accordance with the test protocol or, if not conducted according to protocol, identification and discussion of deviations, including the likely impact on results; and

f. Any other important information.

5. A description of source operation including:

- a. A description of the process;
- b. A description of control devices, if necessary;
- c. A process and control equipment flow diagram; and
- d. A description of sampling port location and a dimensioned cross section. A protocol shall be attached that includes a sketch of the stack (elevation view) showing sampling port locations, upstream and downstream flow disturbances and their distances from ports; and a sketch of stack (plan view) showing sampling ports, ducts entering the stack and stack diameter or dimensions.

6. The detailed test results for each run.

7. An appendix including:

- a. The names of project participants and their titles;
- b. The observers' names including their industry and agency affiliation;
- c. Related correspondence; and
- d. Standard procedures.

**9VAC5-520-200. Recordkeeping requirements.**

A. The permittee shall maintain records on site for each emission unit or groups of emission units sufficient to determine the actual emissions of the biomass pilot test facility.

- 1. Records shall include, but not be limited to, emission data and operating parameters during emissions testing.
- 2. The content and format of such records shall be determined in consultation with the regional office.
- 3. These records shall be available for inspection by the department and shall be current for the most recent five years.

B. The permittee shall prepare and maintain the following information:

- 1. Records of monitoring information including:
  - a. The date of sampling or measurements;
  - b. The place as defined in the authorization to operate under this general permit;



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- c. The time of sampling or measurements;
- d. The date or dates analyses were performed;
- e. Each biomass utilized and the rate of consumption;
- f. The company or entity that performed the analyses;
- g. The analytical techniques or methods used;
- h. The results of such analyses;
- i. The operating conditions existing at the time of sampling or measurement;
- j. Results of all stack tests, visible emission evaluations, and certified fuel tests;
- k. The copies of all notifications submitted to the regional office;
- l. The operating schedule as stated in 9VAC5-520-180;
- m. All visible emission records as required in 9VAC5-520-190 D; and
- n. Documentation that the unit does not exceed the 5 MW nameplate capacity threshold.

2. Records of all monitoring data and support information shall be retained for five years and available onsite for inspection by the department during the pilot test trial period.

C. In order to ensure the proper operation of the biomass pilot test facility, the permittee shall perform the following:

- 1. Develop a maintenance schedule and maintain records of all scheduled and nonscheduled maintenance to the biomass pilot test facility. These records shall be maintained on site for five years and shall be made available to department upon request.
- 2. Maintain verification that personnel operating the biomass pilot test facility are properly trained to do so.

## **9VAC5-520-210. Reporting requirements.**

A. The permittee shall comply with the reporting requirements in this section. Any document (including reports) required by a permit term or condition to be submitted to the department shall contain a document certification signed by a responsible official that meets the requirements of [ ~~9VAC5-520-230~~ 9VAC5-20-230 ].

B. The permittee shall furnish written notification to the department of the following dates relative to the requirements of 9VAC5-520-180:

- 1. The actual date on which construction or installation of any biomass pilot test facility commenced, postmarked within 30 days after that date;

2. The anticipated startup date of the biomass pilot test facility, postmarked not more than 60 days nor less than 30 days prior to such date;

3. The actual startup date of the biomass pilot test facility postmarked within 15 days after that date;

4. The test protocol, postmarked at least 30 days prior to the date that testing commences; and

5. The test results, no later than 45 days after test completion of the stack tests and visible emissions evaluation.

## **9VAC5-520-220. Compliance.**

A. Whenever it is necessary for the purpose of the regulations of the board, the board or an agent authorized by the board may at reasonable times enter an establishment or upon property, public or private, for the purpose of obtaining information or conducting surveys or investigations as authorized by § 10.1-1315 or § 46.2-1187.1 of the Code of Virginia.

B. Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the department to perform the following:

1. Enter upon the premises where the source is located or emissions related activity is conducted, or where records must be kept under the terms and conditions of this permit.

2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of this permit.

3. Inspect at reasonable times any facilities, equipment (including monitoring equipment), practices, or operations regulated or required under this permit.

4. Sample or monitor at reasonable times, substances or parameters for the purpose of assuring compliance with this permit or applicable requirements.

