

Teleconference/Virtual

AGENDA

Board of Wildlife Resources
Wildlife and Boat Committee
7870 Villa Park Drive
Henrico, Virginia 23228

March 16, 2021
2:00 pm

Committee Members: Ms. Catherine Claiborne, Chair, Mr. Leon Boyd, Mr. Frank Adams, Ms. Karen Terwilliger, Alternate and Mr. Tom Sadler, Alternate

DWR Staff Liaisons: Dr. Gray Anderson and Dr. Mike Bednarski

1. Call to Order and Welcome
Ms. Catherine Claiborne

This meeting is proceeding under Item 4-0.01, subsection G of the Appropriation Act and section 2.2-3708.2 of the Code of Virginia. It is being held by electronic communication, as the COVID-19 virus has made a physical meeting of the Committee impracticable. This emergency imposed by COVID-19 is observed by Executive Orders 51, 53, and 55 issued by the Governor of Virginia. The Committee's actions today shall be solely limited to those matters included on the agenda; there is no public comment on non-agenda items. All of these proposed actions are statutorily required or necessary to continue operations and discharge lawful purposes, duties, and responsibilities of the Board.

2. Approval of January 20, 2021 Committee Meeting Minutes **Final Action**
Ms. Catherine Claiborne
3. Public Comment – Non Agenda Item
Ms. Catherine Claiborne
4. Proposed Regulation to Permit the Incidental Take of Migratory Birds **Final Action**
Ms. Becky Gwynn

5. Proposed 2021-2022 Migratory Bird Harvest Regulations
Dr. Gary Costanzo **Final Action**

6. 2021-2022 Wildlife Regulation Recommendations
Dr. Gray Anderson **Action**

7. Wildlife Division Update
Dr. Gray Anderson

8. Fish Division Update
Dr. Mike Bednarski

9. Director's Report
Mr. Ryan Brown

10. Chairman's Report
Ms. Catherine Claiborne

11. Next Meeting Date: TBD
Ms. Catherine Claiborne

11. Additional Business/Comments
Ms. Catherine Claiborne

12. Adjournment
Ms. Catherine Claiborne

Draft Meeting Minutes
Wildlife and Boat Committee
Board of Wildlife Resources
7870 Villa Park Drive – Board Room
Henrico, VA 23228

January 20, 2021
10:00 am

Present: Ms. Catherine Claiborne, **Chair**; Mr. Leon Boyd, Mr. Frank Adams, Ms. Karen Terwilliger, Alternate, Mr. Tom Sadler, Alternate. **Board Members** in attendance: Mr. G. K. Washington; **Executive Director:** Mr. Ryan J. Brown; **Director's Working Group:** Mr. Gary Martel, Mr. Lee Walker, Mr. Darin Moore, Dr. Mike Bednarski, Dr. Gray Anderson, Mr. Tom Guess, Ms. Paige Pearson, Colonel John Cobb.

The Chair called the Virtual meeting to order at 10:00 am and noted for the record that a Quorum was present for today's meeting.

The Chair read the meeting procedure, This meeting is proceeding under Item 4-0.01, subsection G of the Appropriation Act and section 2.2-3708.2 of the Code of Virginia. It is being held by electronic communication, as the COVID-19 virus has made a physical meeting of the Committee impracticable. This emergency imposed by COVID-19 is observed by Executive Orders 51, 53, and 55 issued by the Governor of Virginia. The Committee's actions today shall be solely limited to those matters included on the agenda; all of these proposed actions are statutorily required or necessary to continue operations and discharge lawful purposes, duties and responsibilities of this Committee.

The Chair called on the Board secretary for a Roll Call vote of Board members present: Ms. Catherine Claiborne, Mr. Leon Boyd, Mr. Frank Adams, Ms. Karen Terwilliger, Mr. Tom Sadler, and Mr. G. K. Washington.

Approval of the October 7, 2020 Committee Meeting Minutes:

The Chair called for a motion to approve the October 7, 2020 Wildlife and Boat Committee meeting minutes. Mr. Boyd made a motion to approve the minutes of the October 7, 2020 Committee meeting. Mr. Adams seconded the motion.

The Board secretary called a Roll Call Vote: Ayes: Claiborne, Adams, Boyd

Public Comment - Non Agenda Item: The Chair called for Public Comment – Non-Agenda Items.

- Mr. Tim Slusser spoke regarding the Boat Access Permit
- Mr. Judge Charlton spoke regarding Deer Hound Hunting

The Chair thanked Mr. Slusser and Mr. Charlton for their comments.

2021 – 2022 Wildlife Regulations Public Scoping Process:

The Chair called on Mr. Gray Anderson for an Update.

Dr. Anderson presented the 2021-22 Wildlife Regulations Public Scoping Process and reported on the amount of public comments received.

After comments and questions, the Chair thanked Dr. Anderson for his update.

2021-2022 Proposed Migratory Bird Harvest Regulations: The Chair called on Dr. Gary Costanzo for a presentation.

Dr. Costanzo presented the 2021-2022 Proposed Migratory Bird Harvest Regulations.

After comments and questions, the Chair thanked Dr. Costanzo for his presentation.

The Chair called for a motion, Mr. Boyd made a motion, Madame Chair, I move that the board approve the 2021-2022 Migratory Game Bird Season and Bag limit recommendations as presented by staff. These recommendations will be advertised for public comments and will be reconsidered at the Board meeting on March 18, 2021. It was seconded by Mr. Adams.

The Board Secretary took a Roll Call Vote. Aye: Catherine Claiborne, Frank Adams, Leon Boyd

Hatchery System Update: The Chair called on Mr. Brendan Delbos for a presentation.

Mr. Delbos gave a presentation on VDWR Fish Hatchery System: Current trends, Future direction.

After comments and questions, the Chair thanked Mr. Delbos for his presentation.

Wildlife Division Update: The Chair called on Dr. Gray Anderson for an update.

Dr. Anderson reported:

- Gave the Harvest numbers for past hunting season – 2,400 Bears, 185,000 Deer, Turkey, 1,800 and Elk 3

Fish Division Update: The Chair called on Dr. Mike Bednarski for an update.

Dr. Bednarski reported:

- Trout stocking is underway, including in urban areas. Stocking will continue through March
- Jeff Williams is the new Region 3 Aquatics Manager, replacing the now retired Bill Kittrell
- In cooperation with the USFWS, AEP, the Canaan Valley Institute and the New River Land Trust, 1.3 miles of the North Fork Roanoke River were protected. This is important habitat for Roanoke Logperch, a Tier Ha species in the Wildlife Action Plan
- The AWRD continues to collaborate with Outreach on items such as the fishing report and an upcoming content workshop. We appreciate their assistance getting the word out, as an example, the December piece on Saugeye, unique fishing opportunity available in Virginia.

Director's Report: The Chair called on Executive Director Ryan Brown for a report.

- HRBT Initiative will be presented at the Board Meeting
- Reported that DWR received a State Wildlife Grant for Wood Turtle (\$216,292) and Saltmarsh Sparrow (\$250,000)
- Advised that Mr. Tom Guess will update the Board with Legislative update on Thursday
- Gave an update on the Boat Access Permit

Chair's Report: The Chair thanked everyone for attending the Wildlife and Boat Committee meeting and thanked staff for their presentations. The Chair asked if anyone had any further comments or questions, hearing none, she announced that next meeting will be determined and adjourned the meeting at 11:45 pm

Respectfully submitted,

/s/ Frances Boswell

DEPARTMENT OF WILDLIFE RESOURCES

BOARD MEETING AGENDA ITEM

BOARD MEETING DATE: March 18, 2021

DIVISION: Wildlife

PRESENTER: Ryan J. Brown

DATE SUBMITTED: March 8, 2021

SUBMITTED BY: Rebecca Gwynn

SUBJECT:

Board consideration and final action on proposed regulations to establish a regulatory framework for the administration, implementation and enforcement of permitting program addressing the incidental take of migratory birds in Virginia.

BACKGROUND:

On December 22, 2017, the Department of Interior Solicitor issued a reinterpretation of the Migratory Bird Treaty Act (MBTA), M-37050 Opinion (“M-Opinion”), declaring that incidental take is not prohibited under the MBTA. Prior to the M-Opinion, prohibited take of migratory birds included the accidental or incidental take of birds by way of a legally conducted human activity (e.g., avian mortality caused by birds striking a power line or a communication tower). On January 7, 2021, the U.S. Fish and Wildlife Service published a Final Rule that codifies the M-Opinion and remove previous federal protections against incidental take.

On February 14, 2020, Governor Ralph Northam directed the Department of Wildlife Resources (DWR) to develop a regulation to define and permit incidental take of migratory birds for major commercial, industrial, and construction projects in the Commonwealth. This rule would make Virginia the first states to “backstop” recent federal attempts to rollback longstanding migratory bird protection afforded under the MBTA. The intent of this program is to provide protections to migratory bird species while authorizing take that may occur incidental to regulated activities through the issuance of permits that stipulate best management practices intended to avoid, minimize or compensate for incidental take.

A public comment period was held in January and February 2021; a summary follows. Staff will present the results of that effort and updates to the proposed regulation. Legal counsel provided significant technical feedback to the proposal, resulting in new amended language. That proposed amended language, a comparison of original to proposed current language, and the DWR’s proposed Dispute Resolution and Administrative Appeals Procedure is included.

RECOMMENDATION:

Given the significant technical edits made to the proposed regulation, legal counsel and staff recommend that the *Board vote on whether or not to consider the updated proposed*

amendment to the advertised regulation. Once that decision has been made, staff can proceed with a high-level discussion of comments and modifications, after which the **Board would vote on whether or not to adopt the amended regulation**, with an effective date of July 1, 2021. No action is needed on the Dispute Resolution and Administrative Appeals Procedure.

DEPARTMENT OF WILDLIFE RESOURCES

BOARD PROPOSAL PERMITTING THE INCIDENTAL TAKE OF MIGRATORY BIRDS

Summary of Public Comments

Outreach Efforts: The Department of Wildlife Resources used a number of tools to make the public aware of the proposal and the opportunity to provide comment. Specifically, the DWR:

- Managed a public comment portal on the DWR web site, available January 8 through February 22 (45 days)
- Updated the DWR HRBT/seabird web page to direct viewers of those pages to this commenting opportunity
- Communicated directly with the stakeholder working group so that those entities had information to share with members
- Issued a press release (Jan 8)
- Published legal notices in 7 statewide newspapers (February 18)
- emailed current list of 800 DWR subscribers interested in notifications about public comment opportunities (Jan 8)
- Included narrative in "wildlife information" version of *Notes from the Field* e-newsletter, Jan 21 edition (50,000+ subscribers)
- Pushed posts on DWR Facebook and Instagram sites (Jan 11)

Results:

- 57 comments received through the public comment portal
- 645 emails received at the RegComments/DWR staff email addresses
- Facebook post seen by 12,326 people
- Instagram post seen by 4,414 people
- Stakeholder comments from:
 - Virginia Agribusiness Council
 - Virginia Oil and Gas Association
 - Virginia Department of Forestry
 - U.S. Department of the Air Force
 - Home Builders Association of Virginia
 - Energy and Wildlife Action Coalition
 - Virginia Association of Commercial Real Estate
 - Virginia Chapter of The Wildlife Society
 - National Rural Electric Cooperative Association

- The Nature Conservancy
- Dominion Energy
- American Electric Power
- National Audubon Society and six (6) Virginia chapters
- Virginia Department of Transportation
- Virginia Forestry Association
- American Bird Conservancy
- Southern Environmental Law Center
- Virginia Farm Bureau Federation
- Virginia Manufacturers Association/Virginia's Electric Cooperatives
- Mission H2O
- West Virginia Department of Natural Resources

Recurring Themes in Public Comments – January/February 2021

The following themes occurred in a number of the detailed comments provided by conservation and industry representatives. Because of the unique nature of this proposed regulation, the DWR has provided responses to these comments.

- ***On-going federal actions:*** Commenters noted that there has been recent action at the federal level regarding the Final Rule published on January 7 and possible efforts of the new federal Administration to take a different approach to incidental take under the Migratory Bird Treaty Act. Commenters recommended that current state actions be paused until federal actions had come to conclusion. ***DWR Response:*** At this time, there is no certainty regarding a timeline for action at the federal level. Additionally, a return to prior interpretation still provides no certainty – for either the conservation community or the potentially regulated community – as to when, how and under what circumstances the U.S. Fish and Wildlife Service may elect to permit incidental take. As such, the DWR will continue to move forward at the state level. If, at some point in the future, federal actions result in a permitting system for incidental take, the DWR will certainly re-evaluate the need for the state program and make appropriate recommendations to its Board.
- ***Timelines for and prioritization of sector-specific plan development:*** Commenters requested explicit timelines in which sector-specific plans would be developed, to foster greater regulatory certainty, and a prioritization of sector-specific plans. ***DWR Response:*** Should the Board elect to adopt this framework, the DWR will develop a timeline for and prioritization of sector-specific plans. The timeline will be reflective of the agency’s capacity to develop and implement the sector-specific plans, and the prioritizations will be reflective of the degree to which relevant best practices have already been described and defined and the complexity of the specific sectors. There is no prioritization or degree of impact implied in the ordering of sectors in the proposed regulation.
- ***Exemptions:*** Commenters requested additional exemptions be specifically articulated in the regulation, even after recognizing that, by lack of inclusion, any other sector is excluded. Commenters requested reconsideration of the agricultural/silvicultural exemption. ***DWR Response:*** Following discussions with representatives of the Home Builders Association of Virginia, the DWR has specifically added “residential development activities” as a sector/activity exempt from the requirements of the regulation, even though its exclusion from the regulation was by default an exemption. A common provision of environmental laws and regulations in Virginia is the exemption of forestry and agriculture, and the DWR has kept that exemption in the proposed regulation. The DWR will work with the Departments of Forestry and Agriculture & Consumer Services to identify opportunities to

improve the best practices promoted by those agencies. The DWR can re-consider this exemption at any point in the future, should circumstances warrant.

- **Compensatory mitigation:** Commenters requested more clarity about how compensatory mitigation would be addressed and structured. Commenters also requested compensatory mitigation for all permits, not just individual incidental take permits. **DWR Response:** More explicit information about how compensatory mitigation will be addressed and structured will be developed as part of a separate regulatory process. Additionally, from the DWR's perspective, the construct of the general permits will be such that activities will avoid and minimize the incidental take of migratory birds. If a project has unavoidable incidental take, the applicant will have to apply for an individual incidental take permit and will be required to compensate for the take.
- **Regulated activities:** Commenters requested that additional sectors be included in the list of regulated activities to be covered under the proposed regulation. **DWR Response:** The proposed list of regulated activities includes those most likely to result in the incidental take of migratory birds, based on best scientific information available. The list of regulated sectors can be updated at any point in the future when compelling information is available about the incidental take of migratory birds by activities in a sector not currently included.
- **Applicability to operations:** Commenters requested greater commitment to sector-specific plans including long-term operations. **DWR Response:** The proposed regulation provides the opportunity for the Board of Wildlife Resources to consider adoption of sector-specific plans that address long-term operational incidental take of migratory birds, should it elect to do so.
- **No net loss:** Commenters requested clarity about no net loss goals and a stronger commitment to this goal. **DWR Response:** The proposed regulation as written identifies the goal of no net loss with regard to bird habitat. This outcome is achieved under avoidance and minimization in general permits, and through avoidance, minimization and compensation for unavoidable take through individual incidental take permits. Specific goals will be quantified in the development of sector-specific plans.
- **Legal authority:** Commenters questioned the legal authorities of the DWR and Board of Wildlife Resources to pursue the adoption of this regulation. **DWR Response:** The authorities of the DWR and the Board of Wildlife Resources to take the actions outlined in this proposed regulation have been affirmed by the Agency's legal counsel at the Office of the Attorney General.
- **DWR capacity:** Commenter expressed concern about the DWR's capacity to administer such a permitting program in an efficient manner. **DWR Response:** The DWR has been transparent about its concerns regarding its ability to administer an incidental take permitting

program efficiently and effectively. The Agency has sought to balance the desired conservation goals with the needs of affected sectors in the overarching framework and will continue to be mindful of those needs as it proceeds with the development of sector-specific plans.

**4VAC15-35. Definitions and Miscellaneous: Incidental Take of Bird Species.
(Amended Proposal; New Chapter)**

Summary: The proposal is to establish a regulatory framework for the administration, implementation and enforcement of permitting program addressing the incidental take of migratory birds in Virginia. The framework provides protections to migratory bird species while authorizing take that may occur incidental to regulated activities, such as the construction of commercial or transportation projects, where the intent of the activity is not to take migratory birds. These protections are achieved through the issuance of permits that identify best management practices intended to avoid then minimize incidental take, and identify expectations for compensation of unavoidable take.

Proposed Amended Language of New Regulation:

1 **4VAC15-35. Incidental Take of Bird Species.**

2
3 4VAC15-35-10. Purposes.

4 The purposes of this chapter are to:

5 A. Regulate the incidental take of regulated bird species and habitats, in the context of the
6 board’s oversight authorities described in §29.1-501.A of the Code of Virginia and the
7 department’s conservation and management authorities described in §29.1-521.A(2) and
8 §29.1-521.A(10) of the Code of Virginia by establishing a regulatory framework for the
9 administration, implementation, and enforcement of an incidental take permitting program;

10 B. Provide ample protections to regulated bird species and habitats while authorizing take that
11 may occur incidental to regulated activities through the issuance of a general permit or an
12 individual incidental take permit that stipulates best management practices with the intended
13 purpose of avoiding, minimizing or compensating incidental take; and

14 C. Delineate the procedures and requirements to be followed in connection with permits issued
15 by the department, while providing flexibility for innovative solutions that avoid, minimize,
16 or compensate incidental take of regulated bird species and habitats, when such authorization
17 meets the criteria of this chapter.

18
19 4VAC15-35-20. Definitions.

20 A. “Active nest” means any nest structure of a regulated bird species that contains one or more
21 viable eggs incubated by attendant adults or live dependent young.

22 B. “Applicant” means a person who is seeking or has obtained an individual incidental take
23 permit or general permit through the department in accordance with procedures established in
24 this section.

- 25 C. “Best management practices” refers to structural or non-structural measures designed to
26 avoid or minimize the incidental take of regulated bird species and/or habitats that may result
27 from regulated activities during the construction and operational phases of the project.
- 28 D. “Biologically significant avian habitat” means an area within public or private conservation
29 lands and waters, including, but not limited to, national wildlife refuges; national parks or
30 seashores; national forests; national recreation areas; state wildlife management areas; state
31 parks; state natural areas preserves; state recreation areas; lands owned or under easement by
32 conservation organizations; lands and waters that have been designated as biologically
33 important, such as Coastal Avian Protection Zones, Important Bird Areas, and Marine
34 Sanctuaries; and other lands and waters that encompass unique features deemed biologically
35 important to regulated bird species by the department.
- 36 E. “Board” means the Board of Wildlife Resources.
- 37 F. “Compensation” means achieving no net loss of regulated habitats through restoration,
38 creation, enhancement, or, in certain circumstances, out-of-kind measures for the purposes of
39 offsetting incidental take of regulated bird species and/or habitats that remain after all
40 appropriate and practicable avoidance and minimization has been considered or achieved.
41 Where permissible, appropriate compensation will be set forth in individual take permits or
42 other board regulation or guidance. There will be no compensation required under general
43 permits.
- 44 G. “Construction impacts” refers to the incidental take of regulated bird species and/or habitats
45 likely to occur during the construction phase of a regulated activity.
- 46 H. “Department” means the Department of Wildlife Resources.
- 47 I. “General avian habitat” means lands and waters that are not classified as “biologically
48 significant avian habitat” but nonetheless require evaluation using methods developed by the
49 department to determine their biological value to regulated bird species.
- 50 J. “Incidental take” means any take of a regulated bird species that is incidental to, but not the
51 purpose of, a regulated activity.
- 52 K. “Person” means any individual, non-federal government entity, firm, corporation,
53 association, partnership, club, or private body.
- 54 L. “Regulated activity” or “activity” means a new construction or development activity or the
55 expansion of an activity beyond the original or existing footprint of the activity for which the
56 board has adopted a sector-specific plan.
- 57 M. “Regulated bird species” means any migratory bird species, or any active nest, or egg
58 thereof, regulated by the federal Migratory Bird Treaty Act (16 U.S.C. §703 et seq.) or its
59 attendant regulations, excluding any bird species listed as endangered or threatened pursuant
60 to 4VAC15-20-130.
- 61 N. “Regulated habitat” means biologically significant avian habitat or general avian habitat that
62 is in an area subject to a sector-specific plan, an avian conservation and mitigation plan,
63 and/or an individual incidental take permit.

64 O. “Sector-specific plan” means a framework adopted by regulation of the board that defines
65 what activities will require a permit from the Department for incidental take of regulated bird
66 species and outlines the criteria for obtaining such a permit, such as specific best
67 management practices; schedules; criteria for avoiding or minimizing incidental take;
68 circumstances in which project bundling may be applicable.

69 P. “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, capture, trap, collect,
70 possess, destroy, disturb, or to attempt to engage in any such conduct, or any activity that
71 significantly or permanently impedes breeding, foraging, resting, or other normal avian
72 behaviors conducted during the annual life cycle, obstructs the use of or destroys or degrades
73 regulated habitats, or reduces reproductive success or survival rates of regulated bird species.
74

75 4VAC15-35-30. Requirement for a permit.

76 Except as provided in this chapter, it shall be unlawful for any person to conduct a regulated
77 activity that results or will result in incidental take of a regulated bird species and/or regulated
78 habitat without obtaining and complying with a permit from the department. However, no permit
79 shall be necessary for incidental take of regulated bird species and/or habitats unless the board
80 has adopted a sector-specific plan requiring such permit. The board may adopt sector-specific
81 plans for any of the following categories:

82 A. Commercial projects, including, but not limited to, new construction or expansion of

- 83 1. Retail stores/malls;
- 84 2. Restaurants;
- 85 3. Lodging facilities;
- 86 4. Office buildings outside of an existing commercial park;
- 87 5. Commercial parks;
- 88 6. Medical facilities, including nursing homes, rehabilitation and convalescence centers;
- 89 7. Sports facilities; and/or
- 90 8. Other large-scale non-industrial structures and facilities planned for commerce, health
91 care, hospitality services, government use, or other business use;

92 B. Industrial projects, including, but not limited to, new construction or expansion of

- 93 1. Industrial manufacturing buildings outside of an existing industrial park;
- 94 2. Industrial parks;
- 95 3. Sewage treatment plants;
- 96 4. Government facilities, such as warehouses and laboratories;
- 97 5. Power generation plants, and/or
- 98 6. Other large-scale non-commercial public, private, or governmental structures or
99 facilities that directly engage in or are connected to the handling, storage,
100 manufacturing, maintenance, treatment, or disposal of materials, products, goods,
101 commodities, or hazardous waste;

102 C. Oil, gas, and wastewater disposal pits;

103 D. Methane or other gas burner pipes;

- 104 E. Communications towers;
- 105 F. Electric transmission and distribution lines;
- 106 G. Wind and solar energy projects; and
- 107 H. Transportation projects.

108

109 4VAC15-35-40. Activities occurring before adoption of sector-specific plan.

110 No permit shall be necessary for any regulated activity that is actively under construction, has

111 received all necessary permits and approvals but construction has not commenced, or that has

112 provided evidence of other contractual obligations that may be described in the appropriate

113 sector-specific plan, on or before the effective date of a sector-specific plan that would otherwise

114 apply to that regulated activity. Upon request, the department may review the circumstances of a

115 project and provide a letter stating that no permit is necessary to any person conducting such an

116 activity.

117

118 4VAC15-35-50. Applicability of other laws or regulations.

119 Nothing in this section shall be interpreted to excuse compliance with the prohibitions,

120 provisions or requirements of any other federal, state, or local laws, regulations, or ordinances,

121 including, but not limited to, the Virginia Endangered Species Act, the federal Migratory Bird

122 Treaty Act, the federal Bald and Golden Eagle Protection Act, and the federal Endangered

123 Species Act.

124

125 4VAC15-35-60. Exemptions.

126 The following activities are exempt from the permitting requirements found herein. Any

127 incidental take associated with these activities will not be considered a violation of this section.

128 A. Activities that are not defined as “regulated activities.”

129 B. Agricultural and silvicultural activities.

130 C. Residential construction activities.

131 D. Regulated activities performed under emergency situations, including, but not limited to,

132 activities necessary to restore essential services, protect human health, address a public safety

133 issue, and/or prevent imminent damage to property.

134

135 4VAC15-35-70. Permits.

136 The following permits authorize incidental take resulting from regulated activities:

137 A. General permit.

138 1. The board may, by regulation, adopt a sector-specific plan that provides the

139 framework for general permits issued for a particular category or categories of

140 regulated activities.

141 2. An applicant whose activity(s) qualifies for a general permit must submit an

142 application to the department and comply with all requirements stated in the sector-

143 specific plan.

- 144 3. The general permit authorizes a regulated activity only if the activity and applicant
145 satisfy all of the terms and conditions of the general permit and associated sector-
146 specific plan
- 147 4. In addition to the conditions set forth in this chapter pertaining to permit renewal,
148 amendment, transfer, suspension, revocation, and other procedures for permit
149 issuance, an applicant for general permit coverage must adhere to the following
150 procedures:
- 151 a. If a sector-specific plan expressly requires department review and
152 authorization of general permit coverage, the applicant shall submit a permit
153 application and any required documents, together with the applicable fee, to
154 the department prior to commencing the proposed activity, and adhere to the
155 following procedures unless the sector-specific plan otherwise specifies.
- 156 b. The department will review the permit application and required documents to
157 ensure that the activity complies with the terms and conditions of the general
158 permit.
- 159 c. If the department determines that the proposed activity is not covered by the
160 general permit, the department will notify and instruct the applicant on
161 necessary procedures for obtaining an individual incidental take permit or
162 provide the applicant with the opportunity to revise the proposed activity to
163 ensure its compatibility with the general permit.
- 164 5. Mitigation. Incidental take by a regulated activity of regulated bird species and/or
165 habitats shall be first avoided and then minimized through the use of best
166 management practices described in the appropriate sector-specific plan or otherwise
167 authorized by the department.
- 168 6. Monitoring. Persons authorized by the general permit may be required to monitor and
169 report impacts to and the incidental take of regulated bird species that result from the
170 regulated activity as set forth in the sector-specific plan.
- 171 7. Term. No general permit coverage issued under this chapter shall be valid for a period
172 of more than eight years after the date of its issuance, or such shorter term otherwise
173 specified in the applicable sector-specific plan or requested by the applicant. An
174 applicant may terminate a permit prior to the expiration of the defined term upon
175 providing written evidence to the department of the conclusion of construction and
176 fulfillment of any applicable monitoring or site closure requirements defined in the
177 appropriate general permit.
- 178 8. If the department, upon receiving an application for a general permit, determines that
179 the activity does not qualify for a general permit, but still requires a permit from the
180 department, the department will notify the applicant in writing of the reasons that the
181 activity does not qualify for a general permit. The applicant may revise the activity
182 and resubmit the application for a general permit or submit an application for an
183 individual incidental take permit.

184 B. Individual incidental take permit.

185 1. Applicants shall obtain individual incidental take permits, under such terms and
186 conditions necessary to avoid, minimize and/or compensate for the incidental take of
187 regulated bird species and/or habitats when

188 a. regulated activities will occur within or adjacent to biologically significant
189 avian habitat, or

190 b. required by the terms of the applicable sector-specific plan.

191 2. In addition to the conditions set forth in this section governing permit renewal,
192 amendment, transfer, suspension, revocation, and other procedures for permit
193 issuance, an applicant for an individual incidental take permit must adhere to the
194 following procedures:

195 a. The applicant shall prepare and submit an avian conservation and mitigation
196 plan in accordance with the provisions below for department approval, and
197 must submit the applicable fee and any additional information and documents
198 that the department determines are necessary for permit issuance. The
199 applicant must receive final permit approval prior to commencing the
200 proposed activity.

201 b. The department shall review the applicant's permit application and included
202 avian conservation and mitigation plan and shall notify the person applying
203 for the permit, in writing, of any necessary amendments or additions.

204 c. Impacts of a regulated activity on regulated bird species and/or habitats shall
205 be first avoided and then minimized through the use of best management
206 practices or other measures as described in the appropriate sector-specific
207 plan and the avian conservation and mitigation plan. Persons authorized by
208 the individual incidental take permit will be required to compensate for
209 unavoidable incidental take of regulated bird species and/or habitats.

210 d. Persons authorized by the individual take permit may be required to monitor
211 and report impacts to and the incidental take of regulated bird species that
212 result from the regulated activity as set forth in the sector-specific plan,
213 individual incidental take permit, or avian conservation and mitigation plan.

214 e. No individual incidental take permit issued under this subsection shall be for
215 a period of more than ten years after the date of its issuance, or such shorter
216 time period determined appropriate by the department or requested by the
217 applicant. An applicant may terminate a permit prior to the expiration of the
218 defined term upon providing written evidence to the department of the
219 conclusion of construction and fulfillment of any applicable monitoring
220 requirements defined in the individual incidental take permit.

221 3. An avian conservation and mitigation plan must provide sufficient information to
222 demonstrate that the conservation criteria established in the individual incidental take
223 permit will be fulfilled. The plan must clearly define the project's scope of work and

224 the project's possible impacts on regulated bird species and/or habitats. In addition,
225 the plan must include:

226 a. A site plan drawn to scale showing the location of the proposed activity;

227 b. A detailed description and schedule of the work to be performed;

228 c. A quantitative or narrative description of the likely incidental take of
229 regulated bird species and/or habitats;

230 d. The steps the applicant will take to avoid, minimize, and compensate for such
231 impacts, including:

232 i. Avoidance, minimization and compensation measures the applicant
233 shall employ using reliable department-approved methods that are be
234 based upon the best available science and utilizing the best practicable
235 and necessary technology to meet the requirements of the applicable
236 sector-specific plan. These measures shall be evaluated for
237 effectiveness in a consistent and rigorous manner by the applicant
238 throughout their implementation.

239 ii. Compensation measures that shall ensure that a naturally-sustaining
240 ecosystem or quality of habitat comparable to the pre-activity
241 conditions at the location of the regulated activity or within a
242 reasonable proximity is established upon the activity's completion and
243 achieves no net loss of regulated birds and/or habitats.

244 e. Any actions included in the applicable sector-specific plan considered by the
245 applicant and the reasons why such actions are not being utilized;

246 f. A contingency plan to rectify any failures of implemented measures, or
247 actions necessary to provide additional protection to regulated bird species,
248 including hazing programs or other temporary or emergency measures that
249 would be instituted;

250 g. A timeline of when each element of the plan will be completed; and

251 h. Such other measures that the department or applicable sector-specific plan
252 may require as being necessary or appropriate for purposes of the plan.

253 i. The avian conservation and mitigation plan may avoid duplication by
254 incorporating information included in any permit application required by any
255 other permitting agency. The plan shall identify by source, section and page
256 number when referencing such information.

257 4. While most general and individual incidental take permits will apply only to the
258 construction phase of a regulated activity, nothing in this chapter shall prevent the
259 board from including requirements for the operational phase of a particular regulated
260 activity in a sector-specific plan if the board determines that operations are likely to
261 incidentally take regulated bird species and/or habitats. If operational requirements
262 are included in a sector-specific plan, permits may be renewed throughout the life of
263 the regulated activity.

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4VAC15-35-80. Permit procedures.

A. Required general information. A permit application must contain the following information:

1. Applicant’s full name and address, telephone number, and, if available, fax number and email address; and
 - a.If the applicant resides or is located outside of the Commonwealth of Virginia, the name and address of an agent located in the Commonwealth of Virginia; and
 - b.If the applicant is an entity, a description of the type of entity, and the name and title of an individual who will be responsible for the permit;
2. Location of the regulated activity;
3. Certification in the following language: “I hereby certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief”;
4. Desired effective date of the permit except where issuance date is fixed by the sector-specific plan under which the permit is issued;
5. Desired duration of the permit, if less than the default term for the sector-specific plan under which the general or individual incidental take permit is requested;
6. Date of application;
7. Signature or electronic signature of the applicant; and
8. Such other information or documentation as may be required by the applicable sector-specific plan.

B. Administrative procedures.

1. The department shall determine the completeness of an application and shall notify the applicant of any determination within 45 calendar days of receipt. Where available to the applicant, electronic communication may be considered communication in writing.
 - a.If, within those 45 calendar days, the application is deemed to be incomplete, the applicant shall be notified in writing of the reasons the application is deemed incomplete. If the application is resubmitted, all deadlines in this section shall apply from the date of receipt of the resubmitted application.
 - b.If a determination of completeness is made and the associated sector-specific plan does not require additional department review, the application is deemed approved and the applicant will be notified in writing.
 - c.If a determination of completeness is not made and communicated to the applicant within 45 calendar days of receipt, the application shall be deemed complete on the 46th day after receipt.
 - d.If the application is complete and the associated sector-specific plan requires additional department review, the department will take no more than 120 days to review (180 days for bundled projects, subject to prior approval of

304 biennial standards and specifications as described in 4VAC15-35-90). If, at
305 the end of the designated review period, the department has not taken final
306 action on the application or notified the applicant in writing of the need for
307 an additional 60 days for review, the application shall be deemed approved.

308 2. During the review period, the application shall be approved or disapproved and the
309 decision communicated in writing to the applicant. If the application is not approved,
310 the reasons for not approving the application shall be provided in writing. Approval
311 or denial shall be based on the application's compliance with the requirements of this
312 chapter and of the applicable sector-specific plan.

313 a. If the application is not approved, the applicant shall have 45 calendar days
314 to revise the permit application to bring it into compliance with the
315 appropriate sector-specific plan or to appeal the decision to the director of the
316 department under the department's dispute resolution and administrative
317 appeals procedure. The applicant may request, in writing, an extension of the
318 timeframe in which to submit a revised application, not to exceed an
319 additional 60 calendar days. If the revised application is not submitted within
320 the defined timeframe, the department will administratively close the
321 application.

322 b. Upon submission of a revised application after denial, the department shall
323 have 120 days to review and make a determination. If the application is
324 denied again, the applicant will have 45 days after denial to appeal the
325 decision to the director of the department under the department's dispute
326 resolution and administrative appeal procedure. Any new revisions to the
327 permit must be submitted as a new application.

328 3. Upon approval of an application for an individual incidental take permit, the
329 department will provide the applicant with a permit, including terms and conditions.
330 The applicant shall have 30 calendar days to appeal terms and conditions to the
331 department director under the department's dispute resolution and administrative
332 appeals procedures.

333 C. Permit issuance.

334 1. The department shall not issue a permit if:

335 a. The applicant has one or more of the disqualifying factors included in (2)
336 below; or

337 b. The applicant has failed to disclose material information or has made false
338 statements as to any material fact in connection with the application; or

339 c. The department determines that the application fails to comply with the
340 applicable sector-specific plan or any other applicable wildlife law,
341 regulation, or ordinance.