## **9VAC5-520-230. Enforcement.**

A. Violation of this permit is subject to the enforcement provisions including, but not limited to, those contained in 9VAC5-170 (Regulation for General Administration) and §§ 10.1-1309, 10.1-1309.1, 10.1-1311, and 10.1-1316 of the Virginia Air Pollution Control Law.

B. If any condition, requirement, or portion of this permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of this permit.

C. The permittee shall comply with all conditions of this permit. Any noncompliance with this permit constitutes a violation of the Virginia Air Pollution Control Law and is

grounds for (i) enforcement action, or (ii) suspension or revocation of the authorization to operate under this permit.

D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. The authorization to construct and test under this permit may be suspended or revoked for cause as specified in 9VAC5-520-80. The filing by a permittee of (i) a request for reauthorization to operate under this permit, or (ii) notification of termination, planned changes, or anticipated noncompliance does not stay any condition of this permit.

F. The owner of the qualified energy generator may be subject to enforcement action under 9VAC5-520-80 for operation without a permit if the facility is later determined by the department not to qualify for the conditions and terms of this permit.

G. This permit does not convey any property rights of any sort, or any exclusive privilege.

H. The permittee shall furnish to the department, within 30 days of notification, any information that the department may request in writing to determine whether cause exists for suspending or revoking the authorization to operate under this permit or to determine compliance with this permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by this permit and, for information claimed to be confidential, the permittee shall furnish such records to the department along with a claim of confidentiality meeting the requirements of 9VAC5-170-60.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access a form. The form is also available through the agency contact or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (9VAC5-520)

[Air Permit Application Form, Form 520 \(eff. 5/11\).](#)

VA.R. Doc. No. R09-1830; Filed April 4, 2011, 12:12 p.m.

**STATE WATER CONTROL BOARD**

**Notice of Suspension of Regulatory Process**

**Title of Regulation: 9VAC25-800. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Discharges Resulting From the Application of Pesticides to Surface Waters (adding 9VAC25-800-10 through 9VAC25-800-60).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act.

Notice is hereby given that, pursuant to § 2.2-4015 A 4 of the Code of Virginia, the Director of the Department of Environmental Quality is suspending the effective date of 9VAC25-800, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Pesticide Discharges Resulting from the Application of Pesticides to Surface Waters. This regulation was adopted by the State Water Control Board on February 4, 2011, with an effective date of April 10, 2011. It was published in the Virginia Register on February 28, 2011 (27:13 VA.R. 1647-1665).

On November 27, 2006, the Environmental Protection Agency (EPA) issued a final rule to codify its interpretation of the Clean Water Act as not requiring NPDES permits for application of pesticides to or over, including near, waters of the United States, if the applications are consistent with Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requirements. On January 7, 2009, the 6th Circuit Court of Appeals vacated the EPA rule requiring NPDES permits be issued for all biological pesticide applications and chemical pesticide applications that leave a residue in water when such applications are made in or over, including near, waters of the U.S. On June 8, 2009, the court granted the Department of Justice's request for a two-year stay of the court's decision, until April 9, 2011, to provide EPA and states time to develop and issue NPDES permits. Based on the stay, EPA's rule remained in effect and NPDES permits for applications of pesticides to or over, including near, U.S. waters were not required until after April 9, 2011.

This Virginia VPDES general permit regulation was developed to comply with the 6th circuit court's ruling. On March 28, 2011, the 6th Circuit Court of Appeals granted EPA's request for a further extension of the effective date of the court's ruling and deadline for when permits will be required for pesticide discharges from April 9, 2011, to October 31, 2011. The Director of the Department of Environmental Quality is suspending the effective date of 9VAC25-800 to be consistent with the 6th circuit court's ruling.

The department will present an amended pesticides general permit regulation with a revised effective date of October 31, 2011, and a revised expiration date of December 31, 2013, to the State Water Control Board for readoption at their April 14, 2011, meeting.

Agency Contact: Fred Cunningham, Director of the Office of Water Permits and Compliance Assistance, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4285, email frederick.cunningham@deq.virginia.gov.

VA.R. Doc. No. R10-2390; Filed April 4, 2011, 12:12 p.m.



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# Regulations

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## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Proposed Regulation

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

**Title of Regulation:** 14VAC5-350. Rules Governing Surplus Lines Insurance (repealing 14VAC5-350-10 through 14VAC5-350-220).

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

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

**Public Comment Deadline:** May 9, 2011.

**Agency Contact:** Katie Johnson, Coordinator of Special Projects, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9688, FAX (804) 371-9396, or email [katie.johnson@scc.virginia.gov](mailto:katie.johnson@scc.virginia.gov).

**Summary:**

*The General Assembly passed House Bill 2286 (Chapter 498 of the 2011 Acts of Assembly) effective July 1, 2011, which changes how surplus lines brokers pay premium taxes. Consequently, the Rules Governing Surplus Lines Insurance are no longer needed and should be repealed. In addition, the forms used by surplus lines brokers are on the website for the State Corporation Commission's Bureau of Insurance, and surplus lines brokers are notified of changes by administrative letter.*

AT RICHMOND, MARCH 30, 2011

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2011-00049

Ex Parte: In the matter of Repealing the Rules Governing Surplus Lines Insurance

#### ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the

Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia. Section 38.2-4813 of the Code provides that the Commission may make, approve, and adopt rules and regulations to effect the purposes of Chapter 48 of Title 38.2 of the Code. The rules and regulations issued by the Commission pursuant to §§ 38.2-223 and 38.2-4813 of the Code are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposal to repeal Chapter 350 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Surplus Lines Insurance" ("Rules"), which are set out at 14 VAC 5-350-10 through 14 VAC 5-350-220.

The proposed repeal is necessitated by the passage of House Bill 2286 during the 2011 Virginia General Assembly Session, which amended Chapter 48 of Title 38.2 of the Code making it administrable without the Rules. The provisions of House Bill 2286 implement provisions of the federal Nonadmitted and Reinsurance Reform Act of 2010, which requires states to adopt nationwide uniform requirements, forms and procedures for the reporting, payment, collection, and allocation of insurance premium license taxes for nonadmitted insurance.<sup>1</sup>

The Commission is of the opinion that the Rules contained in Chapter 350 of Title 14 of the Virginia Administrative Code should be considered for repeal with an effective date of July 1, 2011.

Accordingly, IT IS ORDERED THAT:

(1) The proposal that Chapter 350 of Title 14 of the Virginia Administrative Code set out at 14 VAC 5-350-10 through 14 VAC 5-350-220 be repealed shall be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose the proposed repeal of the regulations shall file such comments or hearing request on or before May 9, 2011, in writing, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Richmond, Virginia 23219, and shall refer to Case No. INS-2011-00049. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) If no written request for a hearing on the proposed repeal of the regulations is filed on or before May 9, 2011, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed repeal of the regulations, may adopt the proposed repeal of the regulations as submitted by the Bureau.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposal to repeal the regulations, to be forwarded to the Virginia Registrar for appropriate publication in the Virginia Register of Regulations and shall make available this Order and the attached proposal to repeal the regulations on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) AN ATTESTED COPY hereof, together with a copy of the proposed repeal of the regulations, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Brian P. Gaudiose, who forthwith shall give further notice of the proposed revised regulations by mailing a copy of this Order, together with the proposal to repeal the regulations, to all licensed surplus lines brokers, surplus lines insurers and certain interested parties designated by the Bureau.

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

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<sup>1</sup> 111 P.L. 203.

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Notices of Periodic Review

Pursuant to Executive Order 14 (2010), the Virginia Department of Agriculture and Consumer Services, on behalf of the Board of Agriculture and Consumer Services, is currently reviewing each of the regulations listed below to determine whether it should be terminated, amended, or retained in its current form. Each regulation will be reviewed to determine whether (i) the regulation protects public health, safety, and welfare with the least possible intrusion in the lives of citizens; (ii) alternatives in lieu of regulation may achieve the goals of the regulation; (iii) the regulation is based on the best reasonably available scientific, economic and other information; (iv) the regulation is designed to achieve its intended objective in the most efficient, cost-effective manner; (v) the regulation is clearly written and easily understandable by the individuals and entities affected; and (vi) the regulation has been developed in accordance with laws relating to the impact of regulations on small businesses.

2VAC5-270, Virginia Grade Standards for Breeder Swine

2VAC5-280, Virginia Grade Standards for Slaughter and Feeder Lambs

2VAC5-290, Breeder Sheep Grade Standards

2VAC5-330, Rules and Regulations for Enforcement of the Virginia Pest Law-Virginia Gypsy Moth Quarantine

2VAC5-350, Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law

2VAC5-360, Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law

2VAC5-440, Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine

2VAC5-550, Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Sausage

2VAC5-570, Rules and Regulations Defining Standards for Grades/Sizes of Shell Eggs

Comment period begins on April 25, 2011, and ends on May 16, 2011.