- 342 2. Disqualifying factors. The department will provide written notice of any known
343 disqualifying factors to the applicant. Any one of the following will disqualify an
344 applicant from receiving or exercising a permit:
- 345 a. A conviction, or entry of a plea of guilty or nolo contendere by the applicant
346 or a representative of the applicant for a violation of the Lacey Act, the
347 Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, the
348 federal Endangered Species Act, the state Endangered Species Act, or this
349 chapter within the five-year period preceding the application, unless such
350 disqualification has been expressly waived by the department in response to a
351 request by the applicant.
- 352 b. The failure to pay any required fees.
- 353 c. The suspension of any other incidental take permit. The applicant is
354 disqualified from receiving any additional incidental take permits as long as
355 the suspension exists.
- 356 3. Fees. An application fee of \$50 and a permit fee of \$50 per year shall be due for each
357 permit. The application fee shall be due at the time of application submittal and no
358 application shall be processed until the fee is received. The full amount of the permit
359 fee shall be based on the default duration of the permit and is due at the time of
360 certification, if no approval is required, or at the time of the department's approval
361 and/or issuance of a permit. The fees will be deposited into the Nongame Cash Fund
362 and used for the conservation and management of regulated bird species, consistent
363 with § 58.1-344.3 of the Code of Virginia. No refund of any fees paid shall be made
364 if a permit application is denied or if a permit is terminated prior to the expiration
365 date.
- 366 4. Permit renewal. Applications for renewal shall meet and comply with all
367 requirements for permit application, and be submitted at least 90 calendar days prior
368 to the expiration of an existing permit.
- 369 5. Modifications to permits. Permits may be modified, with the department's approval,
370 in accordance with the following:
- 371 a. Applicant's request. Where circumstances have changed so that an applicant
372 desires to have any condition of the permit modified, the applicant must
373 submit a full written justification and supporting information to the
374 department in conformity with the terms and conditions under which the
375 permit was issued.
- 376 b. Department determination. The department may amend any permit during its
377 term where circumstances have changed such that amendments to the permit
378 are deemed necessary by the department. In such instances, the department
379 will notify the applicant in writing 60 calendar days in advance of the
380 effective date of any amendment. The applicant shall have 30 calendar days

381 to appeal the decision to the department director under the department's
382 dispute resolution and administrative appeals procedures.

383 6. Transfer of permits and scope of permit authorization.

384 a. Except as otherwise provided for in this subsection, permits issued under this
385 part are not transferable or assignable.

386 b. Permits may be transferred in whole or in part through a joint submission by
387 the applicant and the proposed transferee, or in the case of a deceased
388 applicant, the deceased applicant's legal representative and the proposed
389 transferee. The department will review the submission and approve the
390 transfer provided that:

391 i. The proposed transferee meets all of the qualifications under this part
392 for holding a permit;

393 ii. The proposed transferee has provided adequate written assurances that
394 it will implement the relevant terms and conditions of the permit; and

395 iii. The proposed transferee has provided other information that the
396 department determines is relevant to the processing of the submission.

397 c. Except as otherwise stated on the face of the permit, any person who is under
398 the direct control of the applicant, or who is employed by or under contract to
399 the applicant for purposes authorized by the permit, may carry out the
400 activity authorized by the permit. However, the applicant will remain
401 responsible for ensuring compliance with all aspects of the permit.

402 7. Discontinuance of permit activity. When an applicant discontinues activities
403 authorized by a permit, the applicant shall, within 30 calendar days of the
404 discontinuance, notify the department of permit termination.

405 8. Permit inspections. The department shall have the right to perform inspections of a
406 permitted activity to ensure compliance with permit conditions. Written (including
407 electronic) or verbal notice of such inspection shall be given on a business day, and
408 the inspection shall not occur no less than one and no more than five business days
409 from the date of the notice, except when the department determines that an
410 emergency inspection is necessary.

411 9. Permit suspension and revocation.

412 a. Criteria for suspension. The privileges of exercising some or all of the permit
413 authority may be suspended at any time if the applicant is not in compliance
414 with the conditions of the permit, the sector-specific plan, or with any
415 applicable laws or regulations governing the conduct of the regulated
416 activity. Such suspension shall remain in effect until the department
417 determines that the applicant has corrected the deficiencies.

418 b. Criteria for revocation. A permit may be revoked for any of the following
419 reasons:

- 420 i. The applicant willfully violates any provision of the state Endangered
421 Species Act, the federal Migratory Bird Treaty Act, the federal Bald
422 and Golden Eagle Protection Act, the federal Endangered Species Act,
423 or the conditions or a permit issued under those acts or this chapter; or
424 ii. The applicant fails within 60 calendar days to correct deficiencies that
425 were the cause of a permit suspension.

426 c. Procedure for suspension and revocation.

- 427 i. The applicant shall be notified in writing of the suspension or
428 revocation by certified or registered mail. This notice shall identify the
429 permit to be suspended, the reason(s) for such suspension, the actions
430 necessary to correct the deficiencies, and inform the applicant of the
431 right to appeal the suspension. The department may amend any notice
432 of suspension or revocation at any time.
433 ii. The applicant shall be provided with an opportunity to appeal the
434 suspension or revocation within 30 calendar days of mailing the
435 suspension or revocation notice. Appeal may be requested by filing a
436 written objection specifying the reasons the applicant objects to the
437 suspension or revocation and may include supporting documentation.
438 Amendment of a notice of suspension or revocation will allow the
439 applicant another 30 calendar days to appeal the decision from the date
440 of mailing notice of the amendment if they have not already initiated
441 an appeal.
442 iii. If, at the end of 30 calendar days, no appeal has been received by the
443 department, a final order shall be issued suspending or revoking the
444 permit.
445 iv. If, the applicant timely submits an appeal, an informal fact-finding
446 proceeding will be held within 30 calendar days, or, at the option of
447 the department or the applicant, a formal hearing may be scheduled as
448 soon as may be practicable.
449 v. Following an informal fact-finding proceeding or formal hearing, a
450 final decision shall be made by the director within 30 calendar days of
451 the informal fact-finding proceeding or receipt of a recommendation
452 by any hearing officer.

453
454 4VAC15-35-90. Biennial standards and specifications.

455 Any person who will undertake multiple regulated activities requiring a permit may biennially
456 submit a single set of standards and specifications for department approval that describes how
457 covered regulated activities shall be conducted.

458 A. Such standards and specifications shall be consistent with the requirements of this chapter
459 and the applicable sector-specific plans. Each project constructed for which a permit is

460 required shall obtain such permit by filing a permit application referencing the approved
461 standards and specifications and paying the fee applicable under section 4VAC15-35-
462 80(C)(3) prior to the commencement of the regulated activity. The standards and
463 specifications shall include:

- 464 1. A reference to which sector-specific plans are addressed by the standards and
465 specifications;
- 466 2. A description of the regulated activities that the applicant intends to be addressed by
467 the standards and specifications, and, if applicable, any other regulated activities that
468 the applicant intends to conduct that will not utilize the standards and specifications;
- 469 3. Information satisfactory to the department demonstrating how regulated activities
470 conducted under the standards and specifications will meet the requirements of the
471 applicable sector-specific plans, together with a copy of any reference materials cited
472 by the standards and specifications; and
- 473 4. Implementation by the applicant of a regulated activity tracking system of all
474 regulated activities conducted under the standards and specification, together with a
475 permittee self-monitoring program that will ensure compliance with the standards and
476 specifications.

477 B. Such standards and specification may be utilized following department approval. Utilization
478 of approved standards and specification shall not affect the department's authority to perform
479 inspections of regulated activities addressed by the standards and specifications.
480 Noncompliance with the approved standards and specifications shall have the same effect as
481 noncompliance with the requirements of the applicable sector-specific plan for purposes of
482 permit modification, suspension, or revocation under this section.

483 4VAC15-35-100. Enforcement; unpermitted regulated activities.

484 Administrative permit actions, including modification, suspension, and revocation, shall be
485 addressed according to the department's dispute resolution and administrative appeals
486 procedures. Any person conducting a regulated activity for which a permit is required by the
487 section without such permit, including where a regulated activity has commenced without a
488 permit or continued after permit suspension or revocation, shall be guilty of a Class 3
489 misdemeanor as specified by §29.1-505 of the Code of Virginia.

Rationale: On December 22, 2017, the Department of Interior (DOI) Solicitor issued a reinterpretation of the Migratory Bird Treaty Act (MBTA), M-37050 Opinion (hereafter referred to as the M-Opinion). Prior to the M-Opinion, prohibited take of migratory birds included the accidental or incidental take of birds by way of a legally conducted human activity (e.g., avian mortality caused by birds striking a power line or a communication tower). The M-Opinion effectively removed this critical level of protection by declaring that incidental take resulting from an activity, the purpose of which is not to take birds, eggs, or their nests, is no longer prohibited under the MBTA. On November 27, 2020, the U.S. Fish and Wildlife Service

(Service) published the Final Environmental Impact Statement (FEIS) for *Regulations Governing Take of Migratory Birds*. On January 7, 2021, the Service issued a Final Rule that codified the M-Opinion and removed previous federal protections against incidental take. While the implementation of the Final Rule has been delayed, and the Service is seeking public comment about the Final Rule, the DWR has no indication of any timeline regarding resolution of this question at the federal level. Protections in Virginia are still needed.

State fish and wildlife agencies have long relied on the MBTA as the primary regulatory mechanism to protect birds, eggs, nests, and nestlings from human activities. As such, most states, including Virginia, have not enacted regulations that provide explicit protections against incidental take of birds because of their reliance on the protective strength of the prior interpretation of the MBTA. This has left states uncertain as to how to effectively minimize and prevent incidental take of migratory birds at a time when at least one-third of North American bird species are in steep decline, and many are at risk of extinction this century. Additional research published in 2019 clearly documents that North America's bird population has suffered a net loss of almost 3 billion individuals compared to 1970 abundance levels. The exclusion of incidental take prohibitions is likely to exacerbate this precarious trend, especially for those species that are already in serious decline. The FEIS fully acknowledges this likely effect, but further states "...this effect is reduced where best practices are required by other State and federal laws to protect migratory birds."

On February 14, 2020, Governor Ralph Northam directed the Department of Wildlife Resources (DWR) to develop a regulation to define and permit incidental take of migratory birds for major commercial, industrial, and construction projects in the Commonwealth. This rule would make Virginia one of the first states to "backstop" recent federal attempts to rollback longstanding migratory bird protection afforded under the MBTA. The proposed language for regulatory amendment represents the DWR's effort at fulfilling the Governor's mandate to regulate incidental take in the Commonwealth by establishing a regulatory framework for the administration, implementation and enforcement of an incidental take permitting program. The intent of this program is to provide protections to migratory bird species while authorizing take that may occur incidental to regulated activities through the issuance of permits that stipulate best management practices intended to avoid, minimize or compensate for incidental take.

Should the Board adopt the proposed framework, the DWR will proceed with the development of a timeline for establishment of sector-specific stakeholder working groups and the development of sector-specific plans as outlined in the framework.

4VAC15-30-7035. Definitions and Miscellaneous: ~~Importation, Possession, Sale, Etc., of Animals:~~ **Incidental Take of Bird Species.**
(New Chapter)

March 7, 2021 Version

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1 **4VAC15-30-7035. Incidental Take of Bird Species. (New)**

2
3 4VAC15-35-10. Purposes.

4 A. The purposes of this chapter are to:

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5 1.A. Regulate the incidental take of regulated bird species and habitats, in the context of the
6 board's oversight authorities described in §29.1-501.A of the Code of Virginia and the
7 department's conservation and management authorities described in §29.1-521.A(2) and
8 §29.1-521.A(10) of the Code of Virginia by establishing a regulatory framework for the
9 administration, implementation, and enforcement of an incidental take permitting program;

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10 2.B. Provide ample protections to regulated bird species and habitats while authorizing take
11 that may occur incidental to regulated activities through the issuance of a general permit or
12 an individual incidental take permit that stipulates best management practices with the
13 intended purpose of avoiding, minimizing or ~~mitigating~~compensating incidental take; and

14 3.C. Delineate the procedures and requirements to be followed in connection with permits
15 issued by the department, while providing flexibility for innovative solutions that avoid,
16 minimize, or ~~mitigate~~compensate incidental take of regulated bird species and habitats, when
17 such authorization meets the criteria of this chapter.

18
19 B-4VAC15-35-20. Definitions.

20 1.A. "Active nest" means any nest structure of a regulated bird species that contains one or
21 more viable eggs incubated by attendant adults; or live dependent young; ~~or is protected~~
22 ~~under the provisions of the federal Bald and Golden Eagle Protection Act.~~

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23 2.B. "Applicant" means a person who is seeking or ~~who~~ has obtained an individual incidental
24 take permit or general permit ~~coverage~~ through the department in accordance with
25 procedures established in this section.

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26 C. ~~"Avian conservation and mitigation plan" means the plan that an applicant must~~
27 ~~submit under provisions of an individual incidental take permit that clearly defines~~
28 ~~the project's scope of work, the project's possible impacts on regulated bird species~~
29 ~~and/or habitats, and outlines in detail the implementation and evaluation of best~~
30 ~~management practices designed to avoid or minimize incidental take of regulated bird~~
31 ~~species and/or habitats, and/or, in certain circumstances, compensate for unavoidable~~
32 ~~take. Such measures may include, but are not limited to, existing or novel best~~
33 ~~management practices developed by the applicant for review by the department. The~~

34 plan includes a timeline of when each element of the work plan will be performed and
35 completed.

36 D. “Biologically significant avian habitat” means an area within public or private conservation
37 lands and waters, including, but not limited to, national wildlife refuges; national parks or
38 seashores; national forests; national recreation areas; state wildlife management areas; state
39 parks; state natural areas preserves; state recreation areas; lands owned or under easement by
40 conservation organizations; lands and waters that have been designated as biologically
41 important, such as Coastal Avian Protection Zones, Important Bird Areas, and Marine
42 Sanctuaries; and other lands and waters that encompass unique features deemed biologically
43 important to regulated bird species by the department.

44 5.E. “Board” means the Board of Wildlife Resources.

45 6.F. “Compensation” means achieving no net loss of regulated habitats through restoration,
46 creation, enhancement, or, in certain circumstances, out-of-kind measures for the purposes of
47 offsetting incidental take of regulated bird species and/or habitats that remain after all
48 appropriate and practicable avoidance and minimization has been considered or achieved.
49 Where permissible, appropriate compensation will be set forth in individual take permits or
50 other board regulation or guidance. There will be no compensation required under general
51 permits.

52 7.G. “Construction impacts” refers to the incidental take of regulated bird species and/or
53 habitats likely to occur during the construction phase of a regulated activity.

54 8.H. “Department” means the Department of Wildlife Resources.

55 I. “Endangered or threatened bird species” means those bird species listed as
56 endangered or threatened pursuant to 4VAC15-20-130.

57 12.J. “Incidental take” means ~~take~~any take of a regulated bird species that is incidental to, but
58 not the purpose of, a regulated activity.

59 M. “Individual incidental take permit” means a permit, issued by the department on a
60 project by project basis that authorizes incidental take of regulated bird species
61 and/or habitats for regulated activities that do not comply with the provisions of a
62 general incidental take permit.

63 17.L. “Regulated activity” or “activity” means a new construction or development activity or
64 the expansion of an activity beyond the original or existing footprint of the activity for which
65 the board has adopted a sector-specific plan that identifies best management practices
66 designed to avoid or minimize incidental take of regulated bird species and/or habitats or, in
67 certain circumstances, identifies the need for an individual incidental take permit.

68 18.M. “Regulated bird species” means any migratory bird species ~~as defined above~~, or any
69 active nest, or egg thereof, regulated by the federal Migratory Bird Treaty Act (16 U.S.C.
70 §703 et seq.) or its attendant regulations, excluding any bird species listed as endangered or
71 threatened bird species pursuant to 4VAC15-20-130.

72 19.N. “Regulated habitat” means ~~the~~biologically significant avian habitat or general avian
73 habitat that is in an area subject to a sector-specific plan, an avian conservation and

74 mitigation plan, and/or an individual incidental take permit ~~that includes both habitat types as defined herein.~~

75 20.O. “Sector-specific plan” means a framework ~~for a general permit,~~ adopted by regulation of
76 the board, that defines ~~what activities will require a permit from the~~ nature of authorized
77 Department for incidental take ~~for of regulated activities~~ bird species and outlines the criteria
78 for obtaining such a permit, such as specific best management practices, schedules, and
79 criteria for avoiding or minimizing incidental take ~~or, in certain, circumstances, identifies~~
80 ~~the need for an individual incidental take permit. In the event of a conflict between this~~
81 ~~section and any sector-specific plan, the sector-specific plan shall control in which project~~
82 ~~bundling may be applicable.~~

83 21.P. “Take” means to harass, harm, pursue, hunt, shoot, wound, kill, capture, trap, collect,
84 possess, destroy, disturb, or to attempt to engage in any such conduct, or any activity that
85 significantly or permanently impedes breeding, foraging, resting, or other normal avian
86 behaviors conducted during the annual life cycle, obstructs the use of or destroys or degrades
87 regulated habitats, or reduces reproductive success or survival rates of regulated bird species,
88 ~~and includes any incidental take. Take excludes deliberate harassment measures carried out~~
89 ~~for the sole purpose of deterring regulated bird species from the site of a regulated activity~~
90 ~~only when all other options to avoid, minimize, and/or mitigate incidental take have been~~
91 ~~considered and judged ineffective by the department.~~

92
93 4VAC15-35-30. Requirement for a permit.

94 ~~Except as provided in this section~~chapter, it shall be unlawful for any person to conduct a regulated
95 activity that results or will result in incidental take of a regulated bird species and/or regulated
96 habitat without obtaining and complying with ~~such a~~ permit. ~~No from the department. However, no permit~~
97 ~~shall be available~~necessary for incidental take of regulated bird species and/or habitats unless the board
98 has adopted a sector-specific plan requiring such permit. The board may adopt sector-specific
99 plans for any of the following categories:

100 1.A. Commercial projects, including, but not limited to, new construction or expansion of

101 ~~a-1.~~ Retail stores/malls;

102 ~~b-2.~~ Restaurants;

103 ~~c-3.~~ Lodging facilities;

104 ~~d-4.~~ Office buildings outside of an existing commercial park;

105 ~~e-5.~~ Commercial parks;

106 ~~f-6.~~ Medical facilities, including nursing homes, rehabilitation and convalescence centers;

107 ~~g-7.~~ Sports facilities; and/or

108 ~~h-8.~~ Other large-scale non-industrial structures and facilities planned for commerce, health
109 care, hospitality services, government use, or other business use;

110 2.B. Industrial projects, including, but not limited to, new construction or expansion of

111 ~~a-1.~~ Industrial manufacturing buildings outside of an existing industrial park;

112 ~~b-2.~~ Industrial parks;

113 ~~c-3.~~ Sewage treatment plants;

114 ~~d.4.~~ Government facilities, such as warehouses and laboratories;

115 ~~e.5.~~ Power generation plants, and/or

116 ~~f.6.~~ Other large-scale non-commercial public, private, or governmental structures or

117 facilities that directly engage in or are connected to the handling, storage,

118 manufacturing, maintenance, treatment, or disposal of materials, products, goods,

119 commodities, or hazardous waste;

120 ~~3.C.~~ Oil, gas, and wastewater disposal pits;

121 ~~4.D.~~ Methane or other gas burner pipes;

122 ~~5.E.~~ Communications towers;

123 ~~6.F.~~ Electric transmission and distribution lines;

124 ~~7.G.~~ Wind and solar energy projects; and

125 ~~8.H.~~ Transportation projects.

126 ~~Provisional regulatory reprieve. The prohibition of subdivision C(1) shall not apply to~~

127 ~~4VAC15-35-40. Activities occurring before adoption of sector-specific plan.~~

128 ~~D.~~ No permit shall be necessary for any regulated activity that is actively under construction, has

129 received all necessary permits and approvals but ~~for which~~ construction has not commenced, or

130 that has ~~evidenced~~ provided evidence of other contractual obligations ~~as that may be~~ described in

131 the appropriate sector-specific plan, ~~as of on or before~~ the effective date of a sector-specific plan

132 ~~applicable~~ that would otherwise apply to that regulated activity. Upon request, the department

133 may review the circumstances of a project and provide ~~assurance of non-prosecution~~ a letter

134 stating that no permit is necessary to any person conducting such an ~~active regulated activity for~~

135 ~~a period of up to two years from the effective date of the sector specific plan for the specific~~

136 ~~regulated~~ activity.

137

138 ~~4VAC15-35-50. Applicability of other laws or regulations.~~

139 ~~E.~~ Nothing in this section shall be interpreted to ~~affect~~ excuse compliance with the prohibitions,

140 provisions or requirements of any other federal, state, or local laws, regulations, or ordinances,

141 including, but not limited to, the ~~state~~ Virginia Endangered Species Act, the federal Migratory

142 Bird Treaty Act, the federal Bald and Golden Eagle Protection Act, and the federal Endangered

143 Species Act.

144

145 ~~4VAC15-35-60. Exemptions.~~

146 ~~F.~~ The following activities are exempt from the permitting requirements found herein. Any

147 incidental take associated with these activities will not be considered a violation of this section.

148 ~~1.A.~~ Activities that are not defined as “regulated ~~activity;~~” activities.”

149 ~~2.B.~~ Agricultural and silvicultural activities.

150 ~~— Regulated activities that occur before a sector specific plan has been adopted for a~~

151 ~~particular regulated activity.~~

152 4.D. Regulated activities performed under emergency situations, including, but not limited to,
153 activities necessary to restore essential services, protect human health, address a public safety
154 issue, and/or prevent imminent damage to property.

155
156 4VAC15-35-70. Permits.

157 ~~6.~~The following permits authorize incidental take resulting from regulated activities:

158 ~~1.~~A. General permit.

- 159 1. The board may, by regulation, adopt a sector-specific plan ~~that provides the~~
160 ~~framework for general permits issued for a particular category or categories of~~
161 ~~regulated activities that allows coverage under.~~
- 162 2. An applicant whose activity(s) qualifies for a general permit ~~for incidental take of~~
163 ~~regulated bird species and/or habitats that occurs when a person is engaging in such~~
164 ~~activity and adheres must submit an application to the department and comply with all~~
165 ~~provisions within requirements stated in the applicable sector-specific plan.~~
- 166 ~~a.3.~~The general permit authorizes ~~and a regulated~~ activity only if the activity and applicant
167 satisfy all of the terms and conditions of the general permit and associated sector-
168 specific plan. ~~Every regulated activity shall obtain its own permit; however, where~~
169 ~~multiple projects fall under a single sector specific plan, are similar in design,~~
170 ~~footprint, scope of work, scheduling, and occur in general avian habitats determined~~
171 ~~to not be biologically important to regulated bird species, the projects may be bundled~~
172 ~~under a single permit application and may make reference to the same information for~~
173 ~~multiple regulated activities so long as the cumulative impact of those activities will~~
174 ~~be no greater than would be the case if separate submissions were made for each~~
175 ~~activity.~~

176 ~~b.4.~~In addition to the conditions set forth in this ~~section~~chapter pertaining to permit
177 renewal, amendment, transfer, suspension, revocation, and other procedures for
178 permit issuance, ~~a person applying an applicant~~ for general permit coverage must
179 adhere to the following procedures:

- 180 i. ~~The applicant must submit a permit application and any required~~
181 ~~documents to the department in accordance with the specifications of~~
182 ~~the applicable sector specific plan. The department may allow~~
183 ~~electronic submission of permit applications, required documents, and~~
184 ~~the applicable fee. Except as provided below, coverage under the~~
185 ~~general permit shall be effective upon the department's receipt and~~
186 ~~acknowledgement of a complete permit application, other required~~
187 ~~documents, and the applicable fee. In the permit application, the~~
188 ~~applicant may request a permit term shorter than prescribed for the~~
189 ~~appropriate sector specific plan. The applicant shall not commence the~~
190 ~~proposed activity prior to the department's acknowledgement of~~
191 ~~receipt of a complete application.~~

192 a)b. The department will review the permit application and required documents to
193 ensure that the activity complies with the terms and conditions of the general
194 permit.

195 b)c. If the department determines that the proposed activity is not compatible
196 with covered by the sector-specific plan general permit, the department will
197 notify the applicant of the incompatibility and instruct the applicant on
198 necessary procedures for obtaining an individual incidental take permit or
199 provide the applicant with the opportunity to revise the proposed activity to
200 ensure its compatibility with the relevant sector-specific plan general permit.

201 e-5. Mitigation. Incidental take by a regulated activity of regulated bird species and/or
202 habitats shall be first avoided and then minimized through the use of best
203 management practices described in the appropriate sector-specific plan or otherwise
204 authorized by the department.

205 d-6. Monitoring. Persons authorized by the general permit may be required to monitor and
206 report impacts to and the incidental take of regulated bird species that result from the
207 regulated activity as set forth in the sector-specific plan.

208 e-7. Term. No general permit coverage issued under this subsection chapter shall be valid
209 for a period of more than eight years after the date of its issuance, or such shorter
210 term otherwise specified in the applicable sector-specific plan or requested by the
211 applicant. An applicant may terminate a permit prior to the expiration of the defined
212 term upon providing written evidence to the department of the conclusion of
213 construction and fulfillment of any applicable monitoring or site closure requirements
214 defined in the appropriate sector-specific plan general permit.

215 8. If the department, upon receiving an application for a general permit, determines that
216 the activity does not qualify for a general permit, but still requires a permit from the
217 department, the department will notify the applicant in writing of the reasons that the
218 activity does not qualify for a general permit. The applicant may revise the activity
219 and resubmit the application for a general permit or submit an application for an
220 individual incidental take permit.

221 2-B. Individual incidental take permit.

222 a-1. Applicants shall obtain individual incidental take permits, under such terms and
223 conditions necessary to avoid, minimize and/or compensate for the incidental take of
224 regulated bird species and/or habitats when one or more of the following
225 circumstances apply:

- 226 i. ~~Incidental take of regulated bird species and/or habitats that will occur within or directly adjacent to~~
227 avian habitats: habitat, or
- 228 ii. ~~Regulated activities that will occur within or directly adjacent to~~
229 general avian habitats considered biologically important to regulated
230 bird species as determined by the applicant or the department.

231 b.2. In addition to the conditions set forth in this section governing permit renewal,
232 amendment, transfer, suspension, revocation, and other procedures for permit
233 issuance, an applicant for an individual incidental take permit must adhere to the
234 following procedures:

235 i.a. An applicant for an individual incidental take permit shall prepare and submit an avian conservation and mitigation
236 plan in accordance with the provisions below, for department approval, and
237 must submit the applicable fee and any additional information and documents
238 that the department determines ~~is~~ are necessary for permit issuance. The
239 applicant must ~~apply for~~ receive final permit approval prior to commencing the
240 proposed activity.

241 ii. — For permits issued in circumstances where the department notifies an
242 applicant that an activity does not comply with the applicable sector-
243 specific plan, applicants must apply for an individual incidental take
244 permit prior to commencing the proposed activity, and, subject to the
245 department's approval, prepare an avian conservation and mitigation
246 plan, and submit the applicable fee and any other necessary
247 information or documentation required by the department.

248 iv.c. Mitigation. Impacts of a regulated activity on regulated bird species and/or
249 habitats shall be first avoided and then minimized through the use of best
250 management practices or other measures as described in the appropriate
251 sector-specific plan and the avian conservation and mitigation plan. Persons
252 authorized by the individual incidental take permit will be required to
253 compensate for unavoidable incidental take of regulated bird species and/or
254 habitats.

255 v.d. Monitoring. In addition Persons authorized by the individual take permit
256 may be required to the monitoring requirements included monitor and report
257 impacts to and the incidental take of regulated bird species that result from
258 the regulated activity as set forth in ~~an~~ the sector-specific plan, individual
259 incidental take permit, or avian conservation and mitigation plan ~~and permit,~~
260 an individual incidental take permit shall specify that the applicant is
261 responsible for.

262 γ) — Maintaining a record of all injury and mortality that occurs in
263 association with the regulated activity. The record shall include
264 a photographic record of injury and mortality using a standard
265 protocol defined by the department.

266 c.3. An avian conservation and mitigation plan shall must provide sufficient information to
267 demonstrate that the conservation criteria established in the individual incidental take
268 permit will be fulfilled. ~~The~~ The plan must clearly define the project's scope of work and
269 the project's possible impacts on regulated bird species and/or habitats. In addition,
270 the plan must include:

- 271 a. A site plan drawn to scale showing the location of the proposed activity;
- 272 b. A detailed description and schedule of the work to be performed;
- 273 c. A quantitative or narrative description of the likely incidental take of
- 274 regulated bird species and/or habitats;
- 275 d. The steps the applicant will take to avoid, minimize, and/or compensate for
- 276 such impacts, ~~in accordance with the following~~ including:
- 277 i. Avoidance, minimization and/or compensation measures ~~the applicant~~
- 278 shall employ using reliable department-approved methods ~~and~~
- 279 ~~shall that are~~ be based upon the best available ~~science and utilizing the~~
- 280 best practicable, and necessary ~~science and~~ technology to meet the
- 281 requirements of the applicable sector-specific plan. These measures
- 282 shall be evaluated for effectiveness in a consistent and rigorous
- 283 manner by the applicant throughout their implementation.
- 284 ~~ii. Habitat type for regulated bird species shall be evaluated using~~
- 285 ~~methodologies and tools recommended by the department.~~
- 286 e. ~~Any alternatives in the plan that are not being utilized shall be identified by the~~
- 287 applicant and the reasons why such ~~alternatives actions~~ are not being utilized;
- 288 f. A contingency plan to rectify any failures of implemented measures, or
- 289 actions necessary to provide additional protection to regulated bird species,
- 290 including hazing programs or other temporary or emergency measures that
- 291 would be instituted; ~~and~~
- 292 g. A timeline of when each element of the plan will be completed; and
- 293 ~~g-h.~~ Such other measures that the department or applicable sector-specific plan
- 294 may require as being necessary or appropriate for purposes of the plan.
- 295 ~~h-i.~~ The avian conservation and mitigation plan may avoid duplication by
- 296 incorporating information included in ~~environmental assessments or~~
- 297 ~~environmental impact statements prepared for the proposed activity, or~~
- 298 ~~information included in~~ any permit application required by any other
- 299 permitting agency. The plan shall identify by source, section and page
- 300 number ~~the when referencing such information being relied upon.~~

301 D-4. While most general and individual incidental take permits will apply only to the

302 construction phase of a regulated activity, nothing in this ~~section~~ chapter shall prevent

303 the board from including requirements for the operational phase of a particular

304 regulated activity in a sector-specific plan if the board determines that operations are

305 ~~known or likely to incidentally take regulated bird species and/or habitats, or an~~

306 ~~individual incidental take permit if the department determines that operations are~~

307 ~~known or likely to incidentally take regulated bird species and/or habitats. If~~

308 operational requirements are included in a sector-specific plan, permits may be

309 renewed throughout the life of the regulated activity.

310

311 H.4VAC15-35-80. Permit procedures.

312 A. Required general information. A permit application must contain the following information:

- 313 1. Applicant's full name and address, telephone number, and, if available, fax number
314 and email address; and
315 a. If the applicant resides or is located outside of the Commonwealth of
316 Virginia, the name and address of an agent located in the Commonwealth of
317 Virginia; and
318 b. If the applicant is an entity, a description of the type of entity, and the name
319 and title of an individual who will be responsible for the permit;
320 2. Location of the regulated activity;
321 3. Certification in the following language: "I hereby certify that the information
322 submitted in this application is complete and accurate to the best of my knowledge
323 and belief";
324 4. Desired effective date of the permit except where issuance date is fixed by the sector-
325 specific plan under which the permit is issued;
326 5. Desired duration of the permit, if less than the default term for the sector-specific plan
327 under which the general or individual incidental take permit is requested;
328 6. Date of application;
329 7. Signature or electronic signature of the applicant; and
330 8. Such other information or documentation as may be required by the applicable sector-
331 specific plan.

332 B. Administrative procedures.

- 333 i.1. The department shall determine the completeness of an application and shall notify
334 the applicant of any determination within 45 calendar days of receipt. Where
335 available to the applicant, electronic communication may be considered
336 communication in writing.
337 i-a. If, within those 45 calendar days, the application is deemed to be incomplete,
338 the applicant shall be notified in writing of the reasons the application is
339 deemed incomplete. If the application is resubmitted, all deadlines in this
340 section shall apply from the date of receipt of the resubmitted application.
341 ii-b. If a determination of completeness is made and the associated sector-
342 specific plan does not require additional department review, the application is
343 deemed approved under the terms of the associated sector specific plan and
344 the applicant will be notified in writing.
345 c. If a determination of completeness is not made and communicated to the
346 applicant within 45 calendar days of receipt, the application shall be deemed
347 complete on the 46th day after receipt.
348 iii-d. If the application is complete and the associated sector-specific plan requires
349 additional review (180 days for bundled projects, subject to prior approval of
350 calendar days are allowed for review to review (180 days for bundled projects, subject to prior approval of

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351 biennial standards and specifications as described in 4VAC15-35-90). If, at
352 the end of the designated review period, the department has not taken final
353 action on the application or ~~identified~~ notified the applicant in writing of the need for
354 an additional 60 days for review, the application shall be deemed approved.

355 ~~iv. — If a determination of completeness is not made and communicated to~~
356 ~~the applicant within the 45 calendar days, the application shall be~~
357 ~~deemed complete as of the date of submission and a total of 120~~
358 ~~calendar days from the date of submission will be allowed for the~~
359 ~~review of the application.~~

360 e.a. If the application is not approved, the applicant shall have 45 calendar days
361 to revise the permit application to bring it into compliance with the
362 appropriate sector-specific plan or ~~meet the department's expectations of the~~
363 ~~individual incidental take permit or avian conservation and mitigation plan or~~
364 to appeal the decision to the director of the department under the
365 department's dispute resolution and administrative appeals procedure. The
366 applicant may request, in writing, an extension of the timeframe in which to
367 submit a revised application, not to exceed an additional 60 calendar days. If
368 the revised application is not submitted within the defined timeframe, the
369 department will administratively close the application.

370 ~~b. At the conclusion~~ Upon submission of ~~the a~~ revised application after denial,
371 the department shall have 120 days to review ~~of~~ and make a determination. If
372 the application is denied again, the applicant will have 45 days after denial to
373 appeal the decision to the director of the department under the department's
374 dispute resolution and administrative appeal procedure. Any new revisions to
375 the permit must be submitted as a new application.

376 ~~4.3.~~ Upon approval of an application for an individual incidental take permit, the
377 department will provide the applicant with ~~draft~~ a permit, including terms and
378 conditions ~~in writing.~~ The applicant shall have 30 calendar days ~~from receipt to~~
379 ~~provide comments, revise the application, and/or appeal the draft~~ terms and
380 ~~conditions~~ to the department director under the department's dispute resolution and
381 administrative appeals procedures.

382 ~~B. Required general information. An individual incidental take permit application or~~
383 ~~permit application for coverage under a general permit must contain the following~~
384 ~~information:~~

385 ~~a.1.~~ The department shall not issue a permit if:

386 ~~i.a.~~ The applicant has one or more of the disqualifying factors included in ~~(b2)~~
387 ~~below; or~~

388 ~~ii.b.~~ The applicant has failed to disclose material information ~~required,~~ or has
389 ~~made false statements as to any material fact; in connection with the~~
390 ~~application; or~~

391 ~~iii.c.~~ The department determines that the application fails to comply with the
392 applicable sector-specific plan, ~~or any other applicable wildlife law,~~
393 regulation, or ordinance, ~~or criteria deemed necessary to an individual~~
394 ~~incidental take permit.~~

395 ~~b.2.~~ Disqualifying factors. The department will provide written notice of any known
396 disqualifying factors to the applicant or permittee. Any one of the following will
397 disqualify an applicant from receiving or exercising a permit:

398 ~~i.a.~~ A conviction, or entry of a plea of guilty or nolo contendere, ~~by the applicant~~
399 ~~or a representative of the applicant~~ for a violation of the Lacey Act, the
400 Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, the
401 federal Endangered Species Act, the state Endangered Species Act, or this
402 ~~section~~ ~~within the five-year period preceding the application by the applicant or representative of the applicant unless such~~
403 ~~disqualification has been expressly waived by the department in response to a~~
404 ~~request by the applicant.~~

405 ~~ii.b.~~ The failure to pay any required fees.