Agency Contact: Roy E. Seward, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Room 211, Richmond, VA 23219, telephone (804) 786-3535 or email [roy.seward@vdacs.virginia.gov](mailto:roy.seward@vdacs.virginia.gov).

## AIR POLLUTION CONTROL BOARD

### Public Notice - State Implementation Plan Proposed Revision - Major Source Permits (Rev. L07)

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

Regulations affected: The regulations of the board affected by this action are as follows: Major Source Permits, Revision L07 (Articles 1, 8, and 9 of 9VAC5-80).

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: April 25, 2011, to May 25, 2011.

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

Public comment stage: The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent EPA regulations. Since the amendments are exempt from administrative procedures for the adoption of regulations, DEQ is accepting comment only on the issue cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: The proposed revision will consist of amendments to existing regulation provisions concerning major stationary sources. The major provisions of the proposal are to revise the federal operating (Title V), prevention of significant deterioration (PSD), and nonattainment new source review permitting regulations such that the definitions of "major stationary source" and "major source" and the lists of exempted facilities exclude chemical

processing plants that are ethanol production facilities that produce ethanol by natural fermentation.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the Commonwealth of Virginia SIP.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. Commenters submitting faxes are encouraged to provide the signed original by postal mail within one week. All testimony, exhibits, and documents received are part of the public record.

To review regulation documents: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans website (<http://www.deq.state.va.us/air/permitting/planotes.html>). The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, VA, telephone (804) 698-4070,
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, VA, telephone (540) 676-4800,
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, VA, telephone (540) 562-6700,
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, VA, telephone (804) 582-5120,
- 5) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800,
- 6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020,
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800, and
- 8) Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA, telephone (757) 518-2000.

Agency Contact: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email [karen.sabasteanski@deq.virginia.gov](mailto:karen.sabasteanski@deq.virginia.gov).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Proposed Enforcement Action for Ennis Paint, Inc.

An enforcement action has been proposed for Ennis Paint, Inc., for violations in Henrico County. The consent order settles an unpermitted discharge to state waters and the failure to apply for permit coverage. A description of the proposed action is available at the DEQ office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Jennifer Hoeffner will accept comments by email at [jennifer.hoeffner@deq.virginia.gov](mailto:jennifer.hoeffner@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 April 25, 2011, to May 26, 2011.

### Proposed Enforcement Action for TransMontaigne Operating Company L.P.

An enforcement action has been proposed for TransMontaigne Operating Company L.P. for alleged violations in Fairfax County. The action seeks to resolve the unauthorized discharge of oil to state waters. A description of the proposed action is available at the DEQ office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Sarah Baker will accept comments by email at [sarah.baker@deq.virginia.gov](mailto:sarah.baker@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 April 26, 2011, to May 26, 2011.

### Proposed Enforcement Action for Woodhaven Water Company, Inc.

An enforcement action has been proposed for the Woodhaven Water Company, Inc. for alleged violations at the Woodhaven Shores Water System in Quinton, VA. The State Water Control Board proposes to issue a consent special order to Woodhaven Water Company, Inc. to address noncompliance with State Water Control Board 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](http://www.deq.virginia.gov). Cynthia Akers will accept comments by email at [e.cynthia.akers@deq.virginia.gov](mailto:e.cynthia.akers@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 April 25, 2011, to May 27, 2011.

### Restore Water Quality in the Little River Watershed

Public meeting: Jessie Peterman Memorial Library in Floyd, Virginia on Tuesday, May 3, 2011, from 7 p.m. to 9 p.m. Directions: From Route 8 in Floyd, turn on to Rt. 221/West Main Street. The library will be on your left. Address: 321 West Main Street, Floyd, VA 24091.

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## General Notices/Errata

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Purpose of notice: The Virginia Department of Environmental Quality (DEQ) announces a public meeting to discuss a study to restore water quality in the Little River watershed.

Description of study: Virginia agencies are working to identify sources of bacteria, temperature, and biological impairment (general standard) in the Little River watershed. The general standard indicates the water quality does not support a natural aquatic invertebrate community.

The following is the "impaired" stream, the length of the impaired segment, location, and the reason for the impairment: Little River, 42.71 miles, Floyd, Montgomery and Pulaski Counties, bacteria; Little River Reservoir, 60.44 acres, Pulaski and Montgomery Counties, bacteria; Little River, 16.99 miles, Montgomery County, general standard (aquatic invertebrate community); Meadow Creek, 4.49 miles, Montgomery County, bacteria; Mill Creek, Poplar Branch, Unnamed Tributaries to Mill Creek, 15.25 miles, Montgomery County, bacteria; Brush Creek, 5.76 miles, Montgomery County, bacteria; Little River, 33.55 miles, Floyd County, temperature and bacteria; Meadow Run, 3.70 miles, Floyd County, bacteria and general standard (aquatic invertebrate community); Pine Creek, 3.68 miles, Floyd County, bacteria and temperature; Laurel Creek, 3.26 miles, Floyd County, bacteria; Dodd Creek and West Fork Dodd Creek, 15.41 miles, Floyd County, bacteria; Dodd Creek, 6.28 miles, Floyd County, temperature; West Fork Dodd Creek, 1.17 miles, Floyd County, temperature; Big Indian Creek, 7.56 miles, Floyd County, temperature.

DEQ, in cooperation with the Virginia Department of Conservation and Recreation, Virginia Department of Health, and Skyline Soil and Water Conservation District, developed a total maximum daily load implementation plan, or a TMDL IP, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address, and telephone number of the person commenting and be received by June 2, 2011. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Agency Contact: Mary Dail, Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6725, or email [mary.dail@deq.virginia.gov](mailto:mary.dail@deq.virginia.gov).

### **Notice of Public Comment for Modification of Bacteria Total Maximum Daily Load for Gills Creek**

Notice is hereby given that the Virginia Department of Environmental Quality (DEQ) seeks comment on the proposed modifications to the bacteria total maximum daily

load (TMDL) developed for Gills Creek, Franklin County, Virginia: The Gills Creek TMDL has been developed for bacteria to address primary contact recreational uses. This TMDL was approved by the Environmental Protection Agency on May 31, 2002, and can be found at the following website:

<http://www.deq.virginia.gov/tmdl/apptmdls/roankrvr/gills.pdf>. DEQ proposes to revise the TMDL to accommodate an increase in the design capacity of the Windy Gap Elementary School Waste Water Treatment Plant original TMDL accounting used to calculate the Gills Creek water quality TMDL allocations. The proposed modifications to the TMDL would accommodate a flow discharge rate of 0.006 million gallons per day (MGD) for the previously permitted facility, Windy Gap Elementary School STP (VA0090719). The original TMDL was designed with no future growth incorporated. Additionally, a future growth will be added for a total of 1.0% change to the allocations in the TMDL, and the allocations will be updated to the current water quality standard, geomean of 126 E. coli cfu/100 mL. The proposed changes above will neither cause nor contribute to the nonattainment of the Gills Creek; additionally, downstream TMDLs will not be affected by these revisions. Updating the load allocations and associated sections in the Gills Creek bacteria TMDL in accordance with this memo will protect and preserve water quality, and reflects a de minimis, 1.0%, modification of the TMDL.

How to comment: DEQ accepts comments by email, fax, or postal mail. All comments must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses, and telephone numbers of the commenter/requester and of all persons represented by the commenter. This public comment period will conclude 15 days following the first public notice issue date, on May 10, 2011.

Contact for public comments, document requests, and additional information: Drew Miller, Blue Ridge Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6873, or email [richard.miller@deq.virginia.gov](mailto:richard.miller@deq.virginia.gov).

### **Notice of Public Comment for Modification of Bacteria Total Maximum Daily Load for Upper Rappahannock River (Tidal)**

Notice is hereby given that the Virginia Department of Environmental Quality (DEQ) seeks comment on the proposed modifications to the bacteria total maximum daily load (TMDL) developed for the Upper Rappahannock River and Tributary watersheds in Essex, Richmond, Westmoreland, and Northumberland Counties.