406 ~~iii.c.~~ The ~~failure to submit timely, accurate, and complete reports as required~~
407 ~~disqualifies such person suspension of any other incidental take permit. The~~
408 ~~applicant is disqualified from receiving or exercising the privileges of a~~
409 ~~permit any additional incidental take permits as long as the~~
410 ~~deficiency suspension exists. Upon receipt of written notice, the permittee~~
411 ~~shall have 30 calendar days to cure the deficiency.~~

412 ~~e.3.~~ Fees. An application fee of \$50 and a permit fee of \$50 per year shall be due for each
413 permit. ~~The application fee shall be due at the time of application submittal and no~~
414 ~~application shall be processed until the fee is received.~~ The full amount of the permit
415 fee shall be based on the default duration of the permit and is due at the time of
416 certification, if no approval is required, or at the time of the department's approval
417 and/or issuance of a permit. The fees will be deposited into the Nongame Cash Fund
418 and used for the conservation and management of regulated bird species, consistent
419 with § 58.1-344.3 of the Code of Virginia. No refund of any fees paid ~~for issuance of~~
420 ~~the permit~~ shall be made ~~whenif a permit application is denied or if a permit is~~
421 ~~terminated prior to the expiration date.~~

422 ~~d.4.~~ Permit renewal. Applications for renewal shall meet and comply with all
423 requirements for permit application, and be submitted at least 90 calendar days prior
424 to the expiration of an existing permit.

425 ~~e.5.~~ Modifications to permits. Permits may be modified, with the department's approval,
426 in accordance with the following:

427 ~~i.a.~~ Applicant's request. Where circumstances have changed so that an applicant
428 desires to have any condition of the permit modified, the applicant must
429 submit a full written justification and supporting information to the

430 department in conformity with the terms and conditions under which the
431 permit was issued.
432 ii-b. Department determination. The department may amend any permit during
433 its term where circumstances have changed such that amendments to the
434 permit are deemed necessary by the department. In such instances, the
435 department will notify the applicant in writing 60 calendar days in advance of
436 the effective date of any amendment. The applicant shall have 30 calendar
437 days to appeal the decision to the department director under the department's
438 dispute resolution and administrative appeals procedures.

439 f-6. Transfer of permits and scope of permit authorization.

440 i-a. Except as otherwise provided for in this subsection, permits issued under this
441 part are not transferable or assignable.

442 ii-b. Permits ~~issued under this part~~ may be transferred in whole or in part
443 through a joint submission by the applicant and the proposed transferee, or in
444 the case of a deceased applicant, the deceased applicant's legal representative
445 and the proposed transferee ~~provided the~~. The department ~~determines will~~
446 review the submission and approve the transfer provided that:

447 a)i. The proposed transferee meets all of the qualifications under this part
448 for holding a permit;

449 b)ii. The proposed transferee has provided adequate written assurances that
450 it will implement the relevant terms and conditions of the permit; and

451 c)iii. The proposed transferee has provided other information that the
452 department determines is relevant to the processing of the submission.

453 iii-c. Except as otherwise stated on the face of the permit, any person who is under
454 the direct control of the applicant, or who is employed by or under contract to
455 the applicant for purposes authorized by the permit, may carry out the
456 activity authorized by the permit. ~~However, the applicant will remain~~
457 responsible for ensuring compliance with all aspects of the permit.

458 g-7. Discontinuance of permit activity. When an applicant discontinues activities
459 authorized by a permit, the applicant shall, within 30 calendar days of the
460 discontinuance, notify the department of permit termination.

461 h-8. Permit inspections. The department shall have the right to perform inspections of a
462 permitted activity to ensure compliance with permit conditions. Written (including
463 electronic) or verbal notice of such inspection shall be given on a business day, and
464 the inspection shall not occur ~~until the passage of 24 hours~~ no less than one and no
465 more than five business days from the ~~time~~ date of the notice, except when the
466 department determines that an emergency inspection is necessary.

467 i-9. Permit suspension and revocation.

468 i-a. Criteria for suspension. The privileges of exercising some or all of the permit
469 authority may be suspended at any time if the applicant is not in compliance

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470 with the conditions of the permit, the sector-specific plan, or with any
471 applicable laws or regulations governing the conduct of the regulated
472 activity. Such suspension shall remain in effect until the department
473 determines that the applicant has corrected the deficiencies.

474 ii-b. Criteria for revocation. A permit may be revoked for any of the following
475 reasons:

476 a)i. The applicant willfully violates any provision of the state Endangered
477 Species Act, the federal-state Migratory Bird Treaty Act, the federal
478 Bald and Golden Eagle Protection Act, the federal Endangered Species
479 Act, or local law, regulation, or ordinance, which involves a violation
480 of the conditions of the permit issued under those acts or other
481 federal or state wildlife laws this chapter; or

482 b)ii. The applicant fails within 60 calendar days to correct deficiencies that
483 were the cause of a permit suspension.

484 iii-c. Procedure for suspension and revocation.

485 a)i. The applicant shall be notified in writing of the suspension or
486 revocation by certified or registered mail. This notice shall identify the
487 permit to be suspended, the reason(s) for such suspension, the actions
488 necessary to correct the deficiencies, and inform the applicant of the
489 right to appeal the suspension. The department may amend any notice
490 of suspension or revocation at any time.

491 b)ii. The applicant shall be provided with an opportunity to appeal the
492 suspension or revocation within 30 calendar days of mailing of the
493 suspension or revocation notice. Appeal may be requested by filing a
494 written objection specifying the reasons by the applicant objects to the
495 suspension or revocation and may include supporting
496 documentation. Amendment of a notice of suspension or revocation
497 will allow the applicant another 30 calendar days to appeal the
498 decision from the date of mailing notice of the amendment if they have
499 not already initiated an appeal.

500 e)iii. If, at the end of 30 calendar days, no appeal has been received by the
501 department, a final order shall be issued suspending or revoking the
502 permit.

503 d)iv. If, prior to 30 calendar days from the date of mailing, the personIf, the
504 applicant timely submits an appeal, an informal fact-finding
505 proceeding will be held within 30 calendar days, or, at the option of
506 the department or the applicant, a formal hearing may be scheduled as
507 soon as may be practicable.

508 e)v. Following an informal fact-finding proceeding or formal hearing, a
509 final decision shall be made by the departmentdirector within 30

510 calendar days of the informal fact-finding proceeding or receipt of a
511 determination recommendation by any hearing officer.

512
513 4VAC15-35-90. Biennial standards and specifications.

514 Any person who will undertake multiple regulated activities requiring a permit may biennially
515 submit a single set of standards and specifications for department approval that describes how
516 covered regulated activities shall be conducted.

517 A. Such standards and specifications shall be consistent with the requirements of this section chapter
518 required shall obtain such permit by filing a permit application referencing the approved
519 standards and specifications and paying the fee applicable under subdivision G (section 4VAC15-35-
520 80(C)(3)(e)) prior to the commencement of the regulated activity. The standards and
521 specifications shall include:

522
523 a.1. A reference to which sector-specific plans are addressed by the standards and
524 specifications;

525 b.2. A description of the regulated activities that the applicant intends to be addressed by
526 the standards and specifications, and, if applicable, any other regulated activities that
527 the applicant intends to conduct that will not utilize the standards and specifications;

528 c.3. Information satisfactory to the department demonstrating how regulated activities
529 conducted under the standards and specifications will meet the requirements of the
530 applicable sector-specific plans, together with a copy of any reference materials cited
531 by the standards and specifications; and

532 d.4. Implementation by the applicant of a regulated activity tracking system of all
533 regulated activities conducted under the standards and specification, together with a
534 permittee self-monitoring program that will ensure compliance with the standards and
535 specifications.

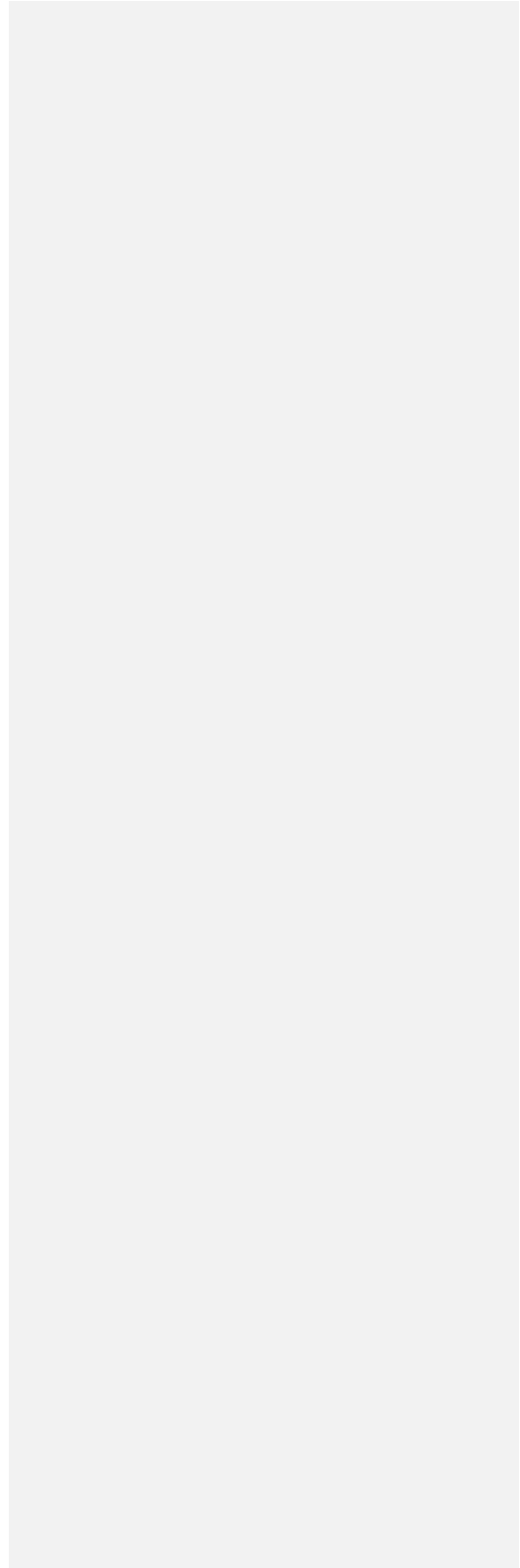
536 B. Such standards and specification may be utilized following department approval. Utilization
537 of approved standards and specification shall not affect the department's authority to perform
538 inspections of regulated activities addressed by the standards and specifications.
539 Noncompliance with the approved standards and specifications shall have the same effect
540 of as noncompliance with the requirements of the applicable sector-specific plan for the
541 regulated activity for purposes of permit modification, suspension, or revocation under this
542 section.

543
544 4VAC15-35-100. Enforcement; unpermitted regulated activities.

545 Administrative permit actions, including modification, suspension, and revocation, shall be
546 addressed according to the department's dispute resolution and administrative appeals
547 procedures. Any person conducting a regulated activity for which a permit is required by the
548 section without such permit, including where a regulated activity has commenced without a

549 permit or continued after permit suspension or revocation, shall be guilty of a Class 3
550 misdemeanor as specified by §29.1-505 of the Code of Virginia.

|



DISPUTE RESOLUTION AND ADMINISTRATIVE APPEALS PROCEDURE INCIDENTAL TAKE PERMITS—CHAPTER 4VAC15-35

Introduction

This document sets forth the procedures for appeals of decisions made pursuant to Chapter 4VAC15-35. Under authority granted to the Board of Wildlife Resources in §29.1-103 of the Code of Virginia, and subsequently conferred by the Board via 4VAC15-30-5 of the Virginia Administrative Code, the Executive Director of the Virginia Department of Wildlife Resources (Department) has the authority to set permit schedules, establish permit conditions, delegate signature authority, establish protocols for responding to permit decision appeals, and render final permit decisions.

This document pertains to administrative dispute resolution or appeal only, and is not intended to affect any rights to judicial review that may exist under Virginia law. It further does not apply to any criminal enforcement proceedings.

Permit Issuance, Denial, Suspension, or Revocation

As set forth in Chapter 4VAC15-35, the Department may establish or modify permit conditions, or deny, suspend, or revoke any permit by written notification to the applicant or permittee. The notification will identify the permit or application affected; the permit conditions or the reasons for any modification, denial, suspension, or revocation; the actions necessary to correct any deficiencies, where applicable; and will inform the Applicant or Permittee of the right to appeal.

Method of Appeal

Any request for appeal must be addressed to the Department's Executive Director in writing, signed by the Applicant or Permittee, and received within the timeframes set forth in Chapter 4VAC15-35.

Within 14 days of receipt of a request for appeal, the Executive Director shall provide to the applicant a Notice of Informal Fact Finding Proceeding. The Informal Fact Finding Proceeding shall be held within 30 days of the Department's receipt of the request for appeal.

In the alternative, where the issues presented are of a legal or other nature such that the Department, in its sole discretion, believes that the recommendation of a Hearing Officer would be appropriate, it may proceed utilizing a Formal Hearing, to be scheduled as soon as may be practicable.

Should the matter be negotiated to resolution through informal consultation between the Department and the Applicant or Permittee prior to any Informal Fact Finding Proceeding or Formal Hearing, such resolution and agreement shall be documented, and no Informal Fact Finding Proceeding or Formal Hearing shall be necessary.

If the regulated activity is the subject of an ongoing criminal or administrative investigation and the ongoing investigation provided grounds for the subject permit revocation or suspension, no administrative appeal shall be considered pending conclusion of said investigations and proceedings or adjudication by the courts. The Executive Director may order an Informal Fact Finding Proceeding upon conclusion of such criminal investigations and proceedings, or at any other time deemed appropriate.

Informal Fact Finding Proceeding

Informal Fact Finding Proceedings will be conducted by a panel of three persons appointed by the Executive Director. The panel will hear and accept documentary evidence from the Applicant/Permittee and from Department staff knowledgeable of the issues under consideration. The panel may also receive any information received from third parties prior to the Informal Fact Finding Proceeding; however, such third parties shall not participate in the proceeding unless requested by the panel. The burden of proof will exist with the appellant, and any final decision will be based on the preponderance of the evidence. Within 10 days of conclusion of the Informal Fact Finding Proceeding, the panel will forward a written summary of the proceeding and recommendations to the Executive Director. Within 30 days of the Informal Fact Finding Proceeding, the Executive Director shall issue a final determination to the Applicant/Permittee.

Formal Hearing

Formal Hearings shall be conducted in the manner prescribed by the Virginia Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia) before a Hearing Officer selected from the list of hearing officers maintained by the Executive Secretary of the Virginia Supreme Court. Where the Department elects to proceed utilizing a formal hearing, appointment of a Hearing Officer shall be requested by the Department within 14 days of receipt of a request for appeal, with the hearing to be held as soon as practicable to the Hearing Officer, the Applicant or Permittee, and the Department.

Corrective Action Plan

A Corrective Action Plan is a written agreement between the Department and the Applicant or Permittee that details the corrective actions to be taken in response to documented violations of permit terms or conditions. At any time prior to issuance of a final ruling, the Department or the Applicant or Permittee may offer a Corrective Action Plan, which may be proposed by either of the parties and discussed, accepted, modified, or rejected by them during any subsequent informal consultations. Any deficiencies addressed by a Corrective Action Plan shall not require a final decision by the Executive Director.

Permitting the Incidental Take of Migratory Birds



CONSERVE. CONNECT. PROTECT.

Becky Gwynn, Virginia DWR
Becky.Gwynn@DWR.Virginia.gov



Purposes of Regulation

- Regulate the incidental take of migratory birds and habitats by establishing regulatory framework for administration, implementation and enforcement of an incidental take permitting program
- Provide protections via implementation of best management practices to mitigate incidental take

Scope of Regulation

- **All migratory bird species, eggs, active nests**
 - Does not include threatened and endangered species
 - Does not include non-migratory species like quail, turkey
- Applied statewide
- Applicable to habitats characterized as “biologically significant avian habitat” or “general avian habitat” of biological significance





APPROACH

- Regulated activities covered under “sector-specific plans” adopted by Board action:
 - Commercial (e.g., retail, offices, commercial parks)
 - Industrial (e.g., STP, industrial parks)
 - Oil, gas, wastewater disposal pits
 - Methane, other gas burner pipes
 - Communication towers
 - Electric transmission/distribution lines
 - Wind and solar energy projects
 - Transportation projects
- Regulatory reprieve with sector-specific plans



APPROACH

- Development of sector-specific plans will be phased
- No permits needed for a sector until its plan has been adopted by the Board of Wildlife Resources
- Upon adoption, project will not require permit if:
 - Under active construction
 - Has all necessary permits but construction not started
 - Proven evidence of contractual obligations
- Sector-specific plans will identify thresholds for inclusion or exclusion, e.g., size/scale
- Sector-specific plans may have different best practices or requirements for specific species or geographies



APPROACH

- Exemptions
 - Agricultural/silvicultural activities
 - Residential development activities
 - Regulated activities performed under emergency situations (e.g., restoring essential services, protecting human health, addressing public safety issue)



APPROACH

- Establish two types of permits
 - General take permit:
 - Best management practices that first avoid then minimize incidental take
 - Straightforward application process, limited review
 - Individual incidental take permit:
 - Project-by-project
 - Require more staff review
- Terms: ≤ 8 years for general permits; ≤ 10 years for individual permits



APPROACH

- Addresses construction phases, leaves door open for Board to consider permitting operations in any sector-specific plan
- Avian conservation & mitigation plan
 - Project-specific details about likely impacts on migratory birds
 - Proposed efforts to mitigate incidental take
 - Alternatives considered and rejected
 - Contingency planning



APPROACH

- Mitigation
 - Avoid
 - Minimize
 - Compensate
 - Compensation achieves a no net loss of regulated birds and habitats
 - Separate framework to be developed

ADMINISTRATIVE PROCESS

- Approach to request and obtain a permit
- Mechanisms to modify, transfer, renew, terminate permits
- Fees:
 - \$50 application fee
 - \$50/year permit fee, life of permit
- Processes for inspection, suspension, revocation, enforcement



Dispute Resolution and Administrative Appeals

- Non-regulatory; incorporated by reference
- Informal fact-finding panel
- Formal hearing (following APA process)
- Corrective Action Plan



Public Comments



- **Public Comment Period Jan 8 – Feb 22, 2021**
 - Public Comment Portal on DWR website
 - Emails to Stakeholder Working Group
 - Press release and social media posts
 - Feature in January 21 Notes from the Field newsletter (50,000+ subscribers)
 - Email to 800 DWR subscribers interested in notifications about public comment opportunities
 - Updates to DWR seabird web page
 - Legal notices in 7 statewide newspapers



Public Comment Results

- 57 comments received through the comment portal
- 645 emails received
- Facebook post seen by 12,326 people
- Instagram post seen by 4,414 people
- Significant comments from 21 stakeholders
 - Virginia Oil and Gas Association
 - Home Builders Association
 - Virginia Chapter of The Wildlife Society
 - Virginia Agribusiness Council
 - Energy and Wildlife Action Coalition
 - National Rural Electric Cooperative Assoc.
 - WV Dept of Natural Resources

Public Comment Recurring Themes

- On-going federal actions
- Timelines for and prioritization of sector-specific plan development
- Exemptions
- Compensatory mitigation
- Regulated activities
- Applicability to operations
- No net loss
- Legal authority
- DWR capacity



COLLABORATION

Stakeholders WG

- 16 representatives from conservation organizations and regulated sectors
- Solicited input on range of topics
- Three meetings to date
- Expressed desire to participate in sector-specific plan stakeholder groups

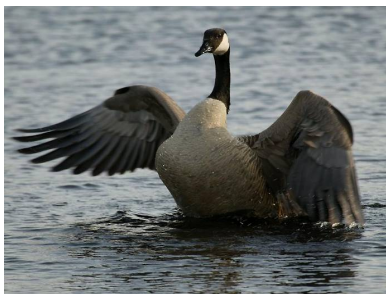
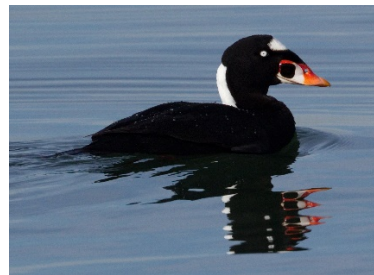


Questions?



VIRGINIA DEPARTMENT OF WILDLIFE RESOURCES

2021-2022 MIGRATORY GAME BIRD HUNTING SEASONS – FEDERAL FRAMEWORKS AND STAFF RECOMMENDATIONS



Prepared by Wildlife Division
March 2021

VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES

PRELIMINARY FEDERAL FRAMEWORKS AND STAFF PROPOSALS FOR 2021-22
MIGRATORY GAMEBIRD SEASON DATES AND BAG LIMITS

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Note: Many of the annual migratory bird surveys were not conducted during the past year due to concerns about Coronavirus. In most cases, data from the previous year was used to model and predict current population sizes, and develop appropriate harvest regulations.

Doves

Mourning Dove Background Information and Population Status

There are three dove management units (or flyways) across the country, including the Eastern (EMU), Central (CMU) and Western (WMU) Management Units. Virginia is in the EMU.

- Population trends in the EMU based on the Breeding Bird Survey (BBS):
 10-yr (2011-2020): declining population trend.
 Long term (1966-2020): declining population trend.
- Dove Banding Project – Annual program (since 2003) to leg-band over 500 doves annually in VA, and 33,000 nationwide. Data provides estimates of movements, survival and harvest rates that are used to develop hunting regulations.
- Harvest Strategy: Revised Harvest Strategy adopted in 2014 allows for a standard dove hunting season of 90 days when appropriate. Daily bag limit remains at 15 birds (up from 12 in 2009).
- Data from HIP (past 3-yr avg.): Hunters = 16,400 Harvest = 225,467

Recent Seasons

<u>Year</u>	<u>Season Dates (all 70 days until extended to 90 days in 2014-15)</u>		
2020-2021	Sept. 5 – Oct. 28	Nov. 21 – Nov. 29	Dec. 24 – Jan. 19
2019-2020	Sept. 2 – Oct. 27	Nov. 27 – Dec. 4	Dec. 24 – Jan. 18
2018-2019	Sept. 1 – Oct. 28	Nov. 21 – Nov. 28	Dec. 22 – Jan. 14
2017-2018	Sept. 2 – Oct. 29	Nov. 22 – Nov. 29	Dec. 23 – Jan. 15
2016-2017	Sept. 3 – Oct. 30	Nov. 19 – Nov. 27	Dec. 24 – Jan. 15
2015-2016	Sept. 5 – Nov. 1	Nov. 21 – Nov. 29	Dec. 24 – Jan. 15
2014-2015	Sept. 1 – Oct. 31	Nov. 22 – Nov. 30	Dec. 27 – Jan. 15
2013-2014	Sept. 2 – Oct. 14	Oct. 19 – Nov. 2	Dec. 31 – Jan. 11
2012-2013	Sept. 1 – Oct. 13	Oct. 17 – Oct. 27	Dec. 28 – Jan. 12
2011-2012	Sept. 3 – Oct. 10	Oct. 25 – Nov. 5	Dec. 26 - Jan. 14
2010-2011	Sept. 4 – Oct. 11	Oct. 20 – Nov. 6	Dec. 27 – Jan. 8
2009-2010	Sept. 5 - 26	Oct. 7 – Nov. 7	Dec. 25 – Jan. 9
2008-2009	Sept. 1 - 27	Oct. 4 – Oct. 31	Dec. 27 – Jan. 10
2007-2008	Sept. 1 – 29	Oct. 5 – Oct 27	Dec. 26 – Jan. 12
2006-2007	Sept. 2 – 23	Oct. 7 – Nov. 4	Dec. 28 – Jan. 15
2005-2006	Sept. 3 – 24	Oct. 8 – Nov. 5	Dec. 27 – Jan. 14
2004-2005	Sept. 4 – 25	Oct. 9 – Nov. 6	Dec. 28 – Jan. 15
2003-2004	Sept. 1 – 27	Oct. 8 – Nov. 8	Dec. 31 – Jan. 10
2002-2003	Sept. 2 - 28	Oct. 9 – Nov. 9	Jan. 1 – Jan. 11
2001-2002	Sept. 1 - 29	Oct 13 – Nov. 10	Dec. 29 – Jan. 9
2000-2001	Sept. 2 – 30	Oct 7 – Nov. 4	Dec. 30 – Jan. 10

DOVE

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1, 2021 - January 31, 2022
Hunting dates may run consecutively or be split into no more than three (3) segments.

SEASON LENGTH: Not more than 90 days.

BAG LIMIT: 15 daily and 45 in possession. Daily bag limit can be composed of mourning doves and white-winged doves, singly or in combination

SHOOTING HOURS: Between ½ hour before sunrise and sunset daily (State may select ½ day shooting in any segment).

STAFF RECOMMENDATION

SEASON DATES: September 4 - October 27 (54 days)
November 20 - November 28 (9 days)
December 22 - January 17 (27 days)

SHOOTING HOURS:

September 4	Noon until sunset
September 5 – October 27	½ hr before sunrise to sunset.
November 20 – November 28	½ hr before sunrise to sunset.
December 22 - January 17	½ hr before sunrise to sunset.

BAG LIMIT: 15 daily and 45 in possession. Composed of mourning doves and white-winged doves, singly or in combination

Rails

Background Information and Population Status

- **Harvest** – Comprised predominantly of clapper rails (85%), some sora (14%), and small number of Virginia rails taken. Clappers are mostly local VA birds, some are migrants from NY, NJ, and other coastal states.
- **Nesting** - Clapper rails nest from May through June, with re-nesting in July/August. Late nesting rails have broods that do not reach flight stage until August or September. This occurs in years when 1st nests are flooded by spring storms/tides and re-nests contribute significantly to production. Therefore, we generally wait until the second week of September to open the hunting season. The key to setting the season is to bracket the greatest number of high tides possible.
- **Harvest Data** - Avg. No. hunters = 280, Avg. Harvest = 3,100 (HIP, past 5-yr avg.)

Past Seasons

<u>Year</u>	<u>Season Dates (all 70 days)</u>	
2020	Sept. 9 – Nov. 17	
2019	Sept. 7 – Nov. 15	
2018	Sept. 8 - Nov. 16	
2017	Sept. 9 – Nov. 17	
2016	Sept. 10 - Nov. 18	
2015	Sept. 8 - Nov. 16	
2014	Sept. 8 – Nov. 16	
2013	Sept. 7 - 28	Sept. 30 – Nov. 16
2012	Sept. 8 – 29	Oct. 1 – Nov. 17
2011	Sept. 10 – Oct. 1	Oct. 3 – Nov. 19
2010	Sept. 8 – Oct. 2	Oct. 4 – Nov. 17
2009	Sept. 8 – Oct. 3	Oct. 5 – Nov. 17
2008	Sept. 10 – Nov. 18	
2007	Sept. 10 – Nov. 17	
2006	Sept. 8 – Nov. 16	
2005	Sept. 12 – Nov. 19	
2004	Sept. 13 – Nov. 20	
2003	Sept. 10 – Nov. 18	
2002	Sept. 9 - Nov. 16	
2001	Sept. 11 – Nov. 19	
2000	Sept. 13 – Oct. 2	Oct. 11 – Nov. 29
1999	Sept. 10 – Oct. 12	Oct. 22 – Nov. 27
1998	Sept. 9 – Oct. 24	Nov. 2 – Nov. 25
1997	Sept. 15 - 27	Oct. 8 - Dec. 3
1996	Sept. 16 – Oct. 17	Oct. 24 - Nov. 30
1995	Sept. 11 – Oct. 14	Oct. 21 – Nov.25

RAILS (Clapper, King, Sora, Virginia)

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1, 2021 - January 31, 2022

SEASON LENGTH: 70 days, straight or 2 segments.

BAG LIMIT: Clapper/King 15 daily, 45 possession
Sora/Virginia 25 daily, 75 possession

SHOOTING HOURS: ½ hour before sunrise until sunset daily

STAFF RECOMMENDATION

SEASON DATES: September 7 - November 15 (70 days)

BAG LIMIT: King rail: 1 daily, 3 possession.
Clapper rail: 15 daily, 45 possession.
Sora/Virginia: 25 - counted together daily, 75 possession.

SHOOTING HOURS: ½ hour before sunrise until sunset

NOTES: - This recommendation provides 30 days of 3-ft or greater lunar tides.
- Non-Toxic shot is required for Rail and Snipe hunting in Virginia.

GALLINULE AND MOORHEN

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1, 2021 - January 31, 2022

SEASON LENGTH: 70 days, straight or 2 segments.

BAG LIMIT: 15 daily, 45 in possession (singly or in the aggregate)

SHOOTING HOURS: ½ hour before sunrise until sunset daily

STAFF RECOMMENDATION

SEASON DATES: September 7 - November 15 (70 days)

BAG LIMIT: 15 daily, 45 in possession (singly or in the aggregate)

SHOOTING HOURS: ½ hour before sunrise until sunset

Woodcock

Background Information and Population Status

- Harvest Strategy includes 3 regulatory options (Liberal, Moderate and Restrictive). Annual regulation based on the 3-year mean of the call count survey. For 2021-22, Harvest Strategy calls for Moderate Regulation (45 days/3 birds).
- Singing-ground survey (SGS) in Eastern Management Region from most recent survey:
 - 1 year trend (2018-2019): stable
 - 10 year trend (2010-2019): 0.90% decline per year.
 - Long-term (1966-2019): 1.08 % decline per year.
- The 2019 recruitment index for the U.S. portion of the Eastern Region (1.51 jv/ad female) was 12% below the 2018 index and 7% below the long-term index.
- Research suggests that habitat loss is the major factor of the long-term population decline.
- Virginia is participating in a Flyway-wide study of woodcock movements and habitat use for the past several years. GPS transmitters are being used to track woodcock migration routes and chronology, and better inform woodcock management strategies and hunting seasons.
- Federal regulations prohibit zones for woodcock hunting, however, we are permitted to split the season into two segments. In Virginia, this allows us to provide both early and late opportunities for hunters across the state.

Avg. No. hunters = 1,500 Avg. Harvest = 2,220 (HIP, past 5-year avg.)

Recent Seasons (bag limit has been 3 birds)

<u>Year</u>	<u>Season Dates</u>		<u>Days</u>
2020-2021	Nov. 7 – Nov. 30	Dec. 24 – Jan. 13	45
2019-2020	Nov. 20 – Dec. 8	Dec. 21 – Jan. 15	45
2018-2019	Oct. 27 – Nov. 2	Dec. 8 – Jan. 14	45
2017-2018	Nov. 20 – Dec. 8	Dec. 21 – Jan. 15	45
2016-2017	Oct. 29 – Nov. 4	Dec. 9 – Jan. 15	45
2015-2016	Nov. 23 – Dec. 5	Dec. 15 – Jan. 15	45
2014-2015	Nov. 24 – Dec. 6	Dec. 15 – Jan. 15	45
2013-2014	Oct. 26 – Nov. 1	Dec. 5 – Jan. 11	45
2012-2013	Oct. 27 – Nov. 2	Dec. 6 – Jan. 12	45
2011-2012	Oct. 29 – Nov. 12	Dec. 16 – Jan. 14	45
2010-2011	Oct. 30 - Nov. 13	Dec. 27 – Jan. 10	30
2009-2010	Nov. 7 – 21	Dec. 26 – Jan. 9	30
2008-2009	Nov. 8 – 22	Dec. 20 – Jan 3	30
2007-2008	Oct. 27 – Nov. 10	Dec. 22 – Jan. 5	30
2006-2007	Nov. 4 – 18	Dec. 23 – Jan. 6	30
2005-2006	Nov. 12 – 26	Dec.17 – Dec 31	30
2004-2005	Oct. 30 – Nov. 13	Dec.18 – Jan. 1	30
2003-2004	Nov. 1 – 15	Dec. 20 – Jan. 3	30
2002-2003	Nov. 2 – 16	Dec. 21 - Jan. 4	30
2001-2002	Nov. 3 - 17	Dec. 22 - Jan. 5	30
2000-2001	Nov. 4 - 18	Dec. 23 - Jan. 6	30
1999-2000	Oct. 30 - Nov. 13	Dec. 18 - Jan. 1	30

WOODCOCK

FEDERAL FRAMEWORKS

OUTSIDE DATES: October 1, 2021 - January 31, 2022

SEASON LENGTH: 45 days, straight or 2 segments.

BAG LIMIT: 3 daily, 9 in possession.

SHOOTING HOURS: ½ hour before sunrise until sunset daily.

STAFF RECOMMENDATION

SEASON DATES: November 11 – December 8 (28 days)
December 27 – January 12 (17 days)

BAG LIMIT: 3 daily, 9 in possession

SHOOTING HOURS: ½ hour before sunrise until sunset

Snipe

Background Information

- Season generally set to overlap duck season. There are relatively few snipe hunters in VA and most snipe are taken opportunistically by other migratory bird hunters.
- Harvest Data (HIP, past 5-yr avg.): No. hunters = 260, Harvest = 750

Recent Seasons

<u>Year</u>	<u>Season Dates (all 107 days)</u>	
2020-2021	Oct. 9 – Oct. 12	Oct. 21 – Jan. 31
2019-2020	Oct. 11 – Oct. 14	Oct. 21 – Jan. 31
2018-2019	Oct. 5 – Oct. 8	Oct. 21 – Jan. 31
2017-2018	Oct. 6 – Oct. 9	Oct. 21 – Jan. 31
2016-2017	Oct. 7 – Oct. 10	Oct. 21 – Jan. 31
2015-2016	Oct. 9 – Oct. 12	Oct. 21 – Jan. 31
2014-2015	Oct. 10 – Oct. 13	Oct. 21 – Jan. 31
2013-2014	Oct. 11 – Oct. 14	Oct. 22 – Jan. 31
2012-2013	Oct. 4 – Oct. 8	Oct. 22 - Jan. 31
2011-2012	Oct. 6 – Oct. 10	Oct. 22 – Jan. 31
2010-2011	Oct. 7 – Oct. 11	Oct. 22 – Jan. 31
2009-2010	Oct. 8 – Oct. 12	Oct. 21 – Jan. 30
2008-2009	Oct. 9 – Oct. 13	Oct. 22 – Jan.31
2007-2008	Oct 4 – Oct. 8	Oct. 22 – Jan. 31
2006-2007	Oct 4 – Oct. 9	Oct. 23 – Jan. 31
2005-2006	Oct 5 – Oct.10	Oct. 24 – Jan. 31
2004-2005	Oct 7 – Oct 11	Oct. 22 – Jan. 31
2003-2004	Oct. 8 – Oct 11	Oct. 21 – Jan. 31
2002-2003	Oct 9 – Oct 12	Oct. 21 – Jan. 31
2001-2002	Oct. 10 - Oct. 13	Oct. 22 - Jan. 31
2000-2001	Oct. 11 - Oct. 14	Oct. 21 - Jan. 31
1999-2000	Oct. 6 - Oct. 9	Oct. 21 - Jan. 31
1998-1999	Oct. 7 - Oct. 10	Oct. 20 - Jan. 30
1997-1998	Oct. 8 - Oct. 11	Oct. 21 - Jan. 31
1996-1997	Oct. 9 - Oct. 12	Oct. 21 - Jan. 31
1995-1996	Oct. 11 - Oct. 14	Oct. 21 - Jan. 31

SNIFE

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1, 2021 - January 31, 2022

SEASON LENGTH: 107 days, straight or 2 segments

BAG LIMIT: 8 daily, 24 possession

SHOOTING HOURS: ½ hour before sunrise until sunset

STAFF RECOMMENDATION

SEASON DATES: October 8 - October 11 (4 days)
October 21 - January 31 (103 days)

BAG LIMIT: 8 daily, 24 in possession

SHOOTING HOURS: ½ hour before sunrise until sunset

SEPTEMBER TEAL SEASON FACT SHEET - 2021

- Special teal seasons were initiated in late 1960's to provide harvest opportunities on blue-winged and green-winged teal. When the blue-winged teal breeding population (BPOP) is above 3.3 million, a 9-day season can be offered. If the BPOP exceeds 4.7 million, a 16-day season can be offered.
- Blue-winged teal are one of the earliest migrants. Many pass through Virginia from late August through October, prior to the opening of the late duck season.
- Green-winged teal are also early migrants and arrive in September and October. However, some Green-wings remain through the winter depending on weather conditions.
- Virginia has held a special September teal season since 1999 (see dates listed below). The season was initially held only in the area east of I-95 because there are greater numbers of teal and teal hunters in the coastal plain. Even in the coastal plain, teal are not widespread, and the harvest has been relatively small. The season was expanded in 2011 to provide some teal hunting opportunity in the area west of I-95.

<u>Year</u>	<u>Season Dates</u>	<u>Season Dates</u>
	<u>East of I-95</u>	<u>West of I-95</u>
2020	Sept. 17 – 30	Sept. 21 - 30
2019	Sept. 17 – 30	Sept. 21 - 30
2018	Sept. 17 – 30	Sept. 21 - 30
2017	Sept. 16 – 30	Sept. 21 - 30
2016	Sept. 17 – 30	Sept. 21 - 30
2015	Sept. 17 – 30	Sept. 21 - 30
2014	Sept. 17 – 30	Sept. 22 - 30
2013	Sept. 16 – 30	Sept. 23 - 30
2012	Sept. 17 – 29	Sept. 24 - 29
2011	Sept. 19 – 30	Sept. 26 - 30
2010	Sept. 20 – 30	na
2009	Sept. 21 – 30	na
2008	Sept. 20 – 30	na
2007	Sept. 17 – 26	na
2006	Sept. 15 – 25	na
2005	Sept. 16 – 24	na
2004	Sept. 16 – 25	na
2003	Sept. 13 – 23	na
2002	Sept. 14 – 24	na
2001	Sept. 15 – 25	na
2000	Sept. 14 – 23	na
1999	Sept. 16 – 25	na

Average Annual Harvest: 670 teal

SEPTEMBER TEAL SEASON

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1 – September 30, 2021

SEASON LENGTH: Up to 16 days

BAG LIMIT: 6 daily, 18 in possession (Blue-winged and Green-winged teal only)

SHOOTING HOURS: ½ hour before sunrise to sunset

STAFF RECOMMENDATION

SEASON DATES: September 17 – September 30 (14 days)
HUNT AREA: East of I – 95

September 21 – September 30 (10 days)
HUNT AREA: West of I – 95

BAG LIMIT: 6 daily, 18 in possession (Blue-winged and Green-winged teal only).

SHOOTING HOURS: ½ hour before sunrise to sunset

FACT SHEET - Waterfowl Hunters and Harvests - 2021

- Liberal duck seasons (60 days, 6 bird bag limit) and resident goose seasons have resulted in high waterfowl harvests in Virginia during the past ten years. Harvest has averaged ~133,300 ducks and ~51,700 Canada geese from 2016-2019, compared to 114,770 ducks and 25,000 geese during the 1990's. The long season length and liberal bags offer greater opportunity and a greater cumulative harvest over the course of the season.
- Waterfowl hunter numbers in Virginia have been generally stable since the late 1990's. Since 1999, the Harvest Information Program (HIP) has been used to estimate hunter effort and harvest. The average number of duck and goose hunters over the past 3 years, as measured by HIP, was 16,700 and 13,900 respectively.
- Conditions during the 2019-2020 season were mild and warm resulting in poor waterfowl hunting conditions and a delayed migration. This resulted in a lower duck harvest than previous seasons and below the 5-year average. Estimated Canada goose harvest was also lower than previous years mainly due to the decrease in the AP Canada goose bag limit.
- The total estimated duck harvest during the 2019-2020 season in Virginia (124,500) was 15% lower than the previous year (143,700) and 5% below the past 5-year average (130,520).
- During the 2019-2020 season, mallards were the most commonly harvested duck in Virginia, followed by wood ducks, gadwall, bufflehead and scoters, which compromised the top 5 harvested species. The mallard harvest in Virginia in 2019-2020 (29,032) decreased by 24% from 2018-2019 (37,881), and was 22% lower than the past 5-year average (37,320). This is partially a result of a reduction in the mallard bag limit from 4 to 2 during the 2019-2020 season.
- The Canada goose harvest in Virginia in 2019-2020 (30,819) was slightly lower than the previous season (31,427) and 38% lower than the past 5-year average (49,320).

FACT SHEET - The Status of Ducks - 2021

Due to Covid-19 most waterfowl breeding surveys were cancelled during 2020. The numbers below for the total duck breeding population and from the Eastern survey area are from 2019. Based on weather and habitat conditions, average to above average production is expected for most waterfowl species in 2020.

Mid-Continent Areas: Annual precipitation is the most important factor influencing the quantity and quality of nesting and brood rearing habitat for prairie-nesting birds. The number of ponds counted during the USFWS May breeding waterfowl survey is used as an index for assessing waterfowl nesting habitat. In 2019, the May pond count (4.9 million) was 5% below last year's count (5.2 million), and below the long-term average (5.2 million).

The total duck breeding population (BPOP) estimate for the mid-continent area in 2019 was 38.9 million ducks. This estimate is 6% lower than the previous year's estimate of 41.2 million ducks, but still 10% higher than the long-term average (1955-2018). The Breeding population estimates (BPOP), along with the percent change from last year and the long-term average, are presented below for the 10 most common species.

Species	2019 BPOP	% Change from 2018	% Change from Long-Term Avg.
Mallard	9.4 million	+2%	+19%
Blue-winged Teal	5.4 million	-16%	+6%
Green-winged Teal	3.2 million	4%	+47%
Gadwall	3.3 million	+13%	+61%
Northern Shoveler	3.6 million	-13%	+39%
Northern Pintail	2.3 million	-4%	-42%
American Wigeon	2.8 million	0%	+8%
Redhead	732,000	-27%	0%
Scaup	3.6 million	-10%	-28%
Canvasback	652,000	-5%	+10%
Total Ducks	38.9 million	-6%	+10%

Eastern Breeding Areas: More pertinent to waterfowl harvests in Virginia are the number of ducks counted in the eastern survey area. Breeding population estimates for the 6 most common species surveyed in the eastern survey area in 2019 were very similar to the 2018 estimates. The estimated abundance of mallards was 1 million, which was similar to 2018, but 16% below the long-term average. Black ducks (729,000) were similar to the previous year's estimate but also 16% lower than the long-term average. Other abundant species counted in the eastern survey area were, Ring-necked ducks (700,000), Goldeneyes (500,000) and Green-winged teal (300,000).

Virginia: Habitat conditions in Virginia during the spring of 2020 started off rather poor with dry conditions, but significant precipitation later in the spring filled many wetlands and provided good nesting habitat. Local duck and goose production is expected to be slightly below average.

- The **2020** breeding pair estimate for mallards (36,430) was 23% higher than last year (28,198). Estimated black duck pairs (1,545) increased from last year (750). The number of Wood duck pairs (13,559) increased 38% from last year (8,308). The breeding pair estimate for Canada geese (46,563) was similar to the 2019 estimate (46,254).

Mallard Bag Limit in the Atlantic Flyway

The mallard has been one of the most abundant duck species in eastern North America. However, in the past 20 years, “eastern” mallards have been on the decline. Surveys conducted since 1988 throughout eastern Canada and the northeastern U.S. have provided reliable annual estimates of the breeding population size of eastern mallards. These surveys indicate that mallard numbers have decreased steadily in the northeastern U.S., declining by about 38% since 1998. Mallard numbers in Eastern Canada have been relatively stable, but overall, the breeding mallard population in eastern North America is declining (Figure 1). About 60% of the mallards harvested in Atlantic Flyway states, and around 80% of those harvested in Virginia, are derived from the northeastern US. There has also been a significant decline in the mallard harvest in the Atlantic Flyway (around 40%, Figure 2), a direct result of this population decline.

Figure 1. Mallard breeding population in eastern North America

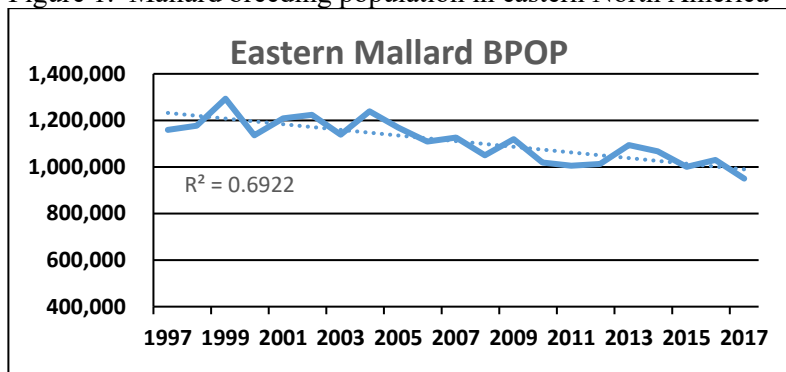
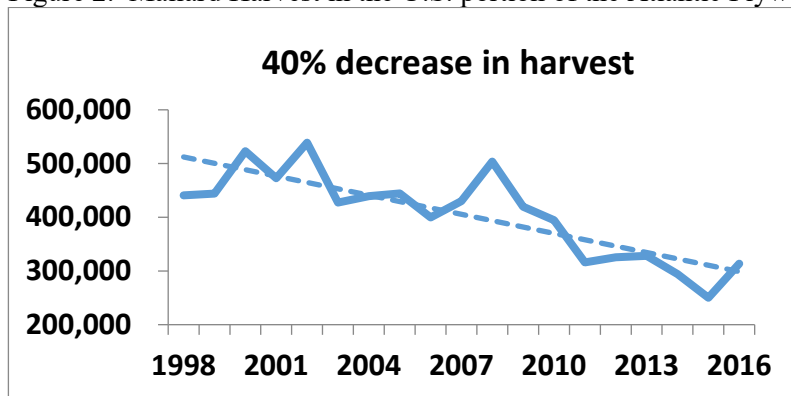


Figure 2. Mallard Harvest in the U.S. portion of the Atlantic Flyway



Population models suggested that cutting the daily bag limit in half would reduce the harvest by 25%, and would achieve a sustainable harvest level based on the current population. Therefore, beginning in the 2019-20 season the Atlantic Flyway and the U.S. Fish and Wildlife Service reduced the bag limit from 4 to 2 mallards (only 1 hen) in the Atlantic Flyway. This reduction remained in effect for the 2020-21 season, and will also be maintained for the 2021-2022 season. In addition, a new harvest strategy is being developed that will help guide future hunting season regulations based on current mallard population dynamics.

YOUTH and VETERANS WATERFOWL DAYS

Guidelines for the Youth Days and Veterans Days include:

1. States may select 2 days per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," in addition to their regular duck seasons. States may also select 2 days per duck-hunting zone designated as "Veterans Waterfowl Hunting Days" in addition to their regular duck seasons. The Youth and Veterans days could be combined and held on the same day or could be held separately.
2. Youth Days must be held outside of any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate.
3. Youth and Veterans Days could be held up to 14 days before or after any regular duck season frameworks or within any split of a regular duck season.
4. The daily bag limit is the same as that allowed in the regular season and includes ducks, mergansers, coots, moorhens, gallinules, 1 Canada geese (except in Canada Goose Zones where the bag limit is higher), and 1 tundra swan (if the hunter possesses a tundra swan permit). Flyway species restrictions remain in effect.
5. Youth hunters must be 15 years of age or younger. Youth 12 years of age and older will need a valid Virginia state hunting license. A licensed adult at least 18 years of age or older must accompany youth hunters into the field. This adult may not duck hunt, but may participate in other open seasons.
6. Those allowed to participate in the special **Veterans Days** include Veterans (as defined in section 101 of title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training).

DUCKS

FEDERAL FRAMEWORK

Outside Dates: September 25, 2021 - January 31, 2022

Season Length: 60 hunting days; plus 2 Youth/Veterans Waterfowl Hunt Days.

Bag Limit: Daily Bag limit of 6 ducks of any species except for the following restrictions: can include no more than 2 mallards (only 1 hen), 4 scoters, 4 long-tailed ducks, 4 eiders, 3 wood ducks, 2 black ducks, 2 canvasback, scaup: 1/day for 40 days and 2/day for 20 days, 2 redheads, 1 pintail, 1 mottled duck, 1 fulvous whistling duck.
Closed season on harlequin duck.
The possession limit is three times the daily bag limit.

NOTE: There is an option to include mergansers in the general duck bag or leave them as a separate bag (see Merganser framework page 10). If included in the general duck bag, the restriction on 2 hooded mergansers would apply.

Split Season Options: 3-way split season, no zones

Shooting Hours: 1/2-hour before sunrise until sunset daily

STAFF RECOMMENDATIONS

Season Length: 60 hunting days; plus 2 Youth/Veterans Waterfowl Hunting Day

Season Dates: October 8 - 11 (Black Duck closed) (4 days)
November 17 – November 28 (12 days)
December 18 – January 30 (44 days)
(60 days)

October 23, February 5 – Youth/Veterans Waterfowl Days

Bag Limit: Daily Bag limit of 6 ducks of any species except for the following restrictions: can include no more than 2 mallards (only 1 hen), 4 scoters, 4 long-tailed ducks, 4 eiders, 3 wood ducks, 2 black ducks (except closed Oct. 8 – 11), scaup: 1/day for 40 days (October 8-11, November 17-28, December 18 - January 10), and 2/day for 20 days (January 11-30), 2 redheads, 2 canvasback, 1 pintail, 1 mottled duck, 1 fulvous whistling duck.

Closed season on harlequin duck.
The possession limit is three times the daily bag limit.

Shooting Hours: 1/2-hour before sunrise until sunset daily

MERGANSER AND COOT

MERGANSER

FEDERAL FRAMEWORK

Option A

Season Length: 60 hunting days
Outside Date: September 25, 2021 - January 31, 2022
Bag Limit: 5 birds daily, of which only 2 birds may be a hooded merganser
(15 in possession, only 6 of which may be hooded mergansers)

Option B

To be included into the general duck bag. If included in the general duck bag, the restriction on 2 hooded mergansers would apply.

STAFF RECOMMENDATIONS

Option A

Season Dates: To coincide with general duck season
Bag Limit: 5 birds daily, of which only 2 birds may be a hooded merganser
(15 in possession, only 6 of which may be hooded mergansers)

AMERICAN COOT

FEDERAL FRAMEWORK

Season Length: 60 hunting days
Outside Date: September 25, 2021 - January 31, 2022
Bag Limit: 15 birds daily (45 in possession)

STAFF RECOMMENDATIONS

Season Dates: To coincide with general duck season.
Bag Limit: 15 daily (45 in possession)

SPECIAL SEA DUCK SEASON IN SEA DUCK ZONE*

FEDERAL FRAMEWORK

SEA DUCKS (SCOTER, LONG-TAILED DUCK, AND EIDER)

<u>Season Length:</u>	60 hunting days, run consecutively
<u>Outside Dates:</u>	September 15, 2021 - January 31, 2022
<u>Bag Limit:</u>	5 birds per day (15 in possession), may include no more than 4 scoters, 4 eiders or 4 long-tailed ducks.

STAFF RECOMMENDATION

SEA DUCKS (SCOTER, LONG-TAILED DUCK, AND EIDER)

<u>Season Dates:</u>	November 11 – January 9 (60 days) In the Sea Duck Zone delineated below
<u>Bag Limit:</u>	5 birds per day (15 in possession), may include no more than 4 scoters, 4 eiders or 4 long-tailed ducks.

* **Sea Duck Zone:** Those waters at a distance greater than 800 yards from any shore, island or emergent vegetation in the following area: the ocean waters of Virginia, the tidal waters of Northampton and Accomack Counties, and the Chesapeake Bay and each of its tributaries up to the first highway bridge. Back Bay and its tributaries are not included in the Sea Duck Zone.

Note - Sea ducks cannot be taken in the Sea Duck Zone after January 9. Sea ducks can, however, be taken during the regular duck season (Oct. 8-11, Nov. 17-28, and Dec. 18 - Jan. 30) in all other areas outside of the sea duck zone (areas within 800 yards of any shore, island or emergent vegetation...), since they are included in the regular season duck bag. No more than 4 scoters, 4 eiders or 4 long-tails can be included in the regular season daily limit of 6 ducks.

FACT SHEET - The Status of Resident Canada Geese - 2021

- The resident Canada goose population increased significantly in Virginia during the 1980's and 1990's, and peaked at 260,000 geese in the late 1990's. This population caused significant conflicts with human and wildlife populations, and management actions were taken to reduce their numbers. The population estimate for 2020 was 220,000 (+/- 52,000) in Virginia and over 1 million in the Atlantic Flyway.
- Special resident goose hunting seasons were initiated in 1993 to help manage this population and to provide recreational opportunities for hunters. These seasons occur prior to the arrival of most migrant geese (~Sept. 25 in Virginia), or in areas where there are fewer migrant geese. The Federal Framework allows Virginia to conduct a statewide September Resident Goose season from September 1-25.
- There are fewer migrant geese in the western portions of Virginia, and special “Goose Hunting Zones” have been established that allow more liberal seasons in areas with more resident Canada goose.
- Special resident goose hunting seasons have been very popular, and have increased hunter participation and resident goose harvests. These seasons have been very effective in managing resident goose populations and helping to meet our statewide population objectives.
- In areas where hunting is not feasible, other options including Airport, Agricultural, and Nest and Egg Depredation Orders have been implemented to help manage resident goose conflicts.

Year	Population Estimate *	September Harvest
2020	163,198 +/- 24%	xxxx
2019	125,966 +/-20%	6,300
2018	132,633 +/- 24%	5,600
2017	142,167 +/- 21%	5,500
2016	158,200 +/- 19%	900
2015	150,651 +/- 22%	6,100
2014	130,503 +/- 26%	7,500
2013	144,910 +/- 26%	10,700
2012	158,267 +/- 28%	9,700
2011	165,022 +/- 28%	14,700
2010	147,313 +/- 29%	15,600
2009	145,019 +/- 29%	16,800
2008	157,560 +/- 29%	17,500
2007	154,030 +/- 27%	13,600
2006	136,700 +/- 27%	11,100
2005	129,486 +/- 26%	10,100
2004	143,741 +/- 25%	17,000
2003	186,753 +/- 23%	14,800
2002	218,719 +/- 24%	14,300
2001	218,384 +/- 27%	11,800
2000	227,164 +/- 32%	10,800
1999	261,554 +/- 34%	11,400
1998	264,867 +/- 35%	12,200
1997	249,612 +/- 34%	10,500
1996	181,813 +/- 36%	10,000
1995	151,043 +/- 39%	5,500

*3-year running average

SEPTEMBER CANADA GOOSE

FEDERAL FRAMEWORKS

OUTSIDE DATES: September 1 – September 25, 2021

BAG LIMIT: 15 daily, 45 in possession

SHOOTING HOURS: ½ hour before sunrise to sunset (except as provided for in special hunting options *)

* SPECIAL HUNTING OPTIONS: Allows the use of electronic calls, unplugged shotguns and extended shooting hours (1/2 hr after sunset) when **no other** waterfowl seasons are open.

STAFF RECOMMENDATION

SEASON DATES: September 1 – September 25 (25 days)

BAG LIMIT: 10 daily, 30 in possession

HUNT AREA: Statewide

SHOOTING HOURS:

East of I-95

September 1 – 16: ½ hr before sunrise to ½ hr after sunset.

September 17 – 25: ½ hr before sunrise **to sunset.**

West of I-95

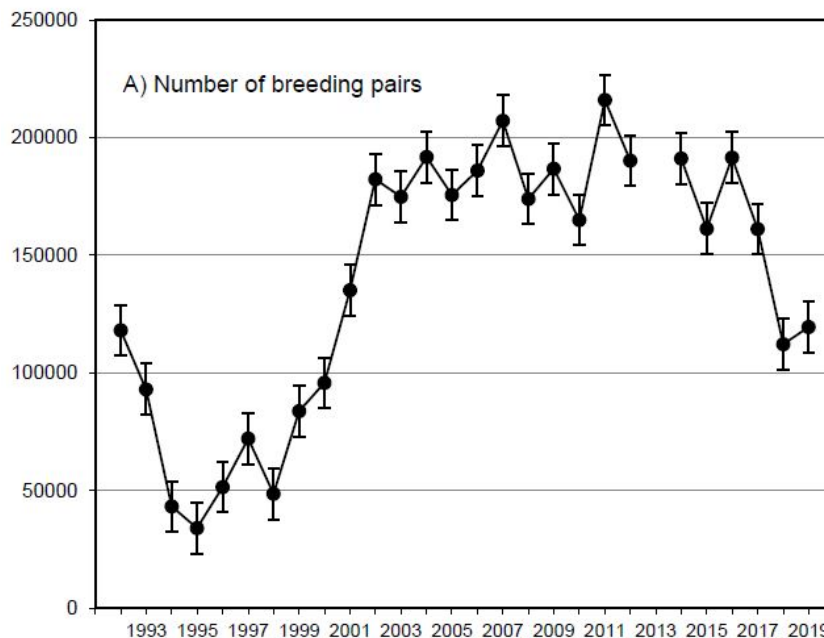
September 1 – 20: ½ hr before sunrise to ½ hr after sunset.

September 21 - 25: ½ hr before sunrise **to sunset.**

NOTE: Staff is not recommending the options of using electronic calls or unplugged shotguns for hunting geese in the September season.

FACT SHEET- History and Status of Migrant Canada Geese - 2021

- Migrant Canada geese from the Atlantic Population (AP) declined significantly from 1985-1995. The hunting season was closed in 1995 to allow the population to recover. Goose numbers rebounded quickly and a limited season (6 days with a 1-bird bag) was held in both 1999 and 2000. As the population increased, the season was extended to 30 days in 2001, then 45 days in 2002, and 50 days from 2012-2018.
- However, annual productivity has been below average for 6 of the past 7 years, leading to a decline in the breeding population over the past 4 years (see graph below). This has been the result of adverse weather conditions on the nesting grounds in northern Canada.
- Because of this declining trend, the Atlantic Flyway Council in cooperation with the USFWS recommended reducing the harvest on AP geese beginning in 2019-20. The season was restricted to 30 days with a 1-goose daily limit in the AP Goose Zone. These restrictive regulations will remain in effect for the 2021-22 season.
- The Canada goose season in the Resident Zone (RP) will be unchanged from last year.
- In the Southern James Bay Zone (SJBZ), the season length will remain the same but the daily bag limit will be reduced from 5 to 3 during the last segment.



Canada Goose Populations and Hunt Zones

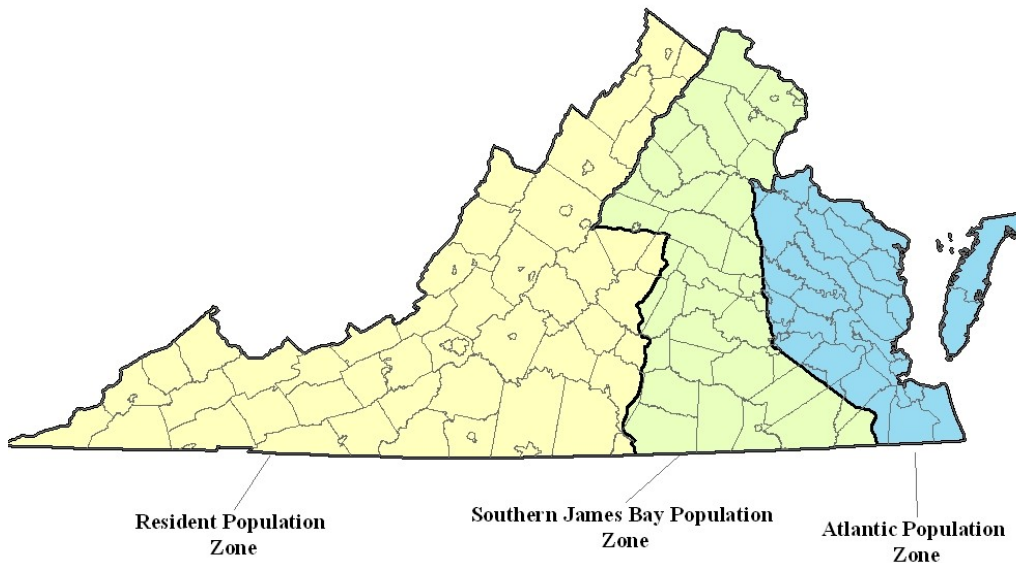
- There are 4 subpopulations of Canada geese in Virginia. These include the Atlantic Flyway Resident Population (RP) along with three migrant goose populations, the North Atlantic Population (NAP), the Southern James Bay Population (SJB), and the Atlantic Population (AP). The majority of our migrant geese (~82%) are from the AP, about 18% are from the SJB, and <1% are from the NAP.
- Recent research and banding analyses have enabled us to better delineate the distribution and migration corridors used by these different subpopulations, and to establish separate hunting zones based on the percentage of migrant geese in each zone. These zones include the:

Atlantic Population (AP) Hunt Zone – The area east of the Stafford/King George County line from the Potomac River south to the Rappahannock River, then west along the Stafford County line to Interstate 95, then south along I-95 to Route 460 in Petersburg, then southeast along Route 460 to Route 32 in the City of Suffolk, then south to the North Carolina border.

Southern James Bay Population (SJB) Hunt Zone – The area to the west of the AP Hunt Zone boundary and east of the following line: the “Blue Ridge” (Loudoun County-Clarke County line) at the West Virginia-Virginia Border, south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

Resident Population (RP) Hunt Zone – The portion of the state west of the SJB Hunt Zone.

Virginia's Canada Goose Hunt Zones



CANADA GOOSE

FEDERAL FRAMEWORKS

ATLANTIC POPULATION ZONE (AP):

<u>Season Length:</u>	30 hunting days
<u>Outside Dates:</u>	November 15 – February 5
<u>Bag Limit:</u>	1 bird daily (3 in possession)

SOUTHERN JAMES BAY POPULATION ZONE (SJBP)

<u>Outside Dates and Season Length:</u>	
<u>Regular Season:</u>	November 15 – January 14 (up to 40 hunting days)
<u>Extended Season:</u>	January 15 – February 15
<u>Bag Limit:</u>	3/day (9 in possession) through January 14 5/day (15 in possession), January 15 to February 15

RESIDENT POPULATION ZONE (RP):

<u>Outside Dates:</u>	November 15 – March 10
<u>Season Length:</u>	80 hunting days
<u>Bag Limit:</u>	5 birds daily (15 in possession)

NOTE – All seasons also include White-fronted geese along with Canada geese.

STAFF RECOMMENDATIONS

ATLANTIC POPULATION ZONE: (AP)

<u>Season Dates:</u>	December 18 – December 31	(14 days)
	January 15 – January 30	(16 days)
<u>Bag Limit:</u>	1 goose per day (3 in possession)	
<u>Shooting Hours:</u>	1/2-hour before sunrise until sunset daily	

SOUTHERN JAMES BAY POPULATION ZONE (SJBP)

<u>Season Dates:</u>	
<u>Regular Season:</u>	November 17 – November 28 3/day December 18 – January 14 3/day
<u>Extended Season:</u>	January 15 - February 15 3/day
<u>Shooting Hours:</u>	1/2-hour before sunrise until sunset daily

RESIDENT POPULATION ZONE: (RP)

<u>Season Dates:</u>	November 17 – November 28 December 18 - February 23
<u>Bag Limit:</u>	5 birds daily (15 in possession)
<u>Shooting Hours:</u>	1/2-hour before sunrise until sunset daily

NOTE – All seasons also include White-fronted geese along with Canada geese.

FACT SHEET - Status of Light Geese (Greater and Lesser Snow Geese, and Ross's Geese) - 2021

- The majority of the “Light” geese found in the Atlantic Flyway are Greater Snow Geese, while less than 5% are Lesser Snow Geese, with even smaller numbers of Ross's Geese.
- The principal nesting areas for greater snow geese are on Bylot, Axel Heiberg, Ellesmere, and Baffin Islands, and on Greenland. They winter along the Atlantic Coast from New Jersey to North Carolina.
- The Greater Snow Goose population is monitored on spring staging areas along the St. Lawrence Valley in Quebec. The 2019 population estimate was 714,000 geese, which is 19% lower than 2018 but similar to the long-term average.
- Breeding conditions were average to below average at the main breeding colony on Bylot Island in 2020, and production is expected to be below average this year.
- Over the last 30 years, snow goose populations have increased almost ten-fold. A shift from feeding almost exclusively in marshes to feeding more on agricultural grains has allowed them to expand their range and habitat use. This shift has also allowed them to return to their breeding habitats in better physical condition, which has led to increased productivity.
- This population boom has resulted in concerns about habitat degradation on their breeding, migration and wintering areas. Snow geese can cause damage to these habitats by pulling up plant roots and denuding marshes of vegetation. Snow geese can also cause conflicts with agricultural interest by pulling up green grains including wheat and barley.
- Current hunting regulations for snow geese are as liberal as Federal Frameworks will allow and include a 107-day season that runs from October to January, and a bag limit that was increased from 15 to 25 in 2010. Liberal seasons have helped increase the harvest, however, the population is still quite large and concerns remain about detrimental impacts these birds could have on breeding and wintering habitats.
- A Conservation Order (CO) was established in 2009, and authorizes the use of alternative management strategies (unplugged shotguns, electronic calls, shooting to ½ hour after sunset, no daily bag limit) to further increase the harvest of snow geese in the Atlantic Flyway. The snow goose harvest in Virginia has averaged around 300 birds during the regular season and 725 birds during the Conservation Order over the past 3 years.

LIGHT GOOSE SEASONS

REGULAR LIGHT GOOSE SEASON

FEDERAL FRAMEWORK

<u>Season Length:</u>	107 hunting days
<u>Outside Dates:</u>	October 1, 2021 - March 10, 2022
<u>Split Season Option:</u>	3-way split season
<u>Bag Limit:</u>	25 birds daily (no possession limit)

STAFF RECOMMENDATIONS

<u>Season Dates:</u>	October 17 – January 31	(107 days)
<u>Bag Limit:</u>	25 birds daily (no possession limit)	

LIGHT GOOSE CONSERVATION ORDER

FEDERAL FRAMEWORK

<u>Outside Dates:</u>	When no other waterfowl seasons are open
<u>Bag Limit:</u>	No daily or possession limit
<u>Special Hunting Methods:</u>	Electronic calls, unplugged shotguns and extended shooting hours to one-half hour after sunset only in areas and at times when other waterfowl seasons are closed.
<u>Special Requirements:</u>	States participating in the Conservation Order are required to monitor hunter participation, effort, and success.

STAFF RECOMMENDATION

Conservation Order Zone: The same as the AP Canada Goose Zone - The area east of the Stafford/King George County line from the Potomac River south to the Rappahannock River, then west along the Stafford County line to Interstate 95, then south along I-95 to Route 460 in Petersburg, then southeast along Route 460 to Route 32 in the City of Suffolk, then south to the North Carolina border.

<u>Season Dates:</u>	February 1 – April 5, 2022	(65 days)
<u>Bag Limit:</u>	No daily or possession limit	
<u>Special Hunting Methods:</u>	Electronic calls, unplugged shotguns and extended shooting hours to one-half hour after sunset.	
<u>Special Requirements:</u>	Hunters participating in the Conservation Order <u>must register with DGIF</u> , keep a record of their harvest and participation, and return a harvest report form within two weeks following the close of the season.	

FACT SHEET - Status of Atlantic Brant and Tundra Swan - 2021

- **BRANT**. The main breeding areas for Atlantic Brant are in the Eastern Canadian Arctic on Baffin, Southampton, and Ellesmere Islands. Most brant winter along the Atlantic Coast from MA to NC.
- The 2020 Mid-Winter Survey (MWS) count of brant in the Atlantic Flyway (139,875) was 16% higher than in 2019, and was similar to the past 5-year average (144,170). Fall productivity surveys indicated 10% young, which is similar to last year, but still 41% below the long-term average.
- The Brant Harvest Strategy provides hunting season recommendation based on the population surveys and annual productivity. The strategy recommends a 50-day season with a 2-bird daily bag limit for the 2021-2022 season.
- **TUNDRA SWANS**. The Eastern Population of tundra swans nest in arctic tundra areas from Alaska, east to Hudson Bay and Baffin Island. These birds winter in coastal areas from Maryland to North Carolina.
- The tundra swan productivity estimate from this fall (11% young) increased slightly from the previous year, but was still 35% below the long-term average.
- The total 2020 Mid-Winter Survey count of EP tundra swans was 78,586, with 61,354 counted in the Atlantic Flyway, 9,241 in the Mississippi Flyway (MF) and 7,991 in Ontario. This total is down from last year's count of 92,817, and drops the 3-year running average (2018-2020) to 94,340.
- Nine states in the U.S. hunt tundra swans including Alaska, Utah, Montana and Nevada in the Pacific Flyway, North Dakota and South Dakota in the Central Flyway, and Delaware, Virginia and North Carolina in the Atlantic Flyway.
- The allocation of hunt permits in the Atlantic Flyway is split between the 3 states that have tundra swan hunting seasons (DE, VA, NC), in proportion to the number of swans in each state. For the 2021-22 season, North Carolina will be allocated 4,895 permits, Virginia will be allocated 638 permits, and Delaware will be allocated 67 permits. This is no change from last year.
- The tundra swan hunting season in Virginia is authorized and conducted as specified in the Atlantic Flyway Tundra Swan Management Plan and Hunt Plan, with limits and guidelines as specified under an MOU with the U.S. Fish and Wildlife Service.

ATLANTIC BRANT

FEDERAL FRAMEWORK

<u>Season Length:</u>	50 hunting days
<u>Outside Dates:</u>	September 25, 2021 - January 31, 2022
<u>Split Season Option:</u>	2-way split season
<u>Bag Limit:</u>	2 bird daily (6 in possession)

STAFF RECOMMENDATIONS

<u>Season Dates:</u>	November 23 – November 28 December 18 – January 30
<u>Bag Limit:</u>	2 birds daily (6 in possession)

TUNDRA SWAN

FEDERAL FRAMEWORK

Season Length: 90 hunting days

Outside Dates: October 1, 2021 - January 31, 2022

Virginia may issue up to 638 permits and must obtain harvest and hunter participation data. Each permittee is authorized to take one (1) tundra swan per season.

Bag Limit: One per permittee per season

STAFF RECOMMENDATIONS

Season Dates: November 17 - January 31

Bag Limit: One per permittee per season

Hunt Area: All counties and portions of counties east of U.S. Route I- 95 and south of the Prince William/Stafford county line in Chopawamsic Creek at Quantico Marine Corps Base.