The Upper Rappahannock River and Tributaries TMDL was developed to address the bacterial impairment for the shellfish designated use. The TMDL was approved by the

Environmental Protection Agency (EPA) on August 10, 2010, and the Virginia State Water Control Board on December 13, 2010. The document can be found at: <http://www.deq.virginia.gov/tmdl/apptmdls/shellfish/urappsf.pdf>. DEQ seeks written comments from interested persons on the proposed modification of this TMDL. The following proposed modifications affect only the Upper Rappahannock River TMDL waste load allocations (WLAs):

- The original total allocated waste load (4.13E+09 Most Probable Number {MPN}/day) assigned to the Upper Rappahannock River segment did not include the individual WLAs for each of the 5 dischargers; rather, it only included the value for future growth. The correct total allocated waste load should have been assigned as 4.95E+09 MPN/day, which would have included the individual WLAs in addition to the future growth amount. This change will not appear in the modified document; rather it is an error that was found in the course of modifying the document for the below changes.
- The Town of Tappahannock Waste Water Treatment Plant (WWTP) (VA0071471), Haynesville Correctional Center (VA0023469), Montross Westmoreland WWTP (VA0072729), Warsaw Aerated lagoons (VA0026891), and a Domestic Discharger (VAG404196) were each assigned an incorrect WLA in the TMDL report based on the shellfish designated use water quality standard of 14 MPN/100ml. The WLAs should have been based on the geometric mean standard for fecal coliform of 200 MPN/100ml, as this is the limit imposed by DEQ within the facilities' Virginia Pollution Discharge and Elimination System (VPDES) permits. DEQ proposes to revise the WLAs to 7.19E+09, 1.35E+09, 9.84E+08, 2.27E+09, and 7.57E+06 (MPN/day) respectively, in order to provide consistency between each facility's VPDES permit and the TMDL report. This will change the original current allocated waste load (8.25E+08 MPN/day) to 1.18E+10 MPN/day.
- DEQ proposes to modify the current future growth amount (4.13E+09 MPN/day) to 5.90E+10 MPN/day to reflect the WLA changes proposed above for each facility based on the shellfish designated use water quality standard of 200 MPN/100ml. This along with the change to current allocated waste load will change the current total allocated waste load (4.13E+09 MPN/day) to 7.08E+10 MPN/day.
- Washington and Lee High School (VA0027324) and Montross Sewer Cooperative WWTP (VA0065498) are two dischargers included in the TMDL; however, they are not required to monitor for bacteria. These facilities are no longer in operation; therefore, DEQ proposes to remove the two dischargers from Table 2-22 (page 2-34) of the report.

The proposed changes above will neither cause nor contribute to the nonattainment of the Upper Rappahannock River, as documented in the EPA approved TMDL report. The combined changes are equal to less than 1.0% of the TMDL amount.

The public comment period for this modification will end on May 25, 2011. Send written comments including name, address, and telephone number to Margaret Smigo, Piedmont Regional Office, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, or email comments to [margaret.smigo@deq.virginia.gov](mailto:margaret.smigo@deq.virginia.gov).

### **Announcement of Technical Advisory Committee Meeting for Water Quality Restoration Study for the James River and Selected Tributaries for PCBs**

**Meeting:** A Technical Advisory Committee (TAC) meeting will be held on Wednesday, April 27, 2011, at 2 p.m. at Maude Langhorne Nelson Public Library, 209 East Cawson Street, Hopewell, VA 23860.

**Purpose of notice:** To announce the first TAC meeting for the James River and Tributaries (tidal) PCB water quality study.

**Meeting Description:** A TAC is comprised of watershed stakeholders who will meet several times during study development with the purpose of discussing technical details associated with the study such as data generation, PCB source categories, PCB fate and transport modeling, etc. All stakeholders who would like to participate in this interactive meeting are invited to attend. The allotted time for the meeting is three hours. There will not be a formal comment period following the meeting; however, a significant portion of the time has been reserved for discussion. This TAC meeting will focus on the impairments between the James River fall line in Richmond to the Charles City County/Surry County boundaries along the James River that include the jurisdictions of Hopewell, Petersburg, Colonial Heights, Chesterfield, Henrico, Dinwiddie, and Prince George.