NOTE: VDWR will issue no more than 638 swan-hunting permits to holders of a valid Virginia hunting license. Only hunters with a valid 2021-2022 tundra swan-hunting permit issued by VDWR shall be authorized to hunt tundra swans. Each permittee will be authorized to take one tundra swan during the season. Swan hunting permits are non-transferable and are valid for use only by the person to whom issued. Permits must be in the immediate possession of the permittee while swan hunting. Immediately at the time and place of kill, successful hunters must permanently record the month and day of kill on their permit and attach it to their swan. The VDWR is required to obtain hunter participation and harvest information to offer this Tundra Swan hunting season. **Hunters are required to complete the tundra swan hunt questionnaire (survey) and submit their results to the Department by February 15, 2022.** Those who fail to submit their results are ineligible for future drawings.

FALCONRY

FEDERAL FRAMEWORK

Season Length: No more than 107 on any species (Gun and Falconry combined)
Outside Dates: September 1 - March 10
Bag Limit: 3 daily (9 in possession)
Hawking Hours: ½ hour before sunrise until sunset.

STAFF RECOMMENDATIONS

Dove: September 4 – October 27
November 20 – November 28
December 22 – January 31

Rail, Gallinule, Moorhen: September 7 – December 22

Woodcock: October 17 – January 31

Snipe: October 8 - 11
October 21 – January 31

Canada Goose: September 1 - September 25
November 17 – November 28
December 18 - February 23

September Teal: September 17 - September 30

Ducks, Mergansers, Coot: October 8 - 11
November 17 – February 11

Brant and Snow Goose: October 17 – January 31

NOTE: Recommended dates based on adoption of preceding gun season proposals; if amended, staff requests permission to calculate permissible dates for each species within the allowable federal framework.

2021-2022 Migratory Gamebird Seasons and Bag Limits

Federal Frameworks & Final Staff Recommendations



**Wildlife Resources Division
Department of Game and Inland Fisheries Board Meeting
March 2021**



Timeline for 2021-22 Migratory Game Bird Season and Bag Limit Recommendations

January 20 & 21: Staff presented preliminary recommendations to Board.

February 1 – March 5: Public comment period on Agency website.

February: Federal Frameworks finalized.

March 16 & 18: Staff presents final proposals to Board.

Prior to April 30: Staff submits State selections to USFWS.



DOVE



DOVE

STAFF RECOMMENDATION

SEASON

DATES:

September 4 – October 27	(54 days)
November 20 – November 28	(9 days)
December 22 - January 17	(27 days)

BAG LIMIT: 15 daily and 45 in possession.

SHOOTING

HOURS:

Sept. 4:	Noon until sunset
Sept. 5 – Oct. 27:	1/2 hour before sunrise until sunset.
Nov. 20 – Nov. 28:	1/2 hour before sunrise until sunset.
Dec. 22 – Jan. 17:	1/2 hour before sunrise until sunset.



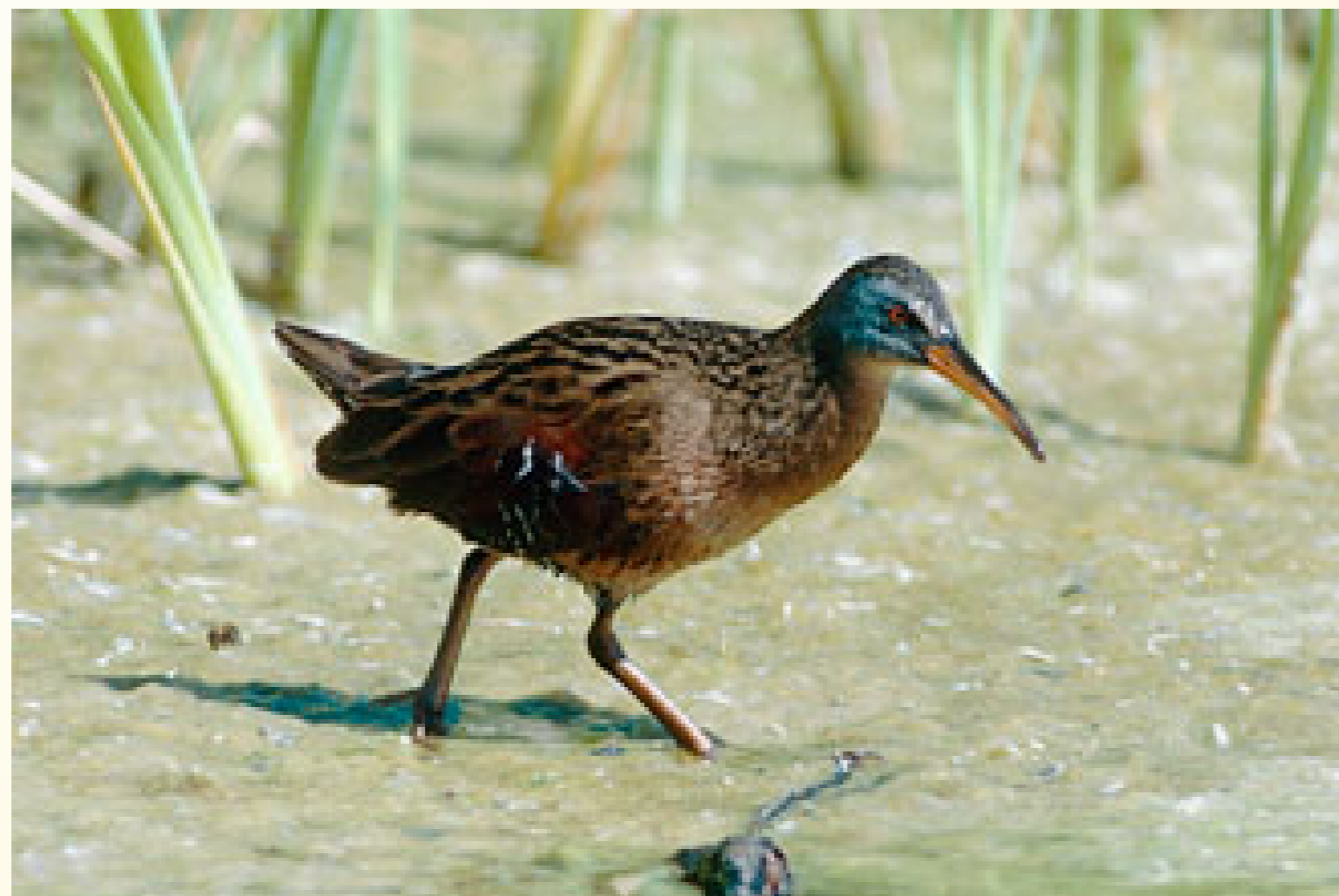
RAILS



CLAPPER RAIL



KING RAIL



VIRGINIA RAIL



SORA RAIL

GALLINULE AND MOORHEN



PURPLE GALLINULE



COMMON GALLINULE



RAILS, GALLINULES AND MOORHEN

STAFF RECOMMENDATION

SEASON DATES: September 7 - November 15 (70 days)

BAG LIMIT:

King Rail -	1 daily, 3 in possession
Clapper Rail -	15 daily, 45 in possession
Sora/Virginia -	25 daily, 75 in possession
Gallinule/Moorhen -	15 daily, 45 in possession

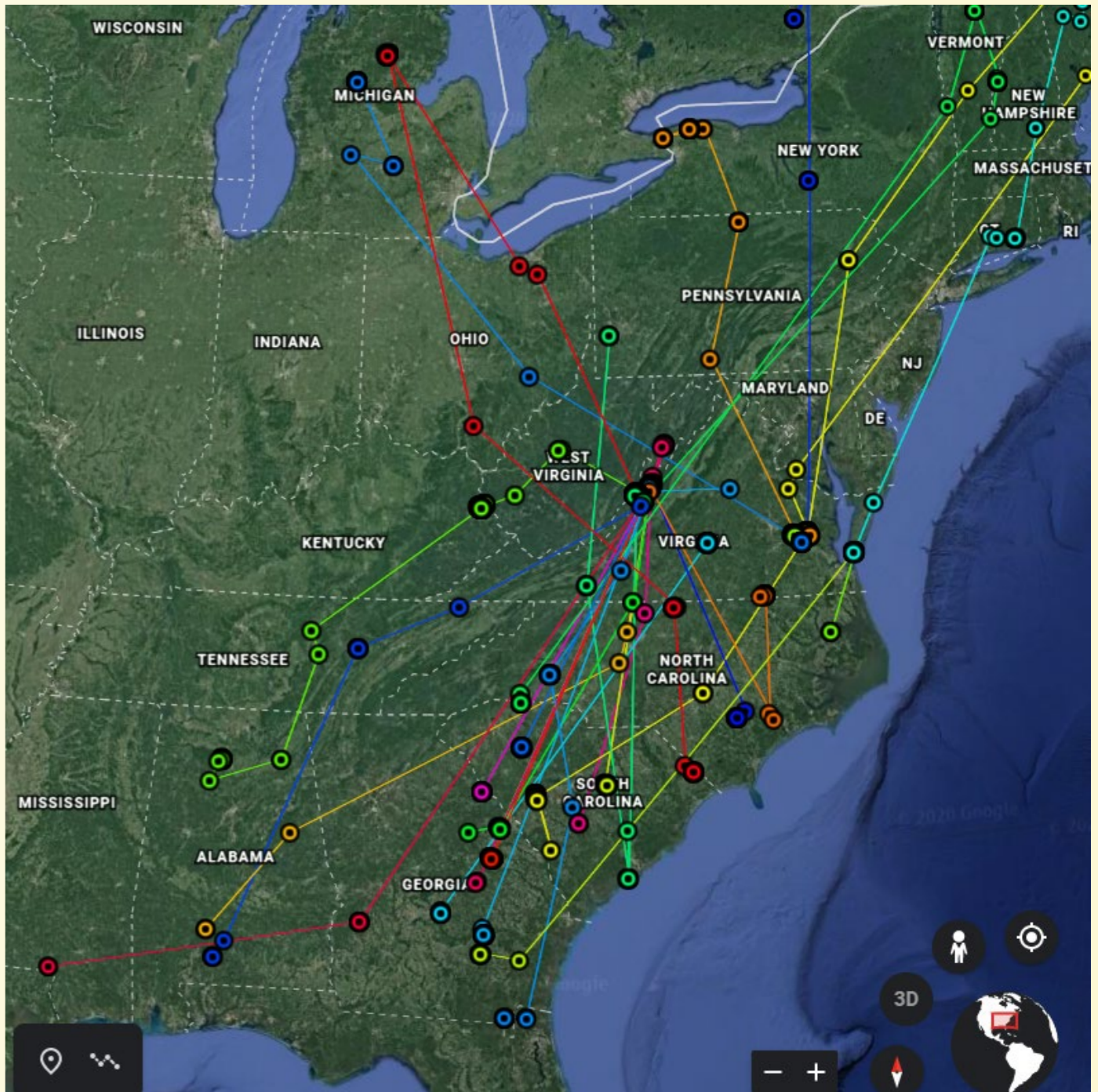
(bag limits are singly or aggregate)

SHOOTING HOURS: 1/2 hour before sunrise until sunset.

Notes: - Recommendation provides 30 days of 3-ft or greater tides.
- Non-toxic shot required for Rail & Snipe hunting in Virginia.



WOODCOCK



WOODCOCK

STAFF RECOMMENDATION

SEASON DATES: **November 11 – December 8 (28 days)**
 December 27 – January 12 (17 days)

BAG LIMIT: **3 daily, 9 in possession**

SHOOTING HOURS: **1/2 hour before sunrise until sunset**



SNIPE



Simon Sticrup © 2007



SNIPE

STAFF RECOMMENDATION

SEASON DATES: **October 8 - October 11 (4 days)**
October 21 - January 31 (103 days)

BAG LIMIT: **8 daily, 24 in possession**

SHOOTING HOURS: **1/2 hour before sunrise until sunset**

Note: **Non-toxic shot required for Rail & Snipe hunting in Virginia**



DUCKS



SEPTEMBER TEAL



Blue-Winged Teal

Green-Winged Teal



SEPTEMBER TEAL

STAFF RECOMMENDATION

SEASON DATES: September 17 - September 30 (14 days)

HUNT AREA: East of I-95

September 21 – September 30 (10 days)

HUNT AREA: West of I-95

SHOOTING HOURS: 1/2 hour before sunrise to sunset

BAG LIMIT: 6 daily, 18 in possession (any combination of Blue-Winged and Green-Winged Teal)



DUCK SEASONS



DUCKS

FEDERAL FRAMEWORK

Outside Dates: September 25, 2021 - January 31, 2022

Season Length: 60 days; plus 2 Youth/Veterans Waterfowl Days.

Bag Limit: Daily limit of 6 ducks of any species except for the following restrictions:
can include no more than 2 mallards (only 1 hen), 4 scoters, 4 eiders,
4 long-tailed ducks, 3 wood ducks, 2 redheads, 2 canvasback, 2 black ducks,
scaup: 1/day for 40 days and 2/day for 20 days, 1 pintail, 1 mottled duck,
1 fulvous whistling duck.
Closed Season on Harlequin duck.
The possession limit is three times the daily bag limit.

Split Season Options: 3-way split season, no zones.

Shooting Hours: 1/2-hour before sunrise until sunset daily.



DUCKS

STAFF RECOMMENDATION

Season Length: 60 hunting days; plus 2 Youth/Veterans Waterfowl Hunting Day

Season Dates:

October 8 – 11 (Black Duck closed)	(4 days)
November 17 – November 28	(12 days)
December 18 – January 30	(44 days)

October 23, February 5 Youth/Veterans Waterfowl Hunting Days

Bag Limit: Daily limit of 6 ducks of any species except for the following restrictions:
 can include no more than 2 mallards (only 1 hen), 4 scoters, 4 eiders,
 4 long-tailed ducks, 3 wood ducks, 2 redheads, 2 canvasback,
 2 black ducks (except closed October 8-11), 1 pintail, 1 mottled duck,
 scaup: 1/day except 2/day from Jan. 11-30, and 1 fulvous whistling
 duck. Closed Season on Harlequin duck.
 The possession limit is three times the daily bag limit.



Other Waterfowl Seasons

Mergansers



Sea Ducks



Coot



MERGANSERS

STAFF RECOMMENDATION

OPTION A

Season Dates: To coincide with duck season
Bag Limit: 5 birds daily, only 2 hooded merganser
(15 in possession, only 6 hooded mergansers)

AMERICAN COOT

STAFF RECOMMENDATION

Season Dates: To coincide with duck season
Bag Limit: 15 daily (45 in possession)



SPECIAL SEA DUCK SEASON

IN THE SPECIAL SEA DUCK ZONE

STAFF RECOMMENDATION

SEA DUCKS - (SCOTER, LONG-TAILED DUCK, AND EIDER):

Season Dates: November 11 – January 9 (60 days)

Bag Limit: 5 birds daily (15 in possession), but may include no more than 4 of any one species.

Sea Duck Zone: Those waters at a distance greater than 800 yards from any shore, island or emergent vegetation in the following area: the ocean waters of Virginia, the tidal waters of Northampton and Accomack Counties, and the Chesapeake Bay and each of its tributaries up to the first highway bridge. Back Bay and its tributaries are not included in the Sea Duck Zone.



GEESE, BRANT and SWANS



SEPTEMBER CANADA GOOSE

STAFF RECOMMENDATION

SEASON DATES: September 1 - September 25 (25 days)

BAG LIMIT: 10 daily, 30 in possession

HUNT AREA: Statewide

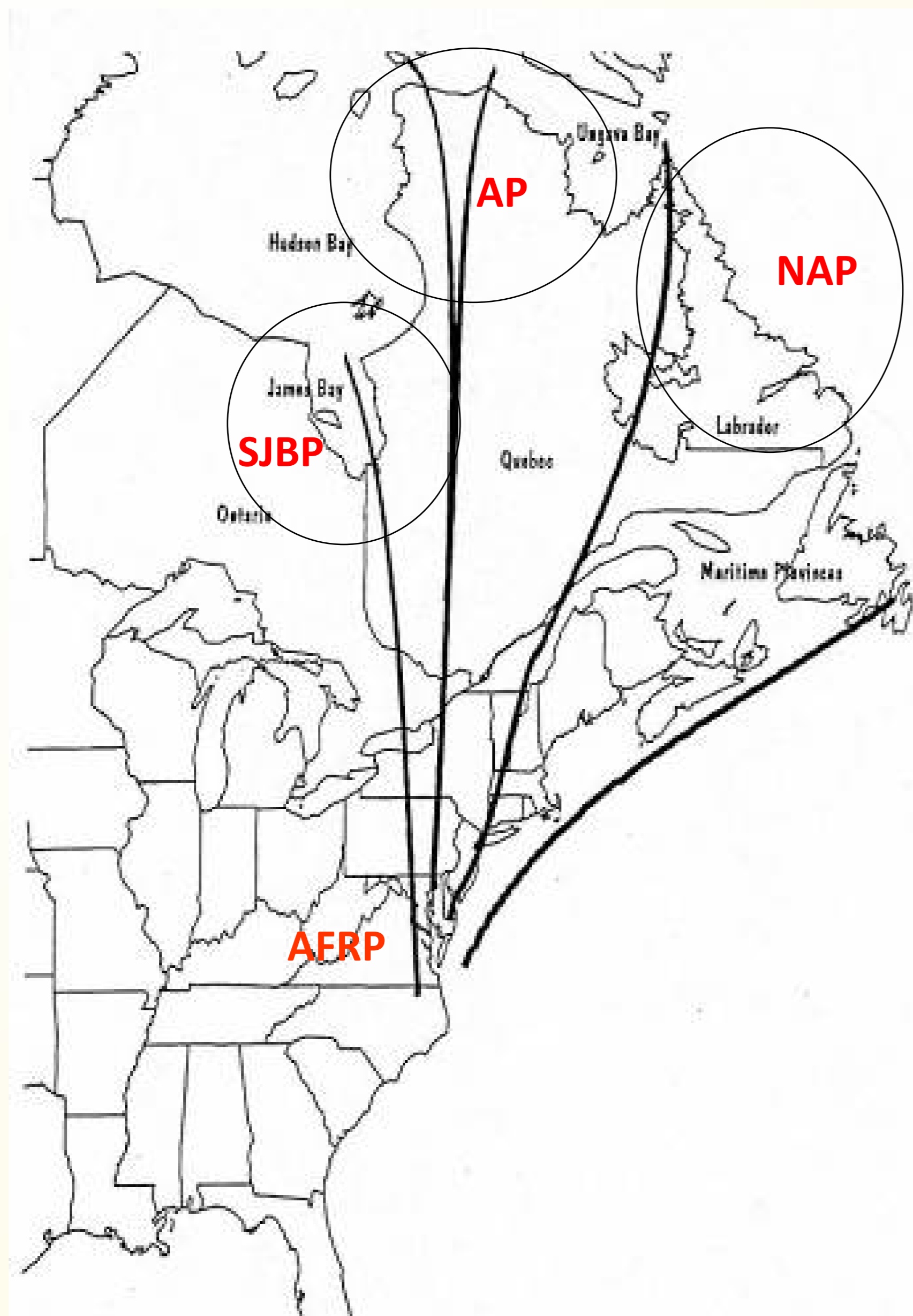
SHOOTING HOURS:

East of I-95: September 1–16: ½ hr before sunrise to 1/2 hr after sunset
September 17– 25: ½ hr before sunrise to sunset

West of I-95: September 1 – 20: ½ hr before sunrise to 1/2 hr after sunset
September 21 - 25: ½ hr before sunrise to sunset

Note: Staff is not recommending the options of using electronic calls or unplugged shotguns for hunting geese during the September season.





Canada Goose Populations

Atlantic Population (AP) – Majority, ~82%, of our migrant geese. More east, but fair number west of I-95.

North Atlantic population (NAP) – Very few In Virginia. Coastal population

Southern James Bay Population (SJB) – Comprise ~18% of migrant geese in VA. Central portion of the state, but found east and west also.

Atlantic Flyway Resident Population (AFRP) – Generally non-migratory, but can move long distances.



CANADA GOOSE HUNT ZONES

Atlantic Population (AP) Zone (including Back Bay) – The area east of the Stafford/King George County line from the Potomac River south to the Rappahannock River, then west along the Stafford County line to Interstate 95, then south along I-95 to Route 460 in Petersburg, then southeast along Route 460 to Route 32 in the City of Suffolk, then south to the North Carolina border.

Southern James Bay Population (SJB) Zone – The area to the west of the AP Zone boundary and east of the following line: the “Blue Ridge” (Loudoun County-Clarke County line) at the West Virginia-Virginia Border, south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

Atlantic Flyway Resident Population (AFRP) Zone – The remaining portion of the state west of the SJB Zone.



CANADA GEESE

STAFF RECOMMENDATION

ATLANTIC POPULATION ZONE:

Season Dates:	December 18 – 31	(14 days)
	January 15 – 30	(16 days)
Bag Limit:	1 bird daily	

SOUTHERN JAMES BAY POPULATION ZONE:

	<u>Season Dates</u>	<u>Bag Limit</u>
Regular Season:	Nov. 17 – Nov. 28	3/day
	Dec. 18 - Jan. 14	3/day
Extended Season:	Jan. 15 - Feb. 15	3/day

RESIDENT POPULATION ZONE:

Season Dates:	Nov. 17 – Nov. 28
	Dec. 18 – Feb. 23
Bag Limit:	5 birds daily

**Notes: Shooting hours are ½ hour before sunrise until sunset, in all zones.
All seasons include White-Fronted Geese.**



LIGHT GEESE (Greater and Lesser Snow Geese & Ross' Goose)



LIGHT GEESE (Greater and Lesser Snow Geese & Ross' Goose)

STAFF RECOMMENDATION

LIGHT GOOSE SEASON

Season Dates: October 17 – January 31
Bag Limit: 25 birds daily (no possession limit)

CONSERVATION ORDER

Zone: The same as the AP Canada Goose Zone
Season Dates: February 1 – April 5, 2022
Bag Limit: No daily or possession limit
Special Methods: Electronic calls, unplugged shotguns and extended shooting hours to one-half hour after sunset.
Special Requirements: Hunters participating in the Conservation Order Season must register on line or by phone, obtain a harvest report form, and return the report form back to the department within two weeks following the close of the season.



ATLANTIC BRANT



ATLANTIC BRANT

FEDERAL FRAMEWORKS

Season Length: 50 hunting days

Outside Dates: September 25 - January 31

Split Season Option: 2-way split season

Bag Limit: 2 birds daily (6 in possession)

STAFF RECOMMENDATION

Season Dates: November 23 - November 28
December 18 - January 30

Bag Limit: 2 birds daily (6 in possession)



TUNDRA SWAN



TUNDRA SWAN

FEDERAL FRAMEWORKS

Season Length: 90 Days

Outside Dates: October 1 - January 31; State agency may issue up to 638 permits in Virginia and must obtain harvest and hunter participation data. Each permittee is authorized to take only one (1) tundra swan per season.

Bag Limit: One per permittee per season.



TUNDRA SWAN

STAFF RECOMMENDATION

Season Dates: November 17 - January 31

Bag Limit: One per permittee per season (638 permits).

Hunt Area: All counties and portions of counties lying east of U.S. Route I- 95 and south of the Prince William/Stafford County line in Chopawamsic Creek at Quantico Marine Corps Base.



FALCONRY



FALCONRY

STAFF RECOMMENDATION

Dove:	September 4 – October 27 November 20 – November 28 December 22 – January 31
Rail, Gallinule & Moorhen:	September 7 – December 22
Woodcock:	October 17 – January 31
Snipe:	October 8 - October 11 October 21 - January 31
Goose:	September 1 – 25 November 17 – November 28 December 18 – February 23
Teal (Statewide):	September 17 - September 30
Ducks, Mergansers, Coot	October 8 – 11 November 17 – February 11
Brant and Light Geese:	October 17 – January 31



THANK YOU



COMMENTS / QUESTIONS



2021-2022 Migratory Game Bird Seasons and Bag Limits

Motion

Mr. Chairman:

I move that the Committee approve the 2021-2022 Migratory Game Bird Season and Bag Limit recommendations as presented by staff, for consideration by the full Board at the March 18 meeting.



2021-2022 Migratory Game Bird Seasons and Bag Limits

Motion

Mr. Chairman:

I move that the Board approve the 2021-2022 Migratory Game Bird Season and Bag Limit recommendations as presented by staff.



VIRGINIA DEPARTMENT OF WILDLIFE RESOURCES



PRELIMINARY REGULATION RECOMMENDATIONS

March 2021

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Elk Regulations

4VAC15-20-65

Definitions and Miscellaneous: In General: Hunting, trapping, and fishing license and permit fees.

Summary:

The recommendation will (i) establish the fee for a special elk hunting license for residents and non-residents in accordance with § 29.1-305.01 and (ii) reduce the nonresident license fee for fishing in designated stocked trout waters.

Recommended language of the amendment:

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

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

Virginia Resident Licenses to Hunt	
Type license	Fee
One-year Resident License to Hunt, for licensees 16 years of age or older	\$22.00
Two-year Resident License to Hunt, for licensees 16 years of age or older	\$43.00
Three-year Resident License to Hunt, for licensees 16 years of age or older	\$64.00
Four-year Resident License to Hunt, for licensees 16 years of age or older	\$85.00
County or City Resident License to Hunt in County or City of Residence Only, for licensees 16 years of age or older	\$15.00
Resident Senior Citizen Annual License to Hunt, for licensees 65 years of age or older	\$8.00
Resident Junior License to Hunt, for licensees 12 through 15 years of age, optional for licensees younger than 12 years of age	\$7.50
Resident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	\$15.00
Resident Sportsman License to Hunt and Freshwater Fish, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, to hunt with muzzleloading guns during muzzleloading hunting season, to fish in designated stocked trout waters (also listed under Virginia Resident Licenses to Fish)	\$99.00
Resident Hunting License for Partially Disabled Veterans	\$11.00
Resident Infant Lifetime License to Hunt	\$130.00
Resident Junior Lifetime License to Hunt, for licensees younger than 12 years of age at the time of purchase	\$260.00

Resident Lifetime License to Hunt, for licensees at the time of purchase:	
through 44 years of age	\$265.00
45 through 50 years of age	\$215.00
51 through 55 years of age	\$165.00
56 through 60 years of age	\$115.00
61 through 64 years of age	\$65.00
65 years of age and older	\$25.00
Totally and Permanently Disabled Resident Special Lifetime License to Hunt	\$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt or Freshwater Fish (also listed under Virginia Resident Licenses to Fish)	no fee
Virginia Resident Licenses for Additional Hunting Privileges	
Type license or permit	Fee
Resident Deer and Turkey Hunting License, for licensees 16 years of age or older	\$22.00
Resident Junior Deer and Turkey Hunting License, for licensees younger than 16 years of age	\$7.50
Resident Archery License to Hunt with archery equipment during archery hunting season	\$17.00
Resident Bear Hunting License	\$20.00
Resident Muzzleloading License to Hunt during muzzleloading hunting season	\$17.00
Resident Bonus Deer Permit	\$17.00
Resident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	\$22.00
<u>Resident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a Department elk license program)</u>	<u>\$40.00</u>
Virginia Nonresident Licenses to Hunt	
Type license	Fee
Nonresident License to Hunt, for licensees 16 years of age or older	\$110.00
Nonresident Three-Day Trip License to Hunt	\$59.00

Nonresident Youth License to Hunt, for licensees:	
younger than 12 years of age	\$12.00
12 through 15 years of age	\$15.00
Nonresident Youth Combination License to Hunt, and to hunt bear, deer, and turkey, to hunt with archery equipment during archery hunting season, and to hunt with muzzleloading guns during muzzleloading hunting season, for licensees younger than 16 years of age	\$30.00
Nonresident Annual Hunting License for Partially Disabled Veterans	\$55.00
Nonresident Annual Hunting License for Totally and Permanently Disabled Veterans	\$27.50
Nonresident Infant Lifetime License to Hunt	\$275.00
Nonresident Lifetime License to Hunt	\$580.00
Virginia Nonresident Licenses for Additional Hunting Privileges	
Type license or permit	Fee
Nonresident Deer and Turkey Hunting License, for licensees:	
16 years of age or older	\$85.00
12 through 15 years of age	\$15.00
younger than 12 years of age	\$12.00
Nonresident Bear Hunting License	\$150.00
Nonresident Archery License to Hunt with archery equipment during archery hunting season	\$30.00
Nonresident Muzzleloading License to Hunt during muzzleloading hunting season	\$30.00
Nonresident Shooting Preserve License to Hunt within the boundaries of a licensed shooting preserve	\$22.00
Nonresident Bonus Deer Permit	\$30.00
Nonresident Fox Hunting License to hunt foxes on horseback with hounds without firearms (not required of an individual holding a general License to Hunt)	\$110.00
<u>Nonresident Special Elk Hunting License (not required outside of the Elk Management Zone and only awarded to individuals through a Department elk license program)</u>	<u>\$400.00</u>
Miscellaneous Licenses or Permits to Hunt	

Type license or permit	Fee
Waterfowl Hunting Stationary Blind in Public Waters License	\$22.50
Waterfowl Hunting Floating Blind in Public Waters License	\$40.00
Foxhound Training Preserve License	\$17.00
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Fish)	\$17.00

Virginia Resident and Nonresident Licenses to Trap	
Type license	Fee
One-year Resident License to Trap, for licensees 16 years of age or older	\$45.00
Two-year Resident License to Trap, for licensees 16 years of age or older	\$89.00
Three-year Resident License to Trap, for licensees 16 years of age or older	\$133.00
Four-year Resident License to Trap, for licensees 16 years of age or older	\$177.00
County or City Resident License to Trap in County or City of Residence Only	\$20.00
Resident Junior License to Trap, for licensees younger than 16 years of age	\$10.00
Resident Senior Citizen License to Trap, for licensees 65 years of age or older	\$8.00
Resident Senior Citizen Lifetime License to Trap, for licensees 65 years of age or older	\$25.00
Totally and Permanently Disabled Resident Special Lifetime License to Trap	\$15.00
Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Trap	\$15.00
Nonresident License to Trap	\$205.00

Virginia Resident Licenses to Fish	
Type license	Fee
One-year Resident License to Freshwater Fish	\$22.00
Two-year Resident License to Freshwater Fish	\$43.00
Three-year Resident License to Freshwater Fish	\$64.00
Four-year Resident License to Freshwater Fish	\$85.00
County or City Resident License to Freshwater Fish in County or City of Residence Only	\$15.00

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

Service-Connected Totally and Permanently Disabled Veteran Resident Lifetime License to Hunt and Freshwater Fish (also listed under Virginia Resident Licenses to Hunt)	no fee
Virginia Nonresident Licenses to Fish	
Type license	Fee
Nonresident License to Freshwater Fish	\$46.00
Nonresident License to Freshwater Fish in Designated Stocked Trout Waters	\$46.00 <u>\$22.00</u>
Nonresident License to Freshwater and Saltwater Fish	\$70.00
Nonresident Fishing License for Partially Disabled Veterans	\$23.00
Nonresident Annual Fishing License for Totally and Permanently Disabled Veterans	\$11.50
Nonresident License to Freshwater Fish for One Day	\$7.00
Nonresident License to Freshwater Fish for Five Consecutive Days	\$20.00
Nonresident License to Freshwater and Saltwater Fish for Five Consecutive Days	\$30.00
Nonresident Infant Lifetime License to Fish	\$275.00
Nonresident Special Lifetime License to Freshwater Fish	\$580.00
Nonresident Special Lifetime License to in Fish in Designated Stocked Trout Waters	\$580.00
Miscellaneous Licenses or Permits to Fish	
Type license or permit	Fee
Permit to Fish for One Day at Board-Designated Stocked Trout Fishing Areas with Daily Use Fees	\$7.00
Public Access Lands for Sportsmen Permit to Hunt, Trap, or Fish on Designated Lands (also listed under Miscellaneous Licenses or Permits to Hunt)	\$17.00
Special Guest Fishing License	\$60.00

Rationale:

Special Elk Hunting License: With the establishment of § 29.1-305.01, the authority was given to the board of the Virginia Department of Wildlife Resources to create a Special Elk Hunting License that would be applicable within the Elk Management Zone. The fees for the Special Elk Hunting License and any associated application for that license were also outlined within § 29.1-305.01. The recommendation

would define those outlined license fees, in regulation, for non-residents and residents along with the other license and permits that the Department administers.

The Special Elk Hunting License would only be valid within the Elk Management Zone and only be available through the license programs and procedures that the department recommends and outlines through other elk hunting regulation recommendations.

Nonresident License to Freshwater Fish in Designated Stocked Trout Waters: With the passage of SB-1402, § 29.1-311 was modified to allow resident trout anglers to use a trip license to trout fish. This modification also eliminated the allowance for a 1-day trip license to be used by a nonresident to trout fish. These modifications were the first part of a plan proposed by the Aquatic Wildlife Resources Division to reduce trout fishing costs for non-residents. The second part involves reducing the cost of the nonresident trout license to equal that of the resident trout license, which is \$22.00.

4VAC15-20-250 (New)
Definitions and Miscellaneous: In General: Definitions; “Elk Management Zone”

Summary:

The recommendation is to define the Elk Management Zone in Virginia.

Recommended language of the amendment:

4VAC15-20-250. Definitions; “Elk Management Zone”

Whenever the words "Elk Management Zone," or language equivalent to that, appear in a regulation of the Board, such words shall apply to the following counties and cities and towns therein:

Buchanan

Dickenson

Wise

Rationale:

The Elk Management Zone (EMZ) is defined in the 2019-2028 Virginia Elk Management Plan that was approved by the Board of the Department in March of 2019. The designation of the EMZ (i.e. Wise, Dickenson, and Buchanan Counties) serves to help guide the Department’s management strategies and actions related to elk throughout Virginia. As outlined in the Elk Management Plan, the Department will manage elk to maintain a healthy and viable population within the EMZ. The recommendation will define the counties that are within the EMZ and facilitate its use in other regulations.

4VAC15-90-500 (New)
Game: Deer: Elk hunting outside the Elk Management Zone

Summary:

The recommendation will modify the existing elk hunting regulation section to become applicable only to those areas outside of the Elk Management Zone as elk hunting within the Elk Management Zone will be established in a separate regulation section.

Recommended language of the amendment:

4VAC15-90-~~85500~~. Elk hunting outside the Elk Management Zone.

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

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

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

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

Rationale:

With the passage of § 29.1-305.01 and the associated creation of a Special Elk Hunting License within the Elk Management Zone (EMZ), separate regulations needed to be established for elk hunting outside and within the EMZ. The recommendation would clarify that elk can be harvested outside of the EMZ utilizing a special license for hunting deer and turkey or bonus deer permit and outline requirements for scheduling an inspection of the animal for the collection of biological samples. This recommendation would also adjust language relating to the checking process to be consistent with other Department regulation recommendations to checking requirements.

4VAC15-90-510 (New)
Game: Deer: Elk hunting within the Elk Management Zone

Summary:

This recommendation outlines the seasons, bag limits, and tag validation associated with administering the hunting of elk within the Elk Management Zone.

Recommended language of the amendment:

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

- A. Open season; generally. It shall be lawful to hunt elk within the Elk Management Zone from the Second Saturday in October through the following Friday, both dates inclusive.
- B. The seasonal bag limit for elk shall be one per season as prescribed on the special elk hunting license. The department shall determine the number and type of special elk hunting licenses distributed within a season and license year.
- C. Except as provided in 4VAC15-90-540 or 4VAC15-90-550 individuals selected to purchase a special elk hunting license shall not be eligible to receive a subsequent special elk hunting license for a period of three (3) years.
- D. All licensed elk hunters and persons accompanying elk hunters are required to wear, or display, a blaze color as described in § 29.1-530.1.
- E. Upon killing an elk, any licensed hunter shall validate the tag on their special elk hunting license and report the elk in accordance with procedures outlined in 4VAC15-90-231. Upon receiving a confirmation number, the hunter must call the department to schedule an inspection of the carcass and the site of kill for the collection of biological samples.

Rationale:

With the passage of § 29.1-305.01 and the associated creation of a Special Elk Hunting License within the Elk Management Zone (EMZ), separate regulations needed to be established for elk hunting outside and within the EMZ. The recommended sections related to season bag limits, blaze color requirement, and tag validation and reporting are all consistent with subsequent sections in other big game species regulations. The requirement allow the Department the opportunity to collect biological samples is consistent with regulations for hunting elk outside the EMZ. In accordance with the VA Elk Management Plan, biological sampling of elk is conducted on harvested or dead elk as part of a proactive disease sampling effort. Bag limits will be established in a manner that “manage elk in a manner that maintains a healthy and viable population within the EMZ” as prescribed by Conservation Goal 1 in the VA Elk Management Plan. The recommended 7 day open season would provide a balance between providing an adequate opportunity for hunters to pursue elk and minimizing potential disturbance on the overall elk herd. Since the number of special elk hunting license will be limited and only administered through a Department elk program, establishing an ineligibility period for an individual following a successful selection for a special elk hunting license, promotes a fair and equitable administration of licenses.

4VAC15-90-520 (New)

Game: Deer: Special provisions for hunting elk within the Elk Management Zone

Summary:

The recommendation establishes provisions related to the methods of hunting elk within the Elk Management Zone.

Recommended language of the amendment:

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

- A. It shall be unlawful for any person to destroy the identity of the sex of any harvested elk unless and until requirements outlined in this section are met. Successful elk hunters are allowed to dismember the carcass to pack it out from the place of kill, as long as evidence of the sex remains naturally attached to a major portion of the meat. Once the requirements for tag validation, reporting and biological sampling have been met, in accordance with 4VAC15-90-510, evidence of sex is no longer required.
- B. Any elk found in the possession of any person without a validated (notched) license tag or documentation that the elk has been reported, in accordance with 4VAC15-90-510, shall be forfeited to the Commonwealth to be disposed of as provided by law.
- C. It is unlawful for a person to fail to reasonably attempt to dress, care for, and remove from the field the edible portions of any harvested elk at a minimum the meat from front shoulders, back quarters, and back-straps. Violation of this subsection shall constitute wanton waste for the purposes of section § 29.1-553.1
- D. It shall be unlawful to hunt elk with dogs. This subsection shall not prohibit the use of tracking dogs which may be used in accordance with § 29.1-516.1.
- E. It shall be unlawful to drive elk from any area including man-drives, pushing with vehicles, or any other human action that is intended to cause animals to move into a harvestable situation.
- F. The special elk hunting license shall be valid on all private land, with written permission from the landowner, within the Elk Management Zone. The special elk hunting license shall also be valid on public lands as designated on an individual's special elk hunting license. This is only applicable to special elk hunting licenses awarded through the random drawing and conservation license programs.
- G. Elk hunters 15 years of age and under or holders of an apprentice hunting license must be accompanied by, and directly supervised by, an adult who has a valid Virginia hunting license or is exempt from purchasing a hunting license. Adult hunters accompanying youth or apprentice hunters on a special elk hunt may not carry or discharge weapons.

Rationale:

These recommendations relate to the pursuit of elk by hunters within the Elk Management Zone and the requirements of the hunter after the successful harvest of an elk. The requirement to maintain evidence of sex after an elk is successfully harvest is consistent with other big game species regulations but also

includes requirements ensuring the Department has the opportunity to collect biological samples. In accordance with the VA Elk Management Plan, biological sampling of elk is conducted on harvested or dead elk as part of a proactive disease sampling effort. Because of the limited harvest opportunities for elk within the EMZ and the substantial investment in the VA elk restoration, the recommended wanton waste requirements will promote the maximum utilization of a harvested elk. Defining which lands a special elk hunting license is valid on allows the Department the ability to promote equitable portions of public lands to each hunter, while also allowing hunters the autonomy to pursue elk on any private lands they have permission to hunt on. Because elk are a herd animal, prohibiting both the use of dogs and man drives in the hunting of elk will limit disturbance to the elk herd and other elk hunters. Prohibiting the use of dogs in the hunting of elk is also consistent with similar restrictions for deer hunting within the Western portion of the Commonwealth. Sections related to the youth or apprenticed hunters are consistent with subsequent sections in other big game species regulations.

4VAC15-90-530 (New)

Game: Deer: Special elk hunting license – random drawing license program

Summary:

The recommendation establishes and outlines the random drawing process for awarding special elk hunting licenses within the Elk Management Zone.

Recommended language of the amendment:

4VAC15-90-530. Special elk hunting license – random drawing license program

- A. The annual application period to enter the random drawing for a special elk hunting license shall be the February 1st to March 30th, both dates inclusive, unless extended by the director. Individuals selected for special elk hunting licenses via the random drawing will be notified by May 30th and must be purchased from the department within 30 days of notification.
- B. To enter the random drawing for a special elk hunting license, applicants shall:
 - 1. Complete the application for a special elk hunting license as provided by the Department.
 - 2. Pay a nonrefundable application fee.
 - 3. Apply only once for each random drawing.
- C. Nonresidents shall not comprise more than ten (10) percent, or one drawn applicant, whichever is greater, of all drawn applicants in any application pool for the random drawing license program.
- D. Applicants who physically reside within the Elk Management Zone shall comprise no less than ten (10) percent, or a minimum of one, whichever is greater, of all drawn applicants in any application pool for the random drawing license program.
- E. A special elk hunting license awarded through the Random Drawing License Program shall not be transferable.
- F. Applicants drawn for a special elk hunting license may be rejected if it is determined that the applicant has been convicted of 2 or more wildlife violations, within 3 years prior to the last date of the application period. In determining the applicants' eligibility, the Director shall take into account the nature and severity of the violations.
- G. The Department will award unclaimed special elk hunting licenses to alternates that are drawn during the initial application and draw period in the order that the alternates are drawn.

Rationale:

The random drawing license program will be the most common means that a special elk hunting license is awarded. This process will provide an opportunity for any individual to draw a special elk hunting license while also prioritizing the opportunity for residents of Virginia and those applicants who reside within the Elk Management Zone. This prioritization of special elk hunting licenses is in accordance with recommendations within the VA Elk Management Plan to balance the benefits that elk provide through hunting opportunities and any potential negative impact from elk within the EMZ. Timelines for random drawing application and awarding of the special elk hunting license will provide sufficient time for an individual to apply and claim their license, if drawn, while also providing enough time for preparation prior to the elk hunting season. The random drawing timeline also provides the opportunity for the Department to award unclaimed special elk hunting licenses to alternates that are drawn during the initial process. Prohibiting the transfer of a special elk hunting license, awarded through the random drawing license program, is intended to promote and ensure the

equitability of the drawing and prevent the potential commercialization of elk in Virginia, which is a guiding principle of the North American Model of Wildlife Management. The recommendation that a drawn applicant with a recent and frequent history of wildlife violations may be rejected, will ensure that the limited opportunities that are available to hunt elk within the EMZ are not afforded to those that may not pursue them in a legal and ethical manner.

4VAC15-90-540 (New)

Game: Deer: Special elk hunting license – Landowner License Program

Summary:

The recommendation establishes and outlines a program to provide access for elk hunting on private lands within the Elk Management Zone.

Recommended language of the amendment:

4VAC15-90-540. Special elk hunting license – Landowner License Program

- A. Upon receipt of a valid Landowner License Program application from a landowner within the Elk Management Zone, the Director or their designee shall verify the application materials and have sole discretion in enrolling the property in the Landowner License Program. Applications must be received or postmarked by July 1st each year to be eligible for the Landowner License Program during that calendar year.
- B. A valid Landowner License Program application shall include:
 - 1) Landowner's name, home address, telephone number, and address of the property to be enrolled in the program.
 - 2) A recorded survey or other legal documentation certifying that the property to be enrolled is ≥50 contiguous acres.
 - 3) Affidavit that elk hunters on the enrolled property shall not be charged a fee.
 - 4) Original signature of the landowner.
 - 5) Only a single application per license year, per landowner.
- C. Landowners enrolled in the Landowner License Program maintain the right to limit access to certain areas of the property for safety or privacy reasons, provided a minimum of 50 acres are open to elk hunting. Areas of limited access must be outlined in the initial application. Enrollment in the Landowner License Program does not preclude or limit in any way the landowner from allowing other hunting or hunters on the property.
- D. The department shall determine and make available to the public a program guidance document outlining how landowners enrolled in the Landowner License Program shall accrue points toward a special elk hunting license, the number of points necessary to be awarded such license, and other program requirements. The program guidance document will be published annually prior to June 1.
- E. Landowners who accrue the necessary number of points, as defined in the program guidance document, on an enrolled property may request one (1) either-sex special elk hunting license from the department. A request for a special hunting license must be submitted prior to July 1st in the year the license is to be used. Once a request for a special elk hunting license is made, landowners lose all accrued points. There is no time limit over which a landowner is required to accrue license points. Landowners shall not combine points from separate enrolled properties.
- F. Landowners enrolled in the Landowner License Program shall not subdivide contiguous properties under the same ownership into multiple, smaller parcels for the purposes of this program.
- G. License points cannot be sold or traded. License points are non-transferable if the property changes ownership except that if the property is inherited from parents, grandparents or children, resident or non-resident, license points may be transferred. The department may request

documentation to certify the relationship between seller and purchaser as well as a copy of bill of sale.

- H. Landowners receiving a special elk hunting license shall comply with all of the requirements established in this administrative regulation as well as 4VAC15-90-510, 4VAC15-90-520 and Virginia Code § 29.1-305.01. Landowners that fail to comply with either regulation may forfeit any accrued license points, and may not be eligible to accrue new license points.
- I. A special elk hunting license awarded to the landowner shall only be used on the property enrolled with the department in the Landowner License Program.
- J. A landowner may transfer or sell the special elk hunting license to any person eligible to hunt in Virginia. Transfer of the special elk hunting license must be reported to the Department no less than one (1) month prior to the opening day of the elk hunting season during the year in which the special elk hunting license is requested. To report a transfer to the Department, the landowner shall provide the department with the hunter's:
 - 1) Name
 - 2) Department customer identification number
 - 3) Address
 - 4) Telephone number
- K. A special elk hunting license transferee may be rejected if it is determined that the transferee has been convicted of 2 or more wildlife violations, within 3 years prior to the last date of the application period. In determining the transferees' eligibility, the Director shall take into account the nature and severity of the violations.

Rationale:

Providing elk hunters with adequate lands to pursue elk will play an important role in the success the special elk hunting license program. The opportunity for landowners to earn points toward a special elk hunting license in exchange for providing access for elk hunting on their property (>50 ac) is a non-traditional path to promote public access and provide elk hunter's additional opportunity. This recommendation does not limit the landowner's ability to control access to certain portions of the enrolled property or for uses other than elk hunting. A program guidance document will be published yearly, prior to the enrollment deadline, to describe the criteria for a landowner to enroll and earn points toward a special elk hunting license. Limiting the use of the special elk hunting license, earned by the landowner through this program, to the enrolled property balances the opportunity for the landowner to hunt elk and the Department's ability to follow the biological harvest strategy that is established within the EMZ. Allowing the transfer of the special elk hunting license through this program varies from other elk license programs because the landowner is earning the license in exchange for allowing public access for elk hunting, rather than it being awarded through a random drawing. The recommendation that a license transferee with a recent and frequent history of wildlife violations may be rejected, will ensure that the limited opportunities that are available to hunt elk within the EMZ are not afforded to those that may not pursue them in a legal and ethical manner.

4VAC15-90-550 (New)

Game: Deer: Special elk hunting license – Conservation License Program

Summary:

The recommendation establishes and outlines a program to award a wildlife conservation organization with a special elk hunting license for the Elk Management Zone.

Recommended language of the amendment:

4VAC15-90-550. Special elk hunting license – Conservation License Program

- A. Upon receipt of a valid Conservation License Program application from an officer or other designated official representative of any individual, cooperator, or wildlife conservation organization, the Director or their designee shall verify the application materials and may select a program awardee annually. Applications must be received or postmarked no later than April 1st to be eligible for the Conservation License Program during that calendar year.
1. For the purposes of this section, “individual, cooperators, or wildlife conservation organizations” means those people or entities whose mission is to promote and ensure the conservation of Virginia’s wildlife resources and/or to promote opportunities for hunting, fishing, trapping, boating or other wildlife-related recreation within Virginia.
- B. A valid Conservation License Program application shall include:
- 1) Cooperator or Organization’s name, name of the individual designated to submit and receive official correspondence, address for such correspondence, and a telephone number.
 - 2) Cooperator or Organization’s mission statement.
 - 3) A written application describing:
 1. Cooperator or Organization’s role in wildlife conservation in Virginia.
 2. Cooperator or Organization’s purpose and intent for requesting special elk hunting license through the Conservation License Program.
 3. Cooperator or Organization’s proposal for method of generating funds from transfer of the special elk hunting license to an eligible individual.
 4. Cooperator or Organization’s strategy to direct proceeds received from the transfer of the special elk hunting license and any matching funding toward wildlife conservation and/or wildlife-related recreation in Virginia’s Elk Management Zone.
- C. The Director shall establish a Conservation License Program Committee to review program applications and submit a recommendation to the Director to award no more than one (1) special elk hunting license to a cooperator or organization whose application is deemed to provide the greatest benefit to wildlife conservation and wildlife-related recreation in Virginia per license year. This committee shall be composed of a minimum of three (3) individuals and make a recommendation to the Director by May 1st each year.
- D. A cooperator or organization receiving a special elk hunting license must direct all proceeds from the transfer of such license, toward a project to improve and enhance wildlife habitat, wildlife populations, or wildlife-related recreation within the Elk Management Zone. The proposed strategy and requirements will be outlined in a memorandum of agreement between the Department and the cooperator or organization.

1. For the purpose of this section “proceeds” means the amount of money received by the cooperator or organization from the transfer of a special elk hunting license minus all expenses and administrative costs directly attributable to the transfer of the permit or the implementation of the defined project.
- E. A cooperator or organization may transfer the special elk hunting license to any person eligible to hunt in Virginia. The generation of funds from the transfer of the special elk hunting license may only be conducted through a raffle.
- F. Transfer of the special elk hunting license must be reported to the Department no less than one (1) month prior to the opening day of the elk hunting season during which the special elk hunting license is valid. To report a transfer to the Department, the cooperator or organization shall provide the department with the hunter's:
 - a. Name
 - b. Department customer identification number
 - c. Address
 - d. Telephone number
- G. A special elk hunting license transferee may be rejected if it is determined that the transferee has been convicted of 2 or more wildlife violations, within 3 years prior to the last date of the application period. In determining the transferees’ eligibility, the Director shall take into account the nature and severity of the violations.
- H. A cooperator or organization awarded a special elk hunting license shall submit an annual report to the Department regarding any proceeds received from the transfer of the license and an accounting of how those funds were directed toward wildlife conservation or wildlife-related recreation in the Elk Management Zone.

Rationale:

With the passage of § 29.1-305.01, the authority was given to the board of the Virginia Department of Wildlife Resources to establish guidelines permitting the transfer of special elk licenses to individuals, cooperators who assist in meeting agency hunting objectives, or wildlife conservation organizations whose mission is to ensure the conservation of Virginia's wildlife resources. This subsequent recommendation exercises that authority by creating an opportunity for the Department to promote wildlife management efforts and projects within the EMZ by allowing a conservation organization to generate funds from the transfer of a special elk hunting license. That cooperator or organization must demonstrate a history and ability to effectively implement wildlife management and outline a plan for generating the funding, designing a wildlife management project, and executing that project within the EMZ.

The method of fund raising, through the transfer of the special elk hunting license by the cooperator or conservation organization, is limited to a raffle in an effort to generate funds for wildlife management while still providing an equitable chance for any eligible person to receive the special elk hunting license. The recommended creation of a review committee would promote a versatile and comprehensive review of the applications and recommendation to the director. A memorandum of agreement (MOA) between the Department and the cooperator or conservation organization will create a legal document that outlines project details and program requirements. This MOA, along with the required annual report, will create cooperation and accountability and ensure the projects funded through this program are having the most benefit possible to wildlife management efforts in the EMZ. The recommendation that a license transferee with a recent and frequent history of wildlife violations may be rejected, will ensure that the limited

opportunities that are available to hunt elk within the EMZ are not afforded to those that may not pursue them in a legal and ethical manner.

4VAC15-270-10

Game: Firearms: Size rifles for hunting bear and deer.

Summary:

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

Recommended Language of Amendment:

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

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

Rationale:

With the passage of § 29.1-305.01 and the associated creation of a Special Elk Hunting License within the Elk Management Zone (EMZ), separate regulations needed to be established for elk hunting outside and within the EMZ. As a result of that separation, certain regulations that previously applied to both deer and elk are no longer applicable to elk. Additional language is needed to include elk in those regulations. Removing the word “kill” from this regulation will allow the public and law enforcement personnel to humanely dispatch severely injured or diseased animals with weapons less than 23 caliber. It will also provide clarity that such weapons are lawful for management activities authorized by the Department.

Chronic Wasting Disease Regulations

4VAC15-90-10

Game: Deer: Open season; generally.

Summary:

The recommendation is to create (i) both an early September antlerless only firearms deer season and a late (January through March) antlerless only firearms deer season countywide in Clarke County and on non-national forest lands in Frederick, Shenandoah, and Warren counties, (ii) an early September antlerless only firearms deer season on private lands in Culpeper, Fauquier, Madison, Orange, and Rappahannock counties, and (iii) an early September antlerless only firearms deer season and a late (January through March) antlerless only firearms deer season in designated disease focus areas in Culpeper, Fauquier, Madison, Orange, Page, and Rappahannock counties.

Recommended language of amendment:

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

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

Locality	Season
Accomack County	Saturday prior to the third Monday in November through the first Saturday in January
Albemarle County	Saturday prior to the third Monday in November through the first Saturday in January
Alleghany County	Saturday prior to the third Monday in November and for 14 consecutive days following
Amelia County	Saturday prior to the third Monday in November through the first Saturday in January
Amherst County (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Amherst County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Amherst County (east of Business U.S. 29, as defined above)	Saturday prior to the third Monday in November through the first Saturday in January
Appomattox County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County	Saturday prior to the third Monday in November through the first Saturday in January
Arlington County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March
Augusta County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bath County	Saturday prior to the third Monday in November and for 14 consecutive days following
Bedford County (except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Bedford County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Bland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Botetourt County	Saturday prior to the third Monday in November and for 14 consecutive days following

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

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

Goochland County	Saturday prior to the third Monday in November through the first Saturday in January
Grayson County	Saturday prior to the third Monday in November and for 14 consecutive days following
Greene County	Saturday prior to the third Monday in November through the first Saturday in January
Greensville County	Saturday prior to the third Monday in November through the first Saturday in January
Halifax County	Saturday prior to the third Monday in November through the first Saturday in January
Hanover County	Saturday prior to the third Monday in November through the first Saturday in January
Henrico County	Saturday prior to the third Monday in November through the first Saturday in January
Henry County	Saturday prior to the third Monday in November and for 28 consecutive days following
Highland County	Saturday prior to the third Monday in November and for 14 consecutive days following
Isle of Wight County	Saturday prior to the third Monday in November through the first Saturday in January
James City County	Saturday prior to the third Monday in November through the first Saturday in January
King and Queen County	Saturday prior to the third Monday in November through the first Saturday in January
King George County	Saturday prior to the third Monday in November through the first Saturday in January
King William County	Saturday prior to the third Monday in November through the first Saturday in January
Lancaster County	Saturday prior to the third Monday in November through the first Saturday in January
Lee County	Saturday prior to the third Monday in November and for 14 consecutive days following
Loudoun County	Saturday prior to the third Monday in November through the first Saturday in January
Loudoun County (antlerless deer only)	First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March

Louisa County	Saturday prior to the third Monday in November through the first Saturday in January
Lunenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Madison County	Saturday prior to the third Monday in November through the first Saturday in January
<u>Madison County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>
<u>Madison County (disease focus areas defined by the Department, antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October and the Sunday following the first Saturday in January through the last Sunday in March</u>
Mathews County	Saturday prior to the third Monday in November through the first Saturday in January
Mecklenburg County	Saturday prior to the third Monday in November through the first Saturday in January
Middlesex County	Saturday prior to the third Monday in November through the first Saturday in January
Montgomery County	Saturday prior to the third Monday in November and for 14 consecutive days following
Nelson County (west of Route 151, except on national forest lands)	Saturday prior to the third Monday in November and for 28 consecutive days following
Nelson County (national forest lands)	Saturday prior to the third Monday in November and for 14 consecutive days following
Nelson County (east of Route 151)	Saturday prior to the third Monday in November through the first Saturday in January
New Kent County	Saturday prior to the third Monday in November through the first Saturday in January
Northampton County	Saturday prior to the third Monday in November through the first Saturday in January
Northumberland County	Saturday prior to the third Monday in November through the first Saturday in January
Nottoway County	Saturday prior to the third Monday in November through the first Saturday in January
Orange County	Saturday prior to the third Monday in November through the first Saturday in January
<u>Orange County (private lands and antlerless deer only)</u>	<u>First Saturday in September through the Friday prior to the first Saturday in October</u>

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

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

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

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

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

Rationale:

Antlerless only deer seasons in CWD management areas. Expanded antlerless harvest in specific disease management area (DMA) counties and disease focus areas (DFA) within specified DMA counties is a management strategy aimed at reducing the spread and transmission of chronic wasting disease (CWD) in Virginia. The Department detected the first case of CWD in 2009 in Frederick County and has closely monitored both prevalence trends and the spread of the disease. Since hunting is recognized as a critical tool for CWD management, and CWD monitoring data suggests a recent amplified spread of the disease to new areas of northwest Virginia, expanded antlerless harvest throughout the DMAs is prudent.

CWD monitoring data suggests that the disease is firmly established in Frederick and Shenandoah counties. In recent years, CWD has also been detected in Clarke and Warren counties, and both counties are at an elevated risk for additional disease spread and establishment. Therefore, additional antlerless deer hunting opportunities are appropriate in all four counties. In five additional counties, a less aggressive expansion of antlerless harvest is being recommended. While CWD surveillance efforts have confirmed the disease within the counties of Culpeper, Fauquier, Madison, and Rappahannock, and in multiple counties adjacent to Orange County, surveillance data suggests that the disease was more recently introduced and is not yet firmly established in these areas.

The private land deer populations in Madison and Rappahannock counties is currently at the deer population management objective outlined in the Department’s deer management plan. Per the deer plan, staff will engage the stakeholder advisory committee who developed the plan to reduce the deer population objectives in these two counties and possibly other disease management area counties in the near future.

Recommendations relative to DFA's will enable the Department to target additional harvest management approaches around new CWD detections as they are discovered. DFAs are defined as a local expansion of antlerless hunting opportunities in a focused area around an outlier CWD detection, which is located more than 5 miles from the nearest detection. The goals of expanded antlerless hunting opportunities in a DFA are to slow disease transmission in the immediate vicinity of a detection and to increase testing opportunities for deer harvested in close vicinity to an outlier CWD detection.

4VAC15-90-89

Game: Deer: Earn a buck (EAB)

Summary:

The recommendation is to (i) initiate EAB on private lands in Accomack, Amherst (west of Route 29), Carroll, Greene, Madison, Orange, Rockingham (east of Routes 613 and 731), Stafford, and Wythe counties, (ii) change the EAB requirement in Clarke, Frederick, and Warren counties from a two to one EAB requirement to a one to one EAB requirement, (iii) change the EAB requirement in James City and York counties from a one to one EAB requirement to a two to one EAB requirement, and (iv) reformat the regulation text.

Recommended language of amendment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Within a license year and within in each individual county listed in subsection (A)(1), you must have taken at least one antlerless deer on private lands in that county before taking a second antlered deer on private lands in that county. In those counties listed in subsection (A)(1) east of the Blue Ridge Mountains, you must have taken at least two antlerless deer on private lands in that county before taking a third antlered deer on private lands in that county.

1. Accomack, Albemarle, Amherst (west of Route 29), Bedford, Carroll, Clarke, Culpeper, Fauquier, Floyd, Franklin, Frederick, Grayson, Greene, Hanover, Henrico, Madison, Montgomery, Orange, Prince George, Pulaski, Rappahannock, Roanoke, Rockingham (east of Routes 613 and 731), Shenandoah, Stafford, Warren, and Wythe counties.

B. Within a license year and within in each individual county listed in subsection (B)(1), you must have taken at least two antlerless deer on private lands in that county before taking a second antlered deer on private lands in that county. You also must have taken at least three antlerless deer on private lands in that county before taking a third antlered deer on private lands in that county.

1. James City and York counties.

C. Within a license year and within in each individual county listed in subsection (C)(1), you must have taken at least two antlerless deer in that county before taking a second antlered deer in that county. You must also have taken at least three antlerless deer in that county before taking a third antlered deer in that county.

1. Arlington, Fairfax, Loudoun, and Prince William (except on Department of Defense Lands) counties.

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

E. EAB does not apply to the cities of Chesapeake, Suffolk (east of the Dismal Swamp line), and Virginia Beach.

Rationale:

EAB on private lands in Accomack, Amherst (west of Route 29), Carroll, Greene, James City, Orange, Rockingham (east of Routes 613 and 731), Stafford, Wythe, and York counties. The private land deer populations in these ten counties are currently above their desired deer population management objective bracket in the Department's deer management plan. All deer seasons (archery, muzzleloading, and firearms) are currently full season either-sex deer hunting on private lands in all these counties. The next step to increase the antlerless deer kill in these counties is to initiate EAB. The addition of EAB should assist in bringing these deer populations back down to their desired level(s).

EAB on private lands in Madison County. The private land deer population index for Madison County is currently within the desired deer population management objective bracket. However, Madison County was added to a new CWD disease management area in fall 2019, and in fall 2020, CWD was detected in Madison County. Additionally, CWD has been found in multiple neighboring counties. Per the deer plan, staff will engage the stakeholder advisory committee who developed the plan to reduce the deer population objectives in this county and possibly other disease management area counties in the near future.

Change the EAB requirement in Clarke, Frederick, and Warren counties. The recommendation will reduce the EAB requirement in these three counties from a two to one EAB requirement to a one to one EAB requirement. This will match them up with Shenandoah County, creating a consistent EAB rule on private lands in these four counties. All four of these counties are in a CWD management area and, starting in fall 2021, they are recommended to have both an early September and a late January through March antlerless only firearms deer season. These additional antlerless seasons should more than compensate for scaling back EAB and will provide a more balanced approach to antlered and antlerless harvest, which is an important consideration for CWD management.

Change the EAB requirement in James City and York counties. The recommendation will increase the EAB requirement in these three counties from a one to one EAB requirement up to a two to one EAB requirement. The private land deer populations in these two counties are currently above their desired deer population management objective bracket in the Department's deer management plan. The addition of EAB should assist in bringing these deer populations back down to their desired level(s).

Format. Changes in format made in this version do not change the meaning of the regulation but make it more intuitive, readable, and easier to amend as needed in the future.

4VAC15-90-260

Game: Deer: Hunting with dogs prohibited in certain counties and areas.

Summary:

This recommendation will more explicitly define current time restrictions on the use of dogs for hunting deer to enable the extension of deer firearms (open) seasons for disease and population management purposes. The recommendation will make clear that the hunting of deer with dogs during any early or late antlerless only firearms deer season is prohibited.

Recommended language of amendment:

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

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

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

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

Rationale:

This recommendation will maintain opportunities for hunting deer with dogs where and when they currently exist, while allowing extension of seasons for deer disease and population management. To address Chronic Wasting Disease (CWD) management needs, staff is recommending that an early antlerless only firearms deer season be established on private lands in Culpeper, Fauquier, Madison, Orange, and Rappahannock counties. This recommendation will clarify that hunting deer with dogs is not allowed during this season. In Greene and Madison counties, the recommendation will tie the 14 consecutive days when hunting deer with dogs is prohibited to the opening day of the traditional firearms deer season.

4VAC15-50-110

Game: Bear: Use of dogs in hunting bear.

Summary:

This recommendation will more explicitly define current time restrictions on the use of dogs for hunting bears to enable the extension of deer firearms (open) seasons for disease and population management purposes in certain areas of Virginia.

Recommended language of amendment:

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

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

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

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

Rationale:

This recommendation enables extension of deer firearms seasons without having to reduce bear chase or hound hunting opportunities where and when they currently exist. The Department currently needs to extend deer firearms seasons (open seasons) to address chronic wasting disease (CWD) management in northwestern Virginia; in the future, extensions of deer firearms seasons may be needed for population management purposes in certain other western counties. Without the recommended changes to this regulation, the Department would have to reduce opportunities to hunt bears with dogs in order to extend the deer firearms seasons in these areas. For example, the Department is currently recommending to add early antlerless firearms deer season (September) in Clarke, Shenandoah, Frederick, and Warren counties to address CWD. Dogs can be used to hunt bears in these counties during the 3-day early bear firearms season (late September). The current regulation language would prohibit these bear and deer hunting opportunities from running concurrently. Experience east of the Blue Ridge Mountains suggests that conflicts between bear hunters and deer hunters will be minimal as long as the first two weeks of the traditional deer firearms season in November excludes the hunting of bears with dogs.

4VAC15-90-293

Game: Deer: Unauthorized cervid parts, excretions, and carcass importation, movement, possession, and use.

Summary:

The recommendation is to (i) add “cleaned jaw bones” to the list of parts permitted to be imported and possessed, (ii) enable the department to allow transport of whole deer carcasses and all parts from one disease management area (DMA) to another, (iii) allow transport of whole deer carcasses and all carcass parts out of a DMA directly to an authorized location in a different state, (iv) and enable the department to restrict transport of whole deer carcasses and all parts between portions of a DMA

Recommended language of amendment:

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

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

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

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

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

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

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

C. Any person who imports into Virginia any deer carcass or parts described in subsection A of this section and is notified that the animal has tested positive for Chronic Wasting Disease must report the test

results to the department within 72 hours of receiving the notification. In order to facilitate the proper disposal of any infected material, the department may take into possession any imported carcass or carcass part of an animal if the animal has tested positive for Chronic Wasting Disease.

D. No person shall transport any carcass or part of a carcass of any cervid out of any area designated by the department as a disease management area, except: ~~that the~~

1. carcass parts enumerated in subsection B of this section, ~~may be transported, and~~
2. carcasses ~~or and~~ parts ~~may be~~ transported ~~directly to to other~~ locations ~~or areas within the Commonwealth~~ designated by the department ~~or to specified locations in other states and provinces where it is legal to import such materials,~~ provided that such carcasses or parts are transported without ~~unnecessary~~ delay and secured within a vehicle ~~or other conveyance~~ during transit.

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

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

Rationale:

(i) Clean jaw bones represent a low risk of CWD transmission and are frequently saved by hunters to determine the age of their harvested deer.

(ii) As Chronic Wasting Disease continues to spread across the landscape, the number of disease management areas (DMAs) is expected to increase. Carcass transport is a recognized disease transmission risk and carcass transport restrictions represent a burden to some hunters. Each DMA presents a certain level of disease transmission risk. Transport of whole carcasses or carcass parts from a moderate-risk disease DMA to another moderate-risk DMA likely represents a high level of hunter satisfaction and a moderate level of disease transmission risk. However, transport of whole carcasses from a high-risk DMA to a lower risk DMA represents the same level of hunter satisfaction but carries a significantly higher level of disease transmission risk. In order to optimize hunter satisfaction and disease transmission risk, unique carcass transport restrictions based upon local disease transmission risk assessments are recommended.

(iii) Some states, such as Maryland, permit the importation of whole deer carcasses from areas known to be affected by chronic wasting disease. The movement of deer carcasses out of a DMA directly to an authorized out-of-state location represents a low CWD transmission risk to white-tailed deer populations in Virginia and facilitates regional cooperation between state agencies.

(iv) As Chronic Wasting Disease continues to spread across the landscape, the number of counties added to DMAs is expected to increase. As is the case with carcass transport between DMAs, it is recommended that carcass transport restrictions within DMAs also be based upon local risk assessments.

Deer & Muzzleloader Hunting Regulations

4VAC15-90-70
Game: Deer: Archery hunting.

Summary:

The recommended regulation amendment corrects a change in the Code of VA which defines a Common Interest Community (CIC) in subsection (G) of the archery deer hunting regulation. The code section changed from § 55.528 to § 54.1-2345.

Recommended language of amendment:

4VAC15-90-70. Archery hunting.

- A. It shall be lawful to hunt deer during the early special archery season with archery equipment or a slingbow from the first Saturday in October through the Friday prior to the third Monday in November, both dates inclusive.
- B. In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer during the late special archery season with archery equipment or a slingbow:
1. From the Sunday following the close of the general firearms season on deer through the first Saturday in January, both dates inclusive, (i) in all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County); (ii) in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick; (iii) on the Chester F. Phelps Wildlife Management Area; and (iv) on national forest lands in Frederick County.
 2. From December 1 through the first Saturday in January, both dates inclusive, in the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.
- C. Deer of either sex may be taken full season during the special archery seasons as provided in subsections A and B of this section.
- D. It shall be unlawful to carry firearms while hunting with archery equipment during the special archery seasons, except that a muzzleloading gun, as defined in [4VAC15-90-80](#), may be in the possession of a properly licensed muzzleloading gun hunter when and where a special archery deer season overlaps a special muzzleloading deer season.
- E. It shall be unlawful to use dogs when hunting with archery equipment during any special archery season, except that tracking dogs as described in § [29.1-516.1](#) of the Code of Virginia may be used.
- F. It shall be lawful to hunt antlerless deer during the special urban archery season with archery equipment or a slingbow from the first Saturday in September through the Friday prior to the first Saturday in October, both dates inclusive, and from the Sunday following the first Saturday in January through the last Sunday in March, both dates inclusive, within the incorporated limits of any city or town in the Commonwealth (except on national forest and department-owned lands) and counties with a human population density of 300 persons per square mile or more (except on national forest and department-owned lands), provided that its governing body submits by certified letter to the department prior to April 1, its intent to participate in the special urban archery season. Any city, town, or county no longer participating in this season shall submit by certified letter to the department prior to April 1 notice of its

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

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

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

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

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

Rationale:

In 2019 the VA Code section which defines a common interest community (§ 55.528) was repealed and amended to §54.1-2345. This regulation recommendation simply updates the archery deer hunting regulation which permits the hunting of deer within CICs (as designated by subsections F and G of this regulation) to include the correct code section for the definition of a CIC.

4VAC15-90-80

Game: Deer: Muzzleloading gun hunting.

Summary:

The recommendation is to (i) make both the early and late muzzleloading seasons full season either-sex deer hunting on private lands in Augusta County, (ii) add one either-sex deer hunting day on private lands in Dickenson County during the early muzzleloading deer season, (iii) clarify that four different types of muzzleloading guns are legal during the muzzleloading deer season(s), (iv) change the minimum caliber for muzzleloading rifles from .45 to .40 caliber and (v) address the pending change to the Code of Virginia which would require that only the projectile be loaded from the muzzle for muzzleloading rifles and muzzleloading shotguns.

Recommended language of amendment:

4VAC15-90-80. Muzzleloading gun hunting.