**Description of study:** PCBs were first detected in fish-tissue samples collected at monitoring stations along the James River and its tributaries (resulted in fish advisories) in the early 2000s. PCBs were historically used as coolants/lubricants, particularly in transformers and other electrical equipment because of their high burn temperature. The U.S. prohibited production of PCBs in 1977 because evidence showed that PCBs cause harm to human health (ATSDR, 2001). The waterways impaired for fish consumption due to the concentration of PCBs are: James River main-stem (tidal), Appomattox River (to Lake Chesdin Dam), Poythress Run, Bailey Creek (to Route 630), Chickahominy River (to Walkers Dam), Skiffes Creek (to Skiffes Creek Dam), Pagan River (and tributary Jones Creek), Chuckatuck Creek, Nansemond River (and tributaries Bennett Creek and Star Creek), Hampton River, Willoughby Bay and



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the Elizabeth River system (Western, Eastern, and Southern Branches and Lafayette River) and tributaries St. Julian Creek, Deep Creek, and Broad Creek. The impairment is considered to extend from the fall line of the James River in Richmond to the Hampton Roads Bridge-Tunnel. The study will report on sources of PCB contamination and recommend total maximum daily loads (TMDLs) for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. For more information including presentations, public comments, and DEQ responses from the 1st public meetings announcing the initiation of the study held on February 1, 2011, see <http://www.deq.virginia.gov/tmdl/pcb.html>.

Agency Contact: Margaret Smigo, Piedmont Regional TMDL Coordinator, Department of Environmental Quality, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, or email [margaret.smigo@deq.virginia.gov](mailto:margaret.smigo@deq.virginia.gov).

### STATE BOARD OF HEALTH

#### Notice of Periodic Review

Pursuant to Executive Order 14 (2010), the Virginia Department of Health, on behalf of the Board of Health, will review 12VAC5-191, State Plan for the Children with Special Health Care Needs Program, to determine whether the regulation should be terminated, amended, or retained in its current form. The regulation will be reviewed to determine whether (i) the regulation protects public health, safety and welfare with the least possible intrusion in the lives of citizens, (ii) alternatives in lieu of regulation may achieve the goals of the regulation, (iii) the regulation is based on the best reasonably available scientific, economic and other information, (iv) the regulation is designed to achieve its intended objective in the most efficient, cost-effective manner, (v) the regulation is clearly written and easily understandable by the individuals and entities affected, and (vi) the regulation has been developed in accordance with laws relating to the impact of regulations on small businesses. Comments on the regulations are welcome and will be accepted until the close of the comment period on May 30, 2011. Comments should be sent to Nancy Ford, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7691, or email [nancy.ford@vdh.virginia.gov](mailto:nancy.ford@vdh.virginia.gov). Please include your full name and mailing address in any email.

### BOARD OF JUVENILE JUSTICE

#### Notice of Periodic Review

The Department of Juvenile Justice is reviewing 6VAC35-170, Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice

(6VAC35-170). In compliance with the provisions of Chapter 5 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia, the regulation establishes minimum standards for research on human subjects under the care of the Department of Juvenile Justice. It requires that the department establish a human research review committee; provides criteria for that committee to use in evaluating proposals involving human research; provides for informed consent by human subjects or their authorized representatives; establishes minimum requirements for researchers; and requires annual reports to the Governor, the General Assembly, and the Board of Juvenile Justice on human research projects. The regulation also establishes a process for reviewing and approving research on records and data of the department when human research is not involved. Comment period begins on May 9, 2011, and ends on July 8, 2011. Comments should be sent to Janet P. Van Cuyk, Department of Juvenile Justice, Legislative and Regulatory Coordinator, 700 East Franklin Street, Richmond, VA 23219, telephone (804) 371-4097, or email [janet.vancuyk@djj.virginia.gov](mailto:janet.vancuyk@djj.virginia.gov).

### STATE LOTTERY DEPARTMENT

#### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on April 6, 2011, and April 7, 2011. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

#### Director's Order Number Twenty-Five (11)

"Miller Mart Promotion" Virginia Lottery Retailer Incentive Program Rules (effective April 6, 2011)

#### Director's Order Number Twenty-Six (11)

Virginia's Instant Game Lottery 1263; "Nascar®" Final Rules for Game Operation (effective April 5, 2011)

#### Director's Order Number Twenty-Eight (11)

Virginia's Instant Game Lottery 1249; "Winner's Circle Doubler" Final Rules for Game Operation (effective April 6, 2011)

### COMMONWEALTH TRANSPORTATION BOARD

#### Solicitation of Public Comment Concerning Revisions to Land Development Regulations Implemented by VDOT

Public Comment Period: April 6, 2011, to May 31, 2011

The Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB) were directed by Senate Bill 1462, approved during the 2011 Session of the

Virginia General Assembly, to review three existing land development regulations that are implemented by the agency and adopt revisions as appropriate.