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

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

1. In all cities, towns, and counties west of the Blue Ridge Mountains (except Clarke County and on non-national forest lands in Frederick County);

2. East of the Blue Ridge Mountains in the Counties (including the cities and towns within) of Amherst (west of Business U.S. 29 from the James River to its intersection with U.S. 29 just south of the Town of Amherst continuing north on U.S. 29 to the Tye River), Bedford, Franklin, Henry, Nelson (west of Route 151), and Patrick;

3. On national forest lands in Frederick County; and

4. In the Cities of Chesapeake, Suffolk (east of the Dismal Swamp Line), and Virginia Beach.

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

1. Deer of either sex may be taken on the second Saturday only of the early special muzzleloading season on state forest lands, state park lands (except Ocooneechee State Park), department-owned lands (except on Merrimac Farm Wildlife Management Area), and Philpott Reservoir.

2. Antlered bucks only—no either-sex deer hunting days during the early special muzzleloading season on national forest lands in Amherst, Bedford, and Nelson Counties.

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

1. Deer of either sex may be taken during the entire early special muzzleloading season in Clarke and Floyd Counties and on private lands in [Augusta](#), Botetourt, Carroll, Frederick, Grayson, Montgomery, Pulaski, Roanoke, Rockingham (east of Routes 613 and 731), Scott, Shenandoah, Warren, and Wythe Counties.

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

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

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

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

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

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

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

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

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

2. muzzleloading shotguns (one or more barrels) not larger than 10 gauge where the projectiles are loaded from the muzzle;
3. muzzleloading pistols (one or more barrels) .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per barrel where the propellant and projectile are loaded from the muzzle;
4. muzzleloading revolvers .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per cylinder where the propellant and projectile are loaded from the forward end of the cylinder.

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

Rationale:

Augusta County. The private land deer population in Augusta County is currently above the desired deer population management objective in the Department's deer management plan. The addition of these additional either-sex deer hunting days should assist in bringing the deer population back down to its desired level.

Dickenson County. The private land deer population in Dickenson County is currently at its desired deer population objective in the Department's deer management plan; however, local staff feels that additional either-sex deer hunting opportunities can be provided at this time. Either-sex deer hunting regulations in this county have traditionally been very conservative. Currently, with the exception of the either-sex October archery season, only the last day of the late muzzleloading season is an either-sex deer hunting day (countywide; private lands and public lands). This will increase the number of muzzleloading either-sex deer hunting days on private lands in Dickenson from one to two days.

Defining legal muzzleloading guns. In the past, section H of the muzzleloading gun hunting regulation has been assumed to apply only to muzzleloading rifles. However, the Code of Virginia allows for four different type of muzzleloading guns for deer hunting in Virginia. The recommended changes will clarify what types muzzleloading guns are legal for deer hunting during the muzzleloading deer season(s) and describe any special restrictions.

Changing the minimum muzzleloading rifle caliber from 45 to 40 caliber. This is a technical change that is not a substantive change, because in fall 2017 the Department changed the single projectile (or sabot) size for muzzleloading rifles down to less than or equal to 35 caliber. This change will accommodate a new 40-caliber muzzleloading rifle that has just come on the market (<https://cva.com/product-line/paramount-htr-rifle/>).

New FireStick Muzzleloading Technology/Rifle. 2021 House Bill 2298 (<https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB2298>) changes the legal definition of a muzzleloading rifle and muzzleloading shotgun to note that only the projectile (or projectiles) has to be loaded from the muzzle of the gun. Previously, both the propellant and projectile had to be loaded from the muzzle of the gun. This change will make a new Federal FireStick technology (<https://www.federalpremium.com/firestick.html>) legal for muzzleloading rifles in Virginia (<https://www.traditionsfirearms.com/category/nitrofire-muzzleloader-series>) where the propellant is loaded from the rear of the barrel.

4VAC15-50-71

Game: Bear: Muzzleloading gun hunting.

Summary:

The recommendation will clarify the different types of muzzleloading guns that are legal during the muzzleloading bear season, update language consistent with recent technological changes, and address pending changes to the Code of Virginia regarding muzzleloading guns.

Recommended language of amendment:

4VAC15-50-71. Muzzleloading gun hunting.

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

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

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

1. single shot muzzleloading rifles .40 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) where the projectile is loaded from the muzzle;
2. muzzleloading shotguns (one or more barrels) not larger than 10 gauge where the projectiles are loaded from the muzzle;
3. muzzleloading pistols (one or more barrels) .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per barrel where the propellant and projectile are loaded from the muzzle;
4. muzzleloading revolvers .45 caliber or larger, firing a single projectile or sabot (with a .35 caliber or larger projectile) per cylinder where the propellant and projectile are loaded from the forward end of the cylinder.

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.

Rationale:

Defining legal muzzleloading guns. In the past, section C of the muzzleloading gun hunting regulation has been assumed to apply only to muzzleloading rifles. However, the Code of Virginia allows four different type of muzzleloading guns for bear hunting in Virginia. The recommended changes will clarify what types muzzleloading guns are legal for bear hunting during the muzzleloading season(s) and describe any special restrictions.

Changing the minimum muzzleloading rifle caliber from 45 to 40 caliber. This is a technical change, not a substantive change. In fall 2017, the Department reduced the single projectile (or sabot) size for muzzleloading rifles to 35 caliber or greater. This change will accommodate a new 40-caliber muzzleloading rifle that has just come on the market (<https://cva.com/product-line/paramount-htr-rifle/>). There are no concerns about lethality of this new weapon.

Requiring only the projectile(s) to be loaded from the muzzle. If passed, 2021 House Bill 2298 (<https://lis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB2298>) would change the legal definition of a muzzleloading rifle and muzzleloading shotgun to note that only the projectile (or projectiles) has to be loaded from the muzzle of the gun. Previously, both the propellant and projectile had to be loaded from the muzzle of the gun. This change will make a new Federal FireStick technology (<https://www.federalpremium.com/firestick.html>), where the propellant is loaded from the rear of the barrel, legal for muzzleloading rifles in Virginia.

4VAC15-90-90

Game: Deer: Bag limit, bonus deer permits and special antlerless provision for youth hunters.

Summary:

The recommendation is to (i) establish an unlimited daily bag limit for deer in all the cities and towns in Virginia that allow deer hunting (except in the cities of Chesapeake, Suffolk, and Virginia Beach), (ii) create a uniform statewide deer bag limit of one deer per day on national forest, department-owned, and department-managed lands, and (iii) clarify that national forest lands in Amherst, Bedford, and Nelson are included under the west of the Blue Ridge Mountains bag limit.

Recommended language of amendment:

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

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

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

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

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

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

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

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

~~23.~~ If a deer hunter kills two antlered bucks in a license year in Alleghany, Augusta, Bath, Highland, or Rockbridge County, at least one of the antlered bucks must have at least four antler points, one inch or longer, on one side of the antlers. This subdivision shall not apply to any county designated by the department within 25 miles of a confirmed detection of Chronic Wasting Disease.

~~34.~~ Only one elk per day may be taken ~~west of the Blue Ridge Mountains.~~

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

D. Bonus deer permits shall be valid on private land in counties and cities where deer hunting is permitted (except Buchanan, Dickenson, and Wise Counties) during the special archery seasons, special muzzleloading seasons, and the general firearms season. Bonus deer permits shall be valid on public

lands, including state parks, state forests, national wildlife refuges, military areas, etc., as authorized by the managing agency. Unless otherwise posted or authorized in writing for wildlife management areas by the department, or for national forest lands by the U.S. Forest Service, the use of bonus permits is prohibited on department-owned and national forest lands. Bonus deer permits shall be valid for antlerless deer only. Deer taken on bonus permits shall count against the daily bag limit but are in addition to the seasonal bag limit.

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

Rationale:

Unlimited daily bag limit in cities and towns. Over the past twenty plus years, the Department's deer management staff has taken a proactive and aggressive approach to urban deer management in cities and towns across Virginia. Examples include the establishment of an early and late urban archery deer season(s) which extends deer season to eight months each year and is open to participation for all cities and town in Virginia (except Chesapeake, Suffolk, and Virginia Beach). Forty-seven cities and towns are currently participating. Additionally, the Department has adopted regulations that make the muzzleloading and firearms seasons full season either-sex deer hunting in all cities and towns that allow deer hunting (except Chesapeake, Suffolk, and Virginia Beach). Simply put all cities and towns in Virginia (except the cities of Chesapeake, Suffolk, and Virginia Beach) currently have access to an eight month long deer season in which every deer hunting day is an either-sex deer hunting day. The only regulation currently limiting antlerless deer harvest in these areas is the current two deer per day daily bag limit. Staff recommends that the daily deer bag limit be made unlimited in all cities and towns in Virginia (except Chesapeake, Suffolk, and Virginia Beach).

Public land daily and season antlerless deer bag limits. The Department has documented a significant decline (~60%) in the deer kill on public lands west of the Blue Ridge and east of the Blue Ridge in Amherst, Bedford, and Nelson counties (e.g., National Forest and Department-owned lands)) over the past twenty plus years. To address this decline, the Department has significantly reduced public land either-sex deer hunting opportunities over the last decade or more.

During the last regulation cycle, a uniform statewide private land daily deer bag limit of two deer per day was established. At the same time, a bag limit of one deer per day was adopted for public lands west of the Blue Ridge and national forest lands in Amherst, Bedford, and Nelson.

The deer management staff recommends that a bag limit of one deer per day on public lands should be extended statewide to continue protecting the deer resource from overharvest while at the same time more equitably distributing the available public land deer resource between individual deer hunters and user groups.

National Forest lands in Amherst, Bedford, and Nelson counties. The inserted text corrects an omission in the current bag limit regulation. National forest lands in Amherst, Bedford, and Nelson are exempt from the East of the Blue Ridge Mountains bag limit and should have been added to the West of the Blue Ridge Mountains bag limit to maintain a consistent bag limit on all National Forest lands in Virginia.

4VAC15-90-91

Game: Deer: General firearms season either-sex deer hunting days.

Summary:

The recommendation is to change the general firearms either-sex deer hunting days for the counties/areas shown in the table below:

City/County/WMA	Change	Current	Recommended
Charles City	Increase	31	Full season
Chesterfield	Increase	8	15
Fluvanna	Increase	15	31
Goochland	Increase	31	Full season
King and Queen	Increase	8	15
King William	Increase	8	15
New Kent	Increase	31	Full season
Page (private lands)	Increase	7	Full season
Powhatan (except Powhatan WMA)	Increase	31	Full season
Rockingham (private lands west of Routes 613 and 731)	Increase	1	2
Spotsylvania	Increase	31	Full season
<u>Public Land</u>			
C.F. Phelps	Decrease	2	1
G.R. Thompson WMA	Increase	2	15
Hardware River WMA	Stay the same	15	15
Oakley Forest	Decrease	31	15
Rapidan WMA	Decrease	31	15
White Oak Mountain WMA	Increase	2	4

Recommended language of amendment:

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

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

Accomack County: full season.

Albemarle County: full season.

Alleghany County: the second Saturday and the last day.

-National forest lands: the last day.

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

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

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

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

-National forest lands: the last day.

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

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

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

Arlington County: full season.

Augusta County: full season.

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

Bath County: the second Saturday and the last day.

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

Bedford County: full season.

-National forest lands: the last day.

Bland County: the second Saturday and the last day.

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

Botetourt County: full season.

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

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

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

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

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

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

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

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

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

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

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

Carroll County: full season.

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

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

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

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

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

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

Clarke County: full season.

Craig County: full season.

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

Culpeper County: full season.

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

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

-Cumberland State Forest: the second and third Saturdays.

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

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

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

Fairfax County: full season.

Fauquier County: full season.

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

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

Floyd County: full season.

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

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

Franklin County: full season.

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

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

Frederick County: full season.

-National forest lands: the last day.

Giles County: full season.

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

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

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

Grayson County: full season.

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

Greene County: full season.

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

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

Hanover County: full season.

Henrico County: full season.

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

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

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

Highland County: the second Saturday and the last day.

-National forest lands: the last day.

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

Isle of Wight County: full season.

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

James City County: full season.

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

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

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

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

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

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

Loudoun County: full season.

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

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

Madison County: full season.

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

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

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

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

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

Montgomery County: full season.

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

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

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

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

-National forest lands: the last day.

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

Northampton County: full season.

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

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

Orange County: full season.

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

-National forest lands: the last day.

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

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

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

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

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

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

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

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

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

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

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

Prince George County: full season.

Prince William County: full season.

Pulaski County: full season.

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

Rappahannock County: full season.

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

Roanoke County: full season.

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

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

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

Rockingham County: full season.

-National forest lands: the last day.

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

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

-Department-owned lands and the Channels State Forest: the last day.

Scott County: the second Saturday and the last six days.

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

Shenandoah County: full season.

-National forest lands: the last day.

Smyth County: full season.

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

Southampton County: full season.

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

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

Stafford County: full season.

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

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

Surry County: full season.

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

Sussex County: full season.

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

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

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

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

Warren County: full season.

-National forest lands: the last day.

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

-National forest lands, department-owned lands, and the Channels State Forest: the last day.

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

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

Wythe County: full season.

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

York County: full season.

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

Rationale:

Charles City, Goochland, King and Queen, King William, New Kent, Page, Powhatan, and Spotsylvania counties. The private land deer population index in these counties is currently above the desired deer population management objective bracket in the Department’s deer management plan. The addition of these additional either-sex deer hunting days should assist in bringing the deer population back down to the desired level(s).

Chesterfield. The recommended increase in firearms either-sex deer hunting days in Chesterfield County is a proactive change. The private land deer population index in Chesterfield County is currently at the top end, but within the desired deer population objective bracket found in the Department’s deer management plan and has increased significantly over the past five years. The addition of additional either-sex deer hunting days should assist in bringing the deer population back down slightly.

Fluvanna. The recommended increase in firearms either-sex deer hunting days in Fluvanna County is a proactive change. The private land deer population index in Fluvanna County is currently at the top end of its desired deer population objective bracket found in the Department's deer management plan; however, local staff feels that additional either-sex deer hunting opportunities can and should be provided at this time.

Rockingham (private lands west of Routes 613 and 731). In fall 2008, the Department created a special deer management unit in western Rockingham in response to public concerns regarding low deer numbers. Since that time, conservative deer regulations have been in place in this area on both public and private lands. Anecdotal comments would appear to indicate that deer populations have increased in this unit over the past decade, especially on private lands. Additionally, numerous comments were received during the public comment period for this regulation cycle requesting more either-sex deer hunting days in this area. The addition of this additional either-sex deer hunting day will not apply to public lands within this special management area.

C.F. Phelps and Rapidan WMA's. Local Wildlife Division WMA staff have requested a decrease in the number of firearms either-sex deer hunting days on these two areas.

G.R. Thompson WMA. The first CWD deer found in Fauquier County in fall 2019 was killed on the G.R. Thompson WMA. Wildlife Health staff has requested an increase on the number of either-sex deer hunting days on this area.

Hardware River WMA. The number of firearms either-sex deer hunting days are being increased in Fluvanna County from 15 to 31. The recommendation will leave the number on the Hardware River WMA at 15 (no change).

Oakley Forest WMA. Oakley Forest WMA currently follows Spotsylvania County's either-sex deer hunting days. However, there is a need to separate the WMA from the county-wide season as Spotsylvania County is recommended for an increase to full season either-sex deer hunting. The deer population on Oakley Forest WMA appears to have reached the desired population level after several years of the current season structure. In order to stabilize the deer population, reducing the antlerless harvest is necessary to maintain the desired population level and retain hunter satisfaction.

White Oak Mountain WMA. Local Wildlife Division WMA staff have requested an increase in the number of firearms either-sex deer hunting days on this area.

Harvest Reporting Regulations

4VAC15-90-231

Game: Deer: Validating tags and checking deer by licensee or permittee.

Summary:

The recommendation is to (i) address electronic deer tags and reporting deer using the eNotch feature of the Department's GoOutdoorsVA smartphone application, (ii) remove text related to checking, check stations, and check cards, (iii) simplify wording where possible and break the regulation into a simpler and more logical order, and (iv) amend the section on mandatory disease testing to include mandatory drop off of deer heads from designated areas on designated days.

Recommended language of amendment:

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

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

B. Upon killing a deer and validating (notching) a license tag, bonus deer permit or special permit, as provided in subsection A of this section, the licensee or permittee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass and validated (notched) license tag, bonus deer permit or special permit to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the deer was killed or~~ report the kill through the department's automated harvest reporting system. ~~All deer killed after the first Saturday in January (as prescribed in 4VAC15-90-10 and 4VAC15-90-70) must be checked by telephone or Internet.~~ At such time, the person ~~checking or~~ reporting the carcass will be given a ~~game check card furnished by the department or a~~ confirmation number ~~from the automated reporting system~~. The successful hunter shall then immediately record the ~~game check card number or~~ confirmation number, in ink, on the line provided on the tag that was validated (notched) in the field. ~~If checked at a big game check station, the game check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the game check card must be securely attached to the carcass.~~

C. ~~If After~~ the kill is reported ~~using the automated harvest reporting system~~, no ~~check card written documentation~~ is required as long as the hunter who killed the animal is in possession of the carcass. If the ~~automated harvest~~ reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. ~~Processed carcass parts of a deer killed legally in Virginia may be transported; however, upon request of any authorized law enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.~~

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

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

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

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

Rationale:

eNotch. The recommendation will address electronic deer tags and reporting deer using the eNotch feature of the Department's GoOutdoorsVA smartphone application.

Check stations and check cards. The recommendation will remove all references and text related to check stations and check cards. The Department of Wildlife Resources (DWR) plans to discontinue game check stations and the distribution of game check books starting September 1, 2021 at the beginning of the 2021-22 hunting season. All hunters (including those who are not required to purchase a license) who harvest a deer next fall will need to check their harvest by calling DWR (866-GOT-GAME), logging on to gooutdoorsvirginia.com, or by using the eNotch option of the GoOutdoorVA mobile phone application (free though the app store).

Mandatory game checking, a cornerstone of DWR's game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004 DWR has offered some form of electronic reporting, and beginning in 2019 electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

Format. Over the past several decades changes to this regulation (transportation of processed parts, forfeiture, etc.) have become embedded in unrelated sections. Changes in format made in this version do not change the meaning of the regulation but make it more intuitive and readable.

Mandatory Disease Submission. For most of the past decade, the Department has required deer hunters in CWD positive or at risk areas to bring their deer to mandatory CWD sampling check stations staffed by DWR staff and volunteers on designated days; typically the first and/or second Saturday of the firearms deer season. Staff would like to broaden this disease testing in CWD areas to include the mandatory dropping off of deer heads at unmanned collection sites set up in designated areas on designated days/seasons.

4VAC15-50-81

Game: Bear: Validating tags and checking bear and tooth submission by licensee or permittee.

Summary:

This recommendation is to remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests to be reported electronically using either the telephone, internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-22 hunting season.

Recommended language of amendment:

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

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

B. Upon killing a bear and validating (notching) a license tag or special permit, as provided in subsection A of this section, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, ~~present the carcass and validated (notched) license tag or special permit to an authorized bear checking station or to an appropriate representative of the department in the county or adjoining county in which the bear was killed or~~ report the kill through the department's automated harvest reporting system. At such time, the person ~~checking or~~ reporting the carcass will be given ~~a black bear check card furnished by the department or~~ a confirmation number from the automated reporting system. The successful hunter shall then immediately record the ~~game check card number or~~ confirmation number, in ink, on the line provided on the tag that was validated (notched) in the field. ~~If checked at an authorized bear check station, the black bear check card must be kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, the bear check card must be securely attached to the carcass. If After~~ the kill is reported ~~using the automated harvest reporting system,~~ no ~~check card~~ written documentation is required as long as the hunter who killed the animal is in possession of the carcass. If the ~~automated harvest~~ reported carcass is left unattended or transferred to the possession of another individual, written documentation including the successful hunter's full name, the date the animal was killed, and the confirmation number must be created and kept in possession with the carcass until the carcass is processed. If the carcass is left unattended, this written documentation must be securely attached to the carcass. Processed carcass parts of a bear killed legally in Virginia may be transported; however, upon request of any authorized law-enforcement officer, sufficient verbal or written information necessary to properly establish legal possession must be furnished immediately.

C. ~~If the carcass is checked at a bear check station, upon presentation of the carcass and validated (notched) license tag or special permit to the bear checking station, the licensee shall surrender or allow to be removed one premolar tooth from the carcass. If the kill is reported through the department's~~

~~automated harvest reporting system, A~~ a premolar tooth must be removed by the hunter immediately after reporting the kill through the department's automated harvest reporting system. The premolar shall be placed in an envelope furnished by the department and labeled with the hunter's full name, check confirmation number, date of kill, and the sex of the harvested bear. This envelope with premolar and accompanying information must be mailed or delivered to the department no later than 14 days after the close of the bear harvest season.

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

Rationale:

Beginning in the fall of 2021 all harvest reporting will occur electronically through either the telephone, internet, or GoOutdoors mobile application. Mandatory game checking, a cornerstone of DWRs game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004, DWR has offered some form of electronic reporting, and beginning in 2019, electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

This regulation amendment removes all references to physical check stations and check cards and adds language in reference to the "e-notch" feature of the mobile application which allows a hunter to electronically notch a tag on their license from their smartphone.

4VAC15-240-81

Game: Turkey: Validating tags and checking turkey by licensee

Summary:

This recommendation is to remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests to be reported electronically using either the telephone, internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-22 hunting season.

Recommended language of amendment:

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

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

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

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

~~in the county or adjoining counties in which the turkey was killed or~~ by using the automated harvest reporting system as required by this section shall be forfeited to the Commonwealth to be disposed of as provided by law.

Rationale:

Beginning in the fall of 2021 all harvest reporting will occur electronically through either the telephone, internet, or GoOutdoors mobile application. Mandatory game checking, a cornerstone of DWRs game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004, DWR has offered some form of electronic reporting, and beginning in 2019, electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

This regulation amendment removes all references to physical check stations and check cards and adds language in reference to the “e-notch” feature of the mobile application which allows a hunter to electronically notch a tag on their license from their smartphone.

4VAC15-90-241

Game: Deer: Checking deer by persons exempt from license requirement or holding a license authorization number.

Summary:

The recommendation is to (i) remove text related to checking, check stations, and check cards, (ii) simplify wording where possible and break the regulation into a simpler and more logical order, and (iii) amend the section on mandatory disease testing to include mandatory drop off of deer heads from designated areas on designated days.

Recommended language of amendment:

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

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

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

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

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

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

Rationale:

Check stations and check cards. The recommendation will remove all references and text related to check stations and check cards. The Department of Wildlife Resources (DWR) plans to discontinue game check stations and the distribution of game check books starting September 1, 2021 at the beginning of the 2021-22 hunting season. All hunters (including those who are not required to purchase a license) who harvest a deer next fall will need to check their harvest by calling DWR (866-GOT-GAME), logging on to gooutdoorsvirginia.com, or by using the eNotch option of the GoOutdoorVA mobile phone application (free though the app store).

Mandatory game checking, a cornerstone of DWR's game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004, DWR has offered some form of electronic reporting, and beginning in 2019 electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

Format. Over the past several decades changes to this regulation (transportation of processed parts, forfeiture, etc.) have become embedded in unrelated sections. Changes in format made in this version do not change the meaning of the regulation but make it more intuitive and readable.

Mandatory Disease Submission. For most of the past decade, the Department has required deer hunters in CWD positive or at risk areas bring their deer to mandatory CWD sampling check stations staffed by DWR staff and volunteers on designated days; typically the first and/or second Saturday of the firearms deer season. Staff would like to broaden this disease testing in CWD areas to include the mandatory dropping off of deer heads at unmanned collection sites set up in designated areas on designated days/seasons.

4VAC15-50-91

Game: Bear: Checking bear and tooth submission by persons exempt from license requirements or holding a license authorization number.

Summary:

This recommendation is to remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests to be reported electronically using either the telephone, internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-22 hunting season.

Recommended language of amendment:

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

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

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

C. It shall be unlawful for any person to destroy the identity of the sex of any bear killed until the bear is checked reported as required by this section. Successful bear hunters are allowed to dismember the

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

Rationale:

Beginning in the fall of 2021 all harvest reporting will occur electronically through either the telephone, internet, or GoOutdoors mobile application. Mandatory game checking, a cornerstone of DWR's game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004, DWR has offered some form of electronic reporting, and beginning in 2019, electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

This regulation amendment removes all references to physical check stations and check cards for license exempt hunters.

4VAC15-240-91

Game: Turkey: Checking turkey by persons exempt from license requirement or holding a license authorization number

Summary:

This recommendation is to remove all references to checking, check stations, and check cards to reflect the requirement for all big game harvests to be reported electronically using either the telephone, internet, or GoOutdoors Virginia mobile harvest reporting application beginning in the 2021-22 hunting season.

Recommended language of amendment:

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

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

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

Rationale:

Beginning in the fall of 2021 all harvest reporting will occur electronically through either the telephone, internet, or GoOutdoors mobile application. Mandatory game checking, a cornerstone of DWRs game management program for more than 70 years, will remain vital for game management in Virginia for many years to come. Thus, it is critical that every hunter report their harvest using one of the electronic reporting systems. Since 2004, DWR has offered some form of electronic reporting, and beginning in 2019, electronic reporting options were available for all species for which reporting is required. In fall 2019, 86% of all deer, 93% of fall turkeys, 100% of spring turkeys, 100% of bobcats, and 58% of all bears were reported through an electronic reporting system.

This regulation amendment removes all references to physical check stations and check cards for license exempt hunters.

Bear & Wild Turkey Regulations

4VAC15-50-120

Game: Bear: Bear hound training season.

Summary:

This recommendation will add Dinwiddie County to the list of counties allowing bear hound training season as originally intended when the training season was initiated in that area in 2013.

Recommended language of amendment:

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

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

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

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

Rationale:

In 2013 when the November bear hound training season was initiated for numerous counties in the southern Piedmont and northern neck area, Dinwiddie County was inadvertently left off the list of included counties. Since the initiation of the season, Dinwiddie County has been listed in the DWR hunting digest as a participating locality with no issues. This regulation recommendation simply will add Dinwiddie into the training season regulation as it was intended in 2013.

4VAC15-240-20

Game: Turkey: Open season; certain counties and areas; two-week season.

Summary:

This recommendation will remove Orange County from the list of counties which have a two week fall turkey season and add it to the regulation for a six week fall turkey season (4VAC15-240-32).

Recommended language of amendment:

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

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

Rationale:

Current population trends and density estimates for Orange County show positive improvements in the status of the turkey population. Orange County currently has a moderate turkey density with a population trend that is increasing at a significant rate. Staff believe the population is stable enough to sustain an increased fall harvest opportunity based on the current population metrics. The remaining counties in this grouping of two week fall season do not currently indicate population trends of significant increases that would allow for additional fall harvest opportunities.

4VAC15-240-32

Game: Turkey: Open season; certain counties and areas; six week season

Summary:

This recommendation seeks to add Orange County to the counties with a six week fall turkey season.

Recommended language of amendment:

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

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

Rationale:

Current population trends and density estimates for Orange County show positive improvements in the status of the turkey population. Orange County currently has a moderate turkey density with a population trend that is increasing at a significant rate. Staff believe the population is stable enough to sustain an increased fall harvest opportunity based on the current population metrics.

4VAC15-240-40

Game: Turkey: Open Season; spring season for bearded turkeys

Summary:

The recommendation is to allow hunting from ½ before sunrise to sunset throughout the entire spring turkey season.

Recommended language of amendment:

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

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

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

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

D. Bearded turkeys may be hunted by calling.

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

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

Rationale:

The Department routinely receives public input seeking additional spring turkey hunting recreation opportunity by providing all day hunting throughout the entire spring turkey season. This feedback routinely references potential impacts of inclement weather on hunting opportunities and the current ½-hour before sunrise to noon time restriction limiting hunting opportunities due to work-related responsibilities. Frequently referenced are the particular challenges in offering youth spring turkey hunting opportunities due to school responsibilities and the abundance of extracurricular activities for youth during this time of year. Providing additional hunting opportunities during the spring season could have potential population-level impacts, especially as it relates to the unintentional or illegal take of adult

hens during the breeding season. During the early portion of Virginia's spring turkey season, adult hens are still actively breeding and may be more vulnerable to unintentional or illegal harvest. This vulnerability decreases as the breeding season progresses and adult hens begin to lay eggs and incubate nests. If mortality of adult hens increases, potential population impacts could arise through decreased productivity within the turkey population. At the same time, spring harvest data suggest that turkey populations are generally stable at an all-time high level across most areas of Virginia. Recognizing the potential for biological impacts, this recommendation is made to address demands for additional recreational opportunities and to aide in hunter recruitment.

4VAC15-240-60
Game: Turkey: Archery hunting.

Summary:

The recommendation is to align the fall turkey archery season with the current statewide deer and bear archery season dates.

Recommended language of amendment:

4VAC15-240-60. Archery hunting.

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

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

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

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

Rationale:

Currently the fall turkey archery season ends one week earlier than the deer and bear archery season. The archery harvest during the fall season generally makes up approximately 5-7% of the total fall turkey harvest each year and thus does not likely pose a significant biological implication if one additional week was added to this season. By aligning the statewide archery season dates for deer, bear, and turkey this will likely limit hunter confusion with differing end dates while also increasing the opportunity for fall turkey hunting.

Rabbit Regulations

4VAC15-200-30

Game: Rabbits and Hares: Trapping with box traps.

Summary:

The recommendation is to limit the translocation of live wild rabbits box trapped in Virginia to within the county of capture in order to reduce the risk of spreading Rabbit Hemorrhagic Disease Virus Serotype 2 throughout the Commonwealth.

Recommended language for the amendment:

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

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

Rationale:

Limiting the translocation of wild rabbits is an important preventative measure intended to reduce the risk of spreading Rabbit Hemorrhagic Disease Virus Serotype 2 (RHDV2) across the Commonwealth. Live animal movement is believed to be the most efficient way to spread this highly infectious and lethal virus long distances. RHDV2 affects all rabbit, hare, and pika species, and spreads easily and rapidly through rabbit populations. Over 80% of infected rabbits may die from it, potentially causing severe local or landscape-level rabbit population declines. While it is not known for certain whether RHDV2 will spread across the United States to Virginia, the likelihood is high based upon the documented rapid spread of the disease across both Europe and Australia. To protect Virginia's rabbit species for all citizens, including Virginia rabbit hunters and rabbit dog enthusiasts, steps to limit the translocation of wild captured rabbits are prudent. The DWR RHDV2 Management Plan outlines several pathways to minimize the risk of RHDV2 introduction and spread in Virginia, including development of an RHDV2 outreach campaign, restricted importation of potentially infectious non-consumable parts of rabbits that originate from outside Virginia, elimination of the disposal of potentially infectious leftover carcass parts on the landscape in Virginia, and restricted translocation of live wild rabbits within Virginia. Because it is possible that the disease could be present in Virginia and remain undetected for some time, the inadvertent spread of RHDV2 across the Commonwealth may be avoided by limiting the translocation of potentially infected live wild rabbits.

4VAC15-200-11 (New)

Game: Rabbits and Hares: Unauthorized wild rabbit carcass importation and possession.

Summary:

The recommendation is to prohibit the import and possession of all whole wild rabbit carcasses originating from anywhere outside of Virginia. Restricting importation to dressed carcasses only minimizes the risk of introducing Rabbit Hemorrhagic Disease Virus Serotype 2 into the Commonwealth through the movement of potentially infected carcass parts.

Recommended language for the amendment:

4VAC15-200-11. Wild rabbit carcass importation.

- A. The following words or terms, when used in 4VAC-15-200-12 and in this section, shall have the following meanings unless the context clearly indicates otherwise:

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

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

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

Rationale:

Restricting the importation of wild rabbit carcass parts from animals harvested outside Virginia is an important preventative measure intended to reduce the risk of introducing Rabbit Hemorrhagic Disease Virus Serotype 2 (RHDV2) into the Commonwealth. Because the virus is present in the blood of infected rabbits, most parts of a carcass are contaminated with the virus. In addition, the virus survives for months in dead rabbit parts and can survive freezing. Due to the hardiness and high infectivity of this virus, rabbits can become infected after coming into contact with infectious carcass parts, therefore long distance movements of potentially infectious carcass parts is believed to be an efficient method of spread to new areas. Once circulating in a rabbit population, the virus causes high morbidity and mortality, potentially leading to severe local or landscape-level rabbit population declines. While it is not known for certain whether RHDV2 will spread across the United States to Virginia, the likelihood is high based upon the documented rapid spread of the disease across both Europe and Australia. To protect Virginia's rabbit species for all citizens, including Virginia rabbit hunters and rabbit dog enthusiasts, steps to limit the importation of potentially infectious rabbit carcass parts from other states are prudent. The DWR RHDV2 Management Plan outlines several pathways to minimize the risk of RHDV2 introduction and

spread in Virginia, including development of an RHDV2 outreach campaign, elimination of the disposal of potentially infectious leftover carcass parts on the landscape in Virginia, restricted translocation of live wild rabbits within Virginia, and restricted importation of potentially infectious non-consumable parts of rabbits that originate from outside Virginia. Rabbit carcasses imported into Virginia from other states, either known to have RHDV2 or not, could be a primary vector for the introduction of RHDV2 into the Commonwealth and thus should be restricted to consumable parts only.

4VAC15-200-12 (New)
Game: Rabbits and Hares: Disposal of wild rabbit parts.

Summary:

The recommendation is to prohibit the disposal of wild rabbit parts onto the landscape of the Commonwealth in order to reduce the risk of spreading Rabbit Hemorrhagic Disease Virus Serotype 2 via deposition of potentially infectious carcass parts on the landscape.

Recommended language for the amendment:

4VAC15-200-12. Disposal of wild rabbit parts.

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

Rationale:

Eliminating the disposal of potentially infectious rabbit carcass parts on the landscape is an important preventative measure intended to reduce the risk of spreading Rabbit Hemorrhagic Disease Virus Serotype 2 (RHDV2) throughout the Commonwealth. Because the virus is present in the blood of infected rabbits, most parts of a carcass are contaminated with the virus. In addition, the virus survives for months in dead rabbit parts and can survive freezing. Due to the hardiness and high infectivity of this virus, rabbits can become infected after coming into contact with infectious carcass parts left on the landscape. Thus, disposal of infectious carcass parts on the landscape is believed to be an efficient method of spreading this highly infectious and lethal virus to new areas. Once circulating in a rabbit population, the virus causes high morbidity and mortality, thus potentially leading to severe local or landscape-level rabbit population declines. While it is not known for certain whether RHDV2 will spread across the United States to Virginia, the likelihood is high based upon the documented rapid spread of the disease across both Europe and Australia. To protect Virginia's rabbit species for all citizens, including Virginia rabbit hunters and rabbit dog enthusiasts, steps to limit the deposition of potentially infectious rabbit carcass parts on the landscape is prudent. The DWR RHDV2 Management Plan outlines several pathways to minimize the risk of RHDV2 introduction and spread in Virginia, including development of an RHDV2 outreach campaign, restricted translocation of live wild rabbits within Virginia, restricted importation of potentially infectious non-consumable parts of rabbits that originate from outside Virginia, and elimination of the disposal of potentially infectious leftover carcass parts on the landscape in Virginia. Animal scavengers, such as vultures, opossums, raccoons, and eagles, have the potential to move potentially infectious discarded rabbit carcasses long distances, thereby increasing the likelihood of the spread of RHDV2 across the Commonwealth.

Wildlife Diversity Regulations

4VAC15-20-130

Definitions and Miscellaneous: In General; Endangered and threatened species; adoption of federal list; additional species enumerated.