These regulations are (i) Chapter 527 of the 2006 Acts of Assembly and Chapter 563 of the 2007 Acts of Assembly concerning traffic impact analysis, promulgated by VDOT as the Traffic Impact Analysis (TIA) Regulations (24VAC30-155); (ii) Chapter 382 of the 2007 Acts of Assembly concerning secondary street acceptance requirements, promulgated by CTB as the Secondary Street Acceptance Requirements (SSARs) (24VAC30-92); and (iii) Chapters 863 and 928 of the 2007 Acts of Assembly as amended by Chapter 274 of the 2008 Acts of Assembly, concerning access management standards, promulgated by VDOT's Commonwealth Transportation Commissioner as Access Management Regulations: Principal Arterials (24VAC30-72) and Access Management Regulations: Minor Arterials, Collectors, & Local Streets (24VAC30-73), to be amended only in so far as the access management regulations impact entrances to family subdivisions of land.

The language of Senate Bill 1462 exempts these revisions from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.). VDOT and CTB will also request additional public comments through the agency's website and via electronic and mailed letters to individuals who have previously submitted comments to VDOT related to these regulations. CTB and VDOT plan to hold a public hearing on these regulations during the summer.

Agency Contact: Robert Hofrichter, Assistant Division Administration for Land Development, Transportation and Mobility Planning Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-0780, FAX (804) 225-4785, or email robert.hofrichter@vdot.virginia.gov.

## STATE WATER CONTROL BOARD

### Proposed Enforcement Action for Town of Blackstone

An Order by Consent has been proposed for the Town of Blackstone for violations at the Town of Blackstone Wastewater Treatment Plant and Sanitary Sewer Collection System. The order contains a schedule of compliance that details the corrective action required and a timeline for completion. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). G. Marvin Booth, III will accept comments by email at [marvin.booth@deq.virginia.gov](mailto:marvin.booth@deq.virginia.gov), FAX (434) 582-5125, or postal mail at Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, from April 25, 2011, to May 26, 2011.

### Proposed Enforcement Action for Town of Chase City

An Order by Consent has been proposed for the Town of Chase City for violations at the Town of Chase City Wastewater Treatment Plant. The order contains a schedule of compliance that details the corrective action required and a timeline for completion. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). G. Marvin Booth, III will accept comments by email at [marvin.booth@deq.virginia.gov](mailto:marvin.booth@deq.virginia.gov), FAX (434) 582-5125, or postal mail at Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, from April 25, 2011, to May 26, 2011.

### Proposed Enforcement Action for King George County Service Authority

An enforcement action has been proposed for the King George County Service Authority for violations in King George County. The action seeks to resolve violations of permit parameters at the Purkins Corner Wastewater Treatment Plant and the Oakland Park 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](http://www.deq.virginia.gov). Sarah Baker will accept comments by email at [sarah.baker@deq.virginia.gov](mailto:sarah.baker@deq.virginia.gov), FAX (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from April 26, 2011, through May 25, 2011.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

**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/cumultab.htm>.

**Filing Material for Publication in the Virginia Register of Regulations:** Agencies are required to use the Regulation

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Information System (RIS) when filing regulations for publication in the *Virginia Register of Regulations*. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

### ERRATA

#### STATE BOARD OF ELECTIONS

Title of Regulation: **1VAC20-20. General Administration.**

Publication: 27:9 VA.R. 763 January 3, 2011.

Correction to Proposed Regulation:

Page 763, Title of Regulation, line 2, strike "RECORDS" and insert "GENERAL"

VA.R. Doc. No. R11-2576; Filed April 13, 2011, 11:08 a.m.

#### STATE BOARD OF HEALTH

Title of Regulation: **12VAC5-613. Emergency Regulations for Alternative Onsite Sewage Systems.**

Publication: 27:16 VA.R. 1988 - 1989 April 11, 2011.

Correction to Notice of Extension of Emergency Regulation:

Page 1988, Title of Regulation, line 3, strike "12VAC5-613-200" and insert "12VAC5-613-180"

VA.R. Doc. No. R10-2164; Filed April 12, 2011, 11:52 a.m.