Summary:

The recommendation is to (i) update the date reference to the federal list of endangered and threatened wildlife species; (ii) update the Virginia List of Endangered and Threatened Species to remove the state threatened barking treefrog, add the red-cockaded woodpecker and Clinch dace as endangered, and retain the black rail as endangered to reflect their status in Virginia more accurately; and (iii) update requirements regarding allowable incidental take of little brown and tricolored bats to reflect their status in Virginia and to reduce regulatory burden.

Recommended Language of Amendment:

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

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

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

1. Fish:

Endangered

<u>Dace, Clinch</u>	<u>Chrosomus sp. cf. saylori</u>
Dace, Tennessee	Phoxinus tennesseensis
Darter, sharphead	Etheostoma acuticeps
Darter, variegate	Etheostoma variatum
Sunfish, blackbanded	Enneacanthus chaetodon

Threatened:

Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorbranchium
Darter, sickle	Percina williamsi
Darter, western sand	Ammocrypta clara

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

2. Amphibians:

Endangered:

Salamander, eastern tiger	Ambystoma tigrinum
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Threatened:

Salamander, Mabee's	Ambystoma mabeei
Treefrog, barking	Hyla gratiosa

3. Reptiles:

Endangered:

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

Threatened:

Lizard, eastern glass	Ophisaurus ventralis
Turtle, wood	Glyptemys insculpta

4. Birds:

Endangered:

Plover, Wilson's	Charadrius wilsonia
Rail, black	Laterallus jamaicensis
Woodpecker, red-cockaded	Dryobates borealis
Wren, Bewick's	Thryomanes bewickii bewickii

Threatened:

Falcon, peregrine	Falco peregrinus
Shrike, loggerhead	Lanius ludovicianus
Sparrow, Bachman's	Aimophila aestivalis
Sparrow, Henslow's	Ammodramus henslowii
Tern, gull-billed	Sterna nilotica

5. Mammals:

Endangered:

Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>
Bat, little brown	<i>Myotis lucifugus</i>
Bat, tri-colored	<i>Perimyotis subflavus</i>
Hare, snowshoe	<i>Lepus americanus</i>
Shrew, American water	<i>Sorex palustris</i>
Vole, rock	<i>Microtus chrotorrhinus</i>

6. Mollusks:

Endangered:

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

Threatened:

Floater, green	<i>Lasmigona subviridis</i>
Papershell, fragile	<i>Leptodea fragilis</i>
Pigtoe, Atlantic	<i>Fusconaiamasoni</i>
Pimpleback	<i>Quadrula pustulosa pustulosa</i>
Pistolgrip	<i>Tritogonia verrucosa</i>
Riversnail, spiny	<i>Iofluvialis</i>
Sandshell, black	<i>Ligumia recta</i>
Supercoil, brown	<i>Paravitrea septadens</i>

7. Arthropods:

Threatened:

Amphipod, Madison Cave	Stygobromus stegerorum
Pseudotremia, Ellett Valley	Pseudotremia cavernarum
Xystodesmid, Laurel Creek	Sigmoria whiteheadi

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

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

Species	Location	Allowable Circumstances	Required Conservation Measures	Expected Incidental Take
Little brown bat Tri-colored bat	Statewide	Human health risk – need for removal of individual animals from human-habited structures.	Between May 15 and August 31, no exclusion of bats from maternity colonies, except for human health concerns. DGIF department-permitted nuisance wildlife control operator with DGIF department-recognized certification in techniques associated with removal of bats. Use of exclusion devices that allow individual animals to escape. Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately permitted wildlife rehabilitator.	Little to no direct lethal taking expected.
		Public safety or property damage risk – need for tree removal, application of prescribed fire, or other land management actions affecting	Hibernacula: no tree removal, use of prescribed fire, or other land management action within a 250-foot radius buffer area from December 1 through April 30. Between September 1 and November 30, increase the buffer to a 1/4-mile radius with the following conditions: for	Little to no direct lethal taking expected.

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

Adoption of the updated and modified federal list of endangered and threatened wildlife species:

Maintaining the currency of the Board's adoption of the federal list is essential to clarifying the state and federal status of each affected species and to ensuring compliance with our Cooperative Agreements with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding interagency management of these species.

Changes to the State List of Endangered and Threatened Species

- A. *Removal of the barking treefrog as a threatened species:*** The Barking Treefrog (*Hyla gratiosa*) is the largest treefrog species in North America ranging from southern New Jersey and Delaware, southward along the southeastern Coastal Plain through most of the Florida Peninsula, and westward to southeastern Louisiana. It was listed as State Threatened under Virginia's Endangered Species Act on 1 January 1991. According to the 1993 draft Barking Treefrog Recovery Plan, the primary threats that warranted listing were loss of habitat and collection for the pet trade.

Barking Treefrogs have been found breeding in a variety of semi-permanent and permanent wetlands, including cypress-gum swamps, sinkholes, flooded farm fields, road-side ditches, and interdunal swales, many of which are relatively abundant throughout southeastern Virginia. In 1991, there had only been 11 observations of Barking Treefrogs made in Chesterfield, Isle of Wight, Mathews and Surry counties, with unverified sites in Greensville, Southampton and Sussex counties. Since 1999, there have been 71 new observations documented, including ones from several new counties and cities (Brunswick, Gloucester, Greensville, Lunenburg, Nottoway, Prince George, Southampton, Sussex, and Virginia Beach). Only a handful of these observations are from previously documented sites.

The threat of collection for the pet trade is a serious problem for many species of reptile and amphibian. In the past 15 years, however, there have only been two observed incidents of Barking Treefrogs being sold in the Commonwealth. In one instance, the animals were being sold at a PetSmart in James City County, but were removed from display and sale once the issue was brought to the attention of the store manager. In the second instance, the animals were being sold online by a private vender.

Based on the amount of suitable habitat, the lack of evidence that collection for the pet trade is a threat, and the number of new observations recorded since its listing, the staff recommend that the Barking Treefrog be removed from the state list of endangered and threatened species. Staff-recommended changes to 4VAC15-360-10 would continue to protect this species from unpermitted possession, collection, sale, etc., since it is a Species of Greatest Conservation Need listed in Virginia's 2015 Wildlife Action Plan.

- B. *Addition of the Clinch dace as an endangered species:*** In 1999, a species new to science, the Clinch Dace, *Chrosomus* sp. cf. *saylori*, was discovered in the upper Clinch drainage of Virginia. Since its discovery, the DWR has funded multiple studies to learn basic information needed to conserve the species. Although it remains undescribed, its life history, morphometric and

meristic data support its classification as a distinct species.

Like other members of its genus that are headwater specialists, the Clinch Dace is found in streams less than third order and wetted widths averaging 13 feet. Conversely, Clinch Dace may occur at lower local densities than any of the other *Chrosomus* dace due to its more specialized diet (mainly insectivorous), higher trophic position, shorter lifespan (2 years), and lower reproductive success.

Subsequent sampling have found only 15 populations in Russell and Tazewell counties, with a total occupied stream length of just under 20 miles and estimated global population of 6,700 individuals. These populations are small and fragmented; gene flow between them is restricted, maybe non-existent. Further, riparian land use and mining pose significant threats to essential habitat. As such, the Clinch Dace was designated as a Federal Species of Concern and is included in Virginia's Wildlife Action Plan as a Species of Greatest Conservation Need, Tier I - Critical Conservation Need. All studies recommend additional protections including federal and state listing. Two other members of the genus, Blackside Dace (*C. cumberlandensis*) and Tennessee Dace (*C. tennesseensis*), are federal and state listed respectively. The extremely rare occurrence of the Clinch Dace, and immediate threats to its habitat, warrant its inclusion on the state list of endangered and threatened species as an endangered species and it afforded all protections of the Virginia Endangered Species Act.

- C. Addition of Red-cockaded Woodpecker as Endangered:** In 2020, the U.S. Fish and Wildlife Service proposed to downlist the red-cockaded woodpecker (*Dryobates borealis*) from endangered to threatened under the federal Endangered Species Act. The U.S. Fish and Wildlife Service noted that, through partnerships with the U.S. Department of Defense and the U.S. Forest Service, more than 1.3 million acres of longleaf pine stands (the species' preferred habitat) have been established and hundreds of cavity inserts have been placed in trees to expand and support nesting. Additionally, the number of pairs of red-cockaded woodpeckers has increased by 50% since the time of initial listing.

Virginia is the northernmost extent of the range of this species. In the Commonwealth, the species is only known from two locations – the Piney Grove/Big Woods complex in Sussex County and the Great Dismal Swamp National Wildlife Refuge in the cities of Suffolk and Chesapeake. By 1998, the year in which The Nature Conservancy acquired its Piney Grove Preserve, the Virginia population of red-cockaded woodpecker was nearly extirpated, consisting of only 3 potential breeding groups on the Preserve. Aggressive habitat and cavity management on the Preserve, completed by a translocation program active through 2005, has enabled that population to grow to 15 potential breeding groups numbering just over 100 birds. In the past five years, birds from this population have begun pioneering off of the Preserve and onto the DWR's abutting Big Woods Wildlife Management Area, where habitat and cavity management strategies complement those at Piney Grove. A single pair of woodpeckers has nested on the WMA in each of the past two years, and the DWR expects more birds to establish breeding groups on Big Woods. The population at the Great Dismal Swamp National Wildlife Refuge is in the process of being established via translocations of birds from other populations since 2015, coupled with selective habitat management. Currently, the Refuge population numbers only 11 birds in 3 potential breeding groups. Both locations are highly vulnerable to significant weather events, such as hurricanes and ice storms, as well as wildfires and outbreaks of pine bark beetles. Such events could cause critical losses and erase years of gains by doing untold damage to cavity

trees, upon which the birds rely for roosting and nesting. These events could also damage the species' foraging base, which consists of younger, smaller pine trees; these trees are vital in replacing current cavity trees as the latter die out over time. The need to continue aggressive efforts to enhance the species in Virginia, including protection under the Virginia Endangered Species Act, are imperative to its persistence in the state and reflective of its imperiled status in the Commonwealth.

- D. Retain the state endangered status for the Eastern Black Rail:** The Eastern Black Rail was state listed as endangered in 2012 following the first systematic breeding survey conducted in areas with suitable habitat on Virginia's coastal plain. Only 16 individuals were detected at 12 sampling points along the eastern shore of the Chesapeake Bay in Accomack County. No Black Rails were detected on the seaside of the Delmarva Peninsula, the western shore of the Chesapeake Bay, along the James, York or Nansemond rivers, or in Back Bay. Only two Black Rails were documented during the Commonwealth's second coastal survey conducted in 2014; both detections were made at Saxis Wildlife Management Area. Virginia's current estimate ranges between 0 and 10 pairs. Several scattered observations of Black Rails have been recorded within the inner Coastal Plain, Piedmont and Mountain regions of the Commonwealth since the late 1930s, although none of these records included confirmation of breeding activity.

The Chesapeake Bay marshes of the Delmarva Peninsula from Dorchester County, Maryland, through Accomack County, Virginia, have long been considered the most important region in the Mid-Atlantic for Black Rails. Black Rail surveys conducted on the bayside and seaside of the Maryland's Delmarva Peninsula in 1990-1992, 2007 and again in 2014 reported a 90% decline in the number of locations where they were found during this 25 year period. Results from Virginia and Maryland suggest that recent dramatic population declines are rapid and devastating. Factors driving the near extirpation of Maryland's and Virginia's breeding population are not completely understood, but likely include habitat loss and degradation due to sea level rise, development, marsh burning and mosquito ditching as well as predation, invasive plants, low reproductive rates, low overwinter survival and environmental contaminants.

In 2020, the U.S. Fish and Wildlife Service (USFWS) listed the Eastern Black Rail as threatened, despite the >75% decline in the range-wide population during the last 10-20 years. The USFWS based its decision on the wide-ranging nature of the Eastern Black Rail and the opportunity to engage with a diversity of partners to work collaboratively on its recovery. This approach puts a considerable amount of responsibility on states to ensure the species receives the highest degree of protection and management attention at the local level. Typically, when a species on the state list achieves a federal listing status, staff recommends removal of it from the state list and adoption of the federal status. However, in this instance, retaining the species' status as endangered in Virginia affords the DWR the greatest opportunity to meet its obligation of protection and affirms the critical degree of imperilment of this species in the state.

- E. Update incidental take allowances for little brown and tricolored bats.** In 2015, the Board of Wildlife Resources added the little brown and tri-colored bats to the list of state endangered and threatened species as endangered species. Concurrent with that action, the Board also adopted certain provisions under which the incidental take of these two species would be allowed. One of

these provisions included “facility or project operations when conducted in accordance with DGIF-approved plan associated with these species.” Since 2015, the DWR has been monitoring population changes of these two species through winter hibernacula counts and documenting summer occurrence and roost identification through multiple DWR-funded mist-netting and acoustic surveys. Due to the continued decline of both species as documented through winter hibernacula counts, and the lack of discovering new roosts through mist-net surveys, staff believes that incidental take resulting from facility or project operations is inconsequential (because there are so few animals of either species on the landscape) and that the development of an “approved plan” for facility or project operations provides little to no conservation gain. As such, staff recommends removing this specific requirement, which will also reduce regulatory burden, as there is little to no expected incidental take regardless.

Additional housekeeping changes are offered to update the use of “DGIF” to the more appropriate reference of “department.”

4VAC15-30-40

Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals; Importation requirements, possession, and sale of nonnative (exotic) animals.

Summary:

The recommendation is to remove the Mexican axolotl from the list of predatory and undesirable species that cannot be imported, possessed or sold within the Commonwealth without a permit.

Recommended Language of Amendment:

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

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

AMPHIBIANS			
Order	Family	Genus/Species	Common Name
Anura	Bufo	Rhinella marina	Cane toad*
	Pipidae	Hymenochirus spp. Pseudohymenochirus merlini	African dwarf frog
		Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	All species, <u>except</u> <u>Ambystoma</u> <u>mexicanum</u>	All mole salamanders, <u>except</u> <u>Mexican axolotl</u>
BIRDS			
Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*
Anseriformes	Anatidae	Cygnus olor	Mute swan
FISH			
Order	Family	Genus/Species	Common Name
Cypriniformes	Catostomidae	Catostomus microps	Modoc sucker
		Catostomus santaanae	Santa Ana sucker

		Catostomus warnerensis	Warner sucker
		Ictiobus bubalus	Smallmouth* buffalo
		I. cyprinellus	Bigmouth* buffalo
		I. niger	Black buffalo*
	Characidae	Pygopristis spp. Pygocentrus spp. Rooseveltiella spp. Serrasalmo spp. Serrasalmus spp. Taddyella spp.	Piranhas
	Cobitidae	Misgurnus anguillicaudatus	Oriental weatherfish
		Aristichthys nobilis	Bighead carp*
		Chrosomus saylori	Laurel dace
		Ctenopharyngodon idella	Grass carp or white amur
		Cyprinella caerulea	Blue shiner
		Cyprinella formosa	Beautiful shiner
		Cyprinella lutrensis	Red shiner
		Hypophthalmichthys molitrix	Silver carp*
		Mylopharyngodon piceus	Black carp*
		Notropis albizonatus	Palezone shiner
		Notropis cahabae	Cahaba shiner
		Notropis girardi	Arkansas River shiner
		Notropis mekistocholas	Cape Fear shiner
	Cyprinidae	Notropis simus pecosensis	Pecos bluntnose shiner

		<i>Notropis topeka</i> (= <i>tristis</i>)	Topeka shiner
		<i>Phoxinus cumberlandensis</i>	Blackside dace
		<i>Rhinichthys osculus lethoporus</i>	Independence Valley speckled dace
		<i>Rhinichthys osculus nevadensis</i>	Ash Meadows speckled dace
		<i>Rhinichthys osculus oligoporus</i>	Clover Valley speckled dace
		<i>Rhinichthys osculus</i> ssp.	Foskett speckled dace
		<i>Rhinichthys osculus thermalis</i>	Kendall Warm Springs dace
		<i>Scardinius erythrophthalmus</i>	Rudd
		<i>Tinca tinca</i>	Tench*
		<i>Gambusia gaigei</i>	Big Bend gambusia
		<i>Gambusia georgei</i>	San Marcos gambusia
		<i>Gambusia heterochir</i>	Clear Creek gambusia
		<i>Gambusia nobilis</i>	Pecos gambusia
Cyprinodontiformes	Poeciliidae	<i>Peociliopsis occidentalis</i>	Gila topminnow
Gasterosteiformes	Gasterosteidae	<i>Gasterosteus aculeatus williamsoni</i>	Unarmored threespine stickleback
		<i>Proterorhinus marmoratus</i>	Tube-nose goby
Gobiesociformes	Gobiidae	<i>Neogobius melanostomus</i>	Round goby
	Centrarchidae	<i>Micropterus henshalli</i>	Alabama bass
Perciformes	Channidae	<i>Channa</i> spp. <i>Parachanna</i> spp.	Snakeheads

		Tilapia spp.	Tilapia
	Cichlidae	Gymnocephalus cernuum	Ruffe*
	Elassomatidae	Elassoma alabamae	Spring pygmy sunfish
		Crystallaria cincotta	Diamond darter
		Etheostoma chermocki	Vermilion darter
		Etheostoma boschungii	Slackwater darter
		Etheostoma chienense	Relict darter
		Etheostoma etowahae	Etowah darter
		Etheostoma fonticola	Fountain darter
		Etheostoma moorei	Yellowcheek darter
		Etheostoma nianguae	Niangua darter
		Etheostoma nuchale	Watercress darter
		Etheostoma okaloosae	Okaloosa darter
		Etheostoma phytophilum	Rush darter
		Etheostoma rubrum	Bayou darter
		Etheostoma scotti	Cherokee darter
		Etheostoma sp.	Bluemask (= jewel) darter
		Etheostoma susanae	Cumberland darter
		Etheostoma wapiti	Boulder darter
		Percina antesella	Amber darter
		Percina aurolineata	Goldline darter
		Percina jenkinsi	Conasauga logperch
		Percina pantherina	Leopard darter
	Percidae	Percina tanasi	Snail darter
		Cottus sp.	Grotto sculpin
Scorpaeniformes	Cottidae	Cottus paulus (= pygmaeus)	Pygmy sculpin

Siluriformes	Clariidae	All species	Air-breathing catfish
	Ictaluridae	Noturus baileyi	Smoky madtom
		Noturus crypticus	Chucky madtom
		Noturus placidus	Neosho madtom
		Noturus stanauli	Pygmy madtom
		Noturus trautmani	Scioto madtom
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel
MAMMALS			
Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs,* Wolves, Coyotes or Coyote hybrids, Jackals and Foxes
	Ursidae	All Species	Bears*
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters
		(except Mustela putorius furo)	Ferret
	Viverridae	All Species	Civets, Genets,* Lingsangs, Mongooses, and Fossas
	Herpestidae	All Species	Mongooses*
	Hyaenidae	All Species	Hyenas and Aardwolves*
	Felidae	All Species	Cats*
Chiroptera		All Species	Bats*
Lagomorpha	Lepridae	Brachylagus idahoensis	Pygmy rabbit
		Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit
		Sylvilagus bachmani riparius	Riparian brush rabbit

		<i>Sylvilagus palustris</i> <i>hefneri</i>	Lower Keys marsh rabbit
		All species native to Africa	All species native to Africa
	Dipodidae	<i>Zapus hudsonius</i> <i>preblei</i>	Preble's meadow jumping mouse
		<i>Microtus californicus</i> <i>scirpensis</i>	Amargosa vole
		<i>Microtus mexicanus</i> <i>hualpaiensis</i>	Hualapai Mexican vole
		<i>Microtus pennsylvanicus</i> <i>dukecampbelli</i>	Florida salt marsh vole
		<i>Neotoma floridana</i> <i>smalli</i>	Key Largo woodrat
		<i>Neotoma fuscipes</i> <i>riparia</i>	Riparian (= San Joaquin Valley) woodrat
		<i>Oryzomys palustris</i> <i>nataator</i>	Rice rat
		<i>Peromyscus gossypinus</i> <i>allapaticola</i>	Key Largo cotton mouse
		<i>Peromyscus polionotus</i> <i>allophrys</i>	Choctawhatchee beach mouse
		<i>Peromyscus polionotus</i> <i>ammobates</i>	Alabama beach mouse
		<i>Peromyscus polionotus</i> <i>niveiventris</i>	Southeastern beach mouse
		<i>Peromyscus polionotus</i> <i>peninsularis</i>	St. Andrew beach mouse
Rodentia	Muridae	<i>Peromyscus polionotus</i> <i>phasma</i>	Anastasia Island beach mouse

		Peromyscus polionotus trissyllepsis	Perdido Key beach mouse
		Reithrodontomys raviventris	Salt marsh harvest mouse
	Heteromyidae	Dipodomys heermanni morroensis	Morro Bay kangaroo rat
		Dipodomys ingens	Giant kangaroo rat
		Dipodomys merriami parvus	San Bernadino Merriam's kangaroo rat
		Dipodomys nitratoides exilis	Fresno kangaroo rat
		Dipodomys nitratoides nitratoides	Tipton kangaroo rat
		Dipodomys stephensi (including D. cascus)	Stephens' kangaroo rat
		Perognathus longimembris pacificus	Pacific pocket mouse
		Sciuridae	Cynomys spp.
	Spermophilus brunneus brunneus		Northern Idaho ground squirrel
	Tamiasciurus hudsonicus grahamensis		Mount Graham red squirrel
Soricomorpha	Soricidae	Sorex ornatus relictus	Buena Vista Lake ornate shrew
MOLLUSKS			
Order	Family	Genus/Species	Common Name
Neotaenioglossa	Hydrobiidae	Potamopyrgus antipodarum	New Zealand mudsnail
Veneroida	Dreissenidae	Dreissena bugensis	Quagga mussel
		Dreissena polymorpha	Zebra mussel
REPTILES			
Order	Family	Genus/Species	Common Name

Crocodilia	Alligatoridae	All species	Alligators, caimans*
	Crocodylidae	All species	Crocodiles*
	Gavialidae	All species	Gavials*
Squamata	Colubridae	Boiga irregularis	Brown tree snake*
CRUSTACEANS			
Order	Family	Genus/Species	Common Name
Decapoda	Cambaridae	Cambarus aculabrum	Cave crayfish
		Cambarus zophonastes	Cave crayfish
		Orconectes rusticus	Rusty crayfish
		Orconectes shoupi	Nashville crayfish
		Pacifastacus fortis	Shasta crayfish
		Procambarus sp.	Marbled crayfish
	Parastacidae	Cherax spp.	Australian crayfish
	Varunidea	Eriocheir sinensis	Chinese mitten crab

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

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

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

E. Exception for prairie dogs. The effective date of listing of prairie dogs under subsection A of this section shall be January 1, 1998. Prairie dogs possessed in captivity in Virginia on December 31, 1997,

may be maintained in captivity until the animals' deaths, but they may not be sold on or after January 1, 1998, without a permit.

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

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

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

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

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

Rationale:

In 2013, the regulations pertaining to *Ambystoma* salamander species were amended due to changes in nomenclature and similarities in appearance between various Ambystomid species (mole salamanders). As such, the Mexican axolotl (*Ambystoma mexicanum*) was added to the list of predatory and undesirable species purely by its taxonomic association. Mexican axolotls are relatively popular in the pet trade and are available exclusively from captive breeders. There is no evidence to support that Mexican axolotls are a threat to native salamander species and should not be precluded from importation or possession in the Commonwealth.

4VAC15-360-60

Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish; Prohibit the sale of salamander and madtom species.

Summary:

The recommendation is to exempt the Mexican axolotl (*Ambystoma mexicanum*) from being prohibited for sale.

Recommended Language of Amendment:

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

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

Rationale:

In 2013, the regulations pertaining to *Ambystoma* salamander species were amended due to changes in nomenclature and similarities in appearance between various *Ambystomid* species (mole salamanders). As such, the Mexican axolotl (*Ambystoma mexicanum*) was added to the list of predatory and undesirable species purely by its taxonomic association. Mexican axolotls are relatively popular in the pet trade and are available exclusively from captive breeders. There is no evidence to support that Mexican axolotls are a threat to native salamander species and should not be precluded from sale in the Commonwealth.

4VAC15-360-10

Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish; Taking aquatic invertebrates, amphibians, reptiles and nongame fish for personal use.

Summary:

The recommendations are to (i) limit the number of native and naturalized amphibians and reptiles that can be held in personal possession; (ii) protect from collection those reptiles and amphibians designated as Species of Greatest Conservation Need in Virginia's 2015 Wildlife Action Plan; (iii) remove the use and sale of salamanders as bait; (iv) preclude the collection of reptiles and amphibians on all state and federal lands (not just those within a defined geographic area) without an appropriate permit or license; and (v) establish an online registry to report those animals legally held prior to the effective date of the amendment. By making these recommendation, the Department of Wildlife Resources will eliminate the loopholes in which illegal trafficking of reptiles and amphibians in the Commonwealth has been operating and be proactive to future illegal trade issues. The recommendation also includes requiring snapping turtles harvested for personal use have a minimum curved-line carapace (top shell) length (CCL) of 13 inches, for consistency with commercial harvest requirements and protection of the species.

Recommended language of amendment:

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

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

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, mullet, yellow bullhead, brown bullhead, black bullhead, flat bullhead, snail bullhead, white sucker, northern hogsucker, gizzard shad, threadfin shad, blueback herring (see [4VAC15-320-25](#) for anadromous blueback herring limits), white perch, yellow perch, alewife (see [4VAC15-320-25](#) for anadromous alewife limits), stoneroller (hornyhead), fathead minnow, golden shiner, goldfish, and Asian clams. Grass carp may only be harvested in unlimited numbers from public inland waters of the Commonwealth other than department-owned or department-controlled lakes. Anglers taking grass carp must ensure that all harvested grass carp are dead.

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

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

to the provisions of [4VAC15-360-60](#) and [4VAC15-360-70](#). However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

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

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

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

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

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

B. Methods of taking species in subsection A of this section. Except as otherwise provided for in the Code of Virginia, [4VAC15-20-130](#), [4VAC15-320-40](#), and other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A of this section may only be taken (i) by hand, hook and line; (ii) with a seine not exceeding four feet in depth by 10 feet in length; (iii) with an umbrella type net not exceeding five by five feet square; (iv) by small minnow traps with throat openings no larger than one inch in diameter; (v) with cast nets; and (vi) with hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § [29.1-416](#) of the Code of Virginia). Gizzard shad and white perch may also be taken from below the fall line in all tidal rivers of the Chesapeake Bay using a gill net in accordance with Virginia Marine Resources Commission recreational fishing regulations. Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire. Snapping turtles may be taken for personal use with hoop nets not exceeding six feet in length with a throat opening not exceeding 36 inches.

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

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

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

Rationale:

Reducing the personal possession of amphibians and reptiles: The illegal trade in wildlife is a \$20 billion/year global problem that involves ~7,000 species. A sizeable component of this threat to wildlife is the illegal pet trade. The Virginia Department of Wildlife Resources has seen an increase in the illegal trafficking of reptiles, turtles in particular, over the past several years. This trend is not limited to Virginia, but is occurring throughout much of the eastern United States, where the greatest abundance and diversity of turtle species occur in North America.

Recently, there have been several significant arrests and cases made in Florida, Georgia, South Carolina, New York and New Jersey. These cases involved hundreds, sometimes thousands, of turtles. Currently, one box turtle of exceptional color and pattern may bring as much \$20,000 in China. Although Virginia has not experienced cases of the same magnitude, there is some evidence to indicate that similar activities are occurring in the Commonwealth. Turtles are being illegally poached for sale on the black market for food, used in traditional medicines and religious ceremonies, and as products and souvenirs.

The primary loophole in existing Virginia regulations in which these individuals have been working is the 5 individuals per person, which allows, for example, a family of four to possess up to 20 turtles of any species. These staff recommendations implement an incremental and pragmatic approach to personal possession, allowing Virginians to experience and develop an appreciation for these often under-appreciated species, without disconnecting the public from the resource or impacting populations negatively. Because staffs are unable to predict the next trend(s) in the reptile and amphibian pet trade, the recommendation also includes protection from personal possession all reptile and amphibian Species of Greatest Conservation Need designated in Virginia's 2015 Wildlife Action Plan. Additionally, staff recommends disallowing collecting of reptiles and amphibians on all federal and state lands in the state, rather than a small subset; these lands are home to many of the more significant breeding and hibernating areas for reptiles and amphibians. This approach should avoid the need to amend regulations frequently as issues emerge.

Should the Board elect to propose and adopt this recommendation, the Department would implement a mechanism through its GoOutdoorsVirginia site to facilitate and support reporting of native and naturalized species of reptiles and amphibians currently being held legally in private possession. The recommended approach does not impact the commercial sale of non-native reptiles and amphibians or the few exceptions for the commercial sale of native or naturalized reptiles and amphibians (captive-bred Red Cornsnake and Eastern Kingsnake).

Establishing minimum size for personal harvest of snapping turtles: In 2019, the Board of Wildlife Resources adopted new regulations pertaining to the commercial harvest of snapping turtles, including increasing the minimum harvest size of 11-inch curve-lined carapace length (CCL) to 13 inches. This size increase was based on four years of research that demonstrated a 13-inch CCL was the minimum size that could be harvested and still maintain a positive population growth rate. Currently, there is no size limit for the recreational harvest of snapping turtles for personal use, which can be up to five per day. Creating a recreational minimum harvest size limit of 13-inch CCL eliminates inconsistencies and protects snapping turtle populations for future generations.

Lands & Access Program Regulations

4VAC15-20-100

Definitions and Miscellaneous: In General: Prohibited Use of Vehicles on Department-Owned Lands.

Summary:

The recommendation is to allow class one and two electric power-assist bicycles to be used on Department-owned lands where traditional bicycles are allowed, and prohibit class three electric power-assist bicycles as per § 46.2-904.1.

Recommended language of amendment:

4VAC15-20-100. Prohibited Use of Vehicles on Department-Owned Lands.

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

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

Rationale:

The General Assembly passed legislation in 2020 (§ 46.2-904.1) to allow the use of class one and two electric power-assist bicycles where traditional bicycles are allowed. This code section also allows for the prohibition of class III electric assist bicycles on bicycle paths or multi-use paths. Amending this regulation would clarify what electric power-assist bicycle usage is allowed and prohibited on Department-owned lands.

A recent addition to the design of some bicycles is a small electric motor which provides an electric power-assist to the operation of the bicycle. Reducing the physical demand to operate a bicycle has expanded access to recreational opportunities, particularly to those with limitations stemming from age, illness, disability or fitness, especially in more challenging environments, such as high altitudes or hilly terrain. These electric bicycles operate in the same manner as other types of bicycles and in many cases

are virtually indistinguishable from other types of bicycles. The low power (750 watts) electric power-assist motors should not produce noise at levels that will disturb wildlife or interfere with other wildlife enthusiasts. Because these bicycles have similar frame and tire design, no substantial increase in road maintenance needs is expected.

As defined in 46.2-100, Class one and two electric power-assist bicycles have no more than three wheels, operable pedals, electric motors of 750 watts or less and a maximum speed of 20 miles per hour. Class three bicycles are capable of speeds up to 28 miles per hour. Because of the higher maximum speeds, class three bicycles are often prohibited from bicycle paths and multi-use paths. Although electric power-assist bicycle safety data are limited, at least one study concluded that injuries sustained by riders of class three bicycles are more severe than injuries sustained in class one and two or traditional bicycle incidents. The higher maximum speed could also reduce reaction time when encountering other users on multi-use paths. Because all DWR gated roads and barrier free trails are open to pedestrians and mobility devices, it is recommended that class three bicycles be prohibited on Department-owned lands.

4VAC15-20-150

Definitions and Miscellaneous: In General: Structures on department-owned lands and national forest lands.

Summary:

The recommendation would establish a time-frame and duration for placing and leaving portable tree stands on department-owned lands.

Recommended Language of Amendment:

4VAC15-20-150. Structures on department-owned lands and national forest lands.

- A. It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands and national forest lands. This provision shall not apply to structures, stands or blinds provided by the department.
- B. It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.
- C. It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands and national forest lands and on Department of Conservation and Recreation owned or controlled lands, provided that portable tree stands which are not permanently affixed may be used.

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

Rationale:

The popularity and convenience of portable tree stands (i.e. ladder stands, climbing stands, lock-on stands) and blinds for hunting purposes has led to a significant increase in their use on department-owned lands. Further, DWR staff have observed an increase in the number of portable tree stands placed and subsequently left remaining attached to the tree, without obvious maintenance, throughout the year. Subsection C of the existing regulation makes it clear that it is unlawful to construct and maintain permanent tree stands; yet, it does not fully address the use of portable tree stands that remain attached to trees beyond the hunting seasons.

It is assumed that most hunters that own these stands leave them in place during the off-season to reduce the work of removing them, making it convenient to once again utilize the stand the following season. When portable stands are left attached to trees and not maintained throughout the year, there are a number of potential human safety issues and resource impacts. Nylon straps used to secure ladder stands, lock-on stands, and associated ladders/climbing sticks degrade over time when exposed to the elements, compromising the integrity and function of the nylon material and creating a potentially unsafe situation. Further, the trees to which portable tree stands are affixed will continue to grow and expand, eventually growing around parts of stands, straps, and ladders that will ultimately cause damage to the trees.

Portable/temporary tree stand and blind regulations and rules for public lands among other agencies and states vary in specificity and language, but generally establish time-frames/durations for which a portable

stand or blind can be placed and remain afield. On the George Washington-Jefferson National Forest, portable tree stands are permitted as long as they are not permanently affixed and do not cause resource damage (i.e., cutting limbs, placing nails or bolts into trees is prohibited), but leaving a tree stand unoccupied for an extended period of time is prohibited. In Pennsylvania, tree stands on state land can be placed not more than two weeks before the first day of the deer season and must be removed no later than two weeks after the final deer season in that area. Maryland requires that tree stands and blinds used for hunting purposes be removed at the end of each day.

4VAC15-20-151 (New)

Definitions and Miscellaneous: In General: Manipulation of vegetation on department-owned land

Summary:

The recommendation is to (i) prohibit planting, manipulating, cutting, mutilating, destroying, or removing vegetation and (ii) prohibit the removal of minerals, artifacts, or other property from department-owned lands unless otherwise provided for in this regulation section.

Recommended language of Amendment:

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

- A. It shall be unlawful to plant, manipulate, cut, mutilate, destroy, or remove vegetation or to remove other minerals, artifacts or other property from agency owned lands.
- B. Nothing in this section will prohibit the gathering of mushrooms, berry picking or the collection of other fruits
- C. The use of down and dead trees and branches for use as fire wood while camping on a WMA shall be allowed by individuals with a valid camping permit issued by the Department.
- D. The Department may issue permits for the collection of fire wood under conditions and in locations determined by the Department
- E. Nothing in this section shall prohibit Department employees, contractors or permittees from engaging in agriculture, forestry, herbicide application, or other habitat restoration and manipulation for the purpose of enhancing wildlife habitat and populations

Rationale:

Establishing food plots is a popular method for enhancing opportunities to harvest game. This practice is commonly performed by individuals on private property and sometimes by professional wildlife managers on public lands. Instances of individuals cultivating agency property and establishing personal food plots on WMAs have been increasing. This destroys existing vegetation and may introduce undesirable species. Individuals who engage in these activities are not aware of the potential presence of sensitive natural and historic sites and may inadvertently disturb or damage these resources. Furthermore, these plantings are established to benefit individuals as opposed the public at large. The presence of these unauthorized plantings can alter animal's movements and behavior and be contrary to established Wildlife Management Area plans.

4VAC15-20-152 (New)

Definitions and Miscellaneous: In General: Target shooting on department-owned lands.

Summary:

The recommendation is to expressly prohibit target shooting on department-owned and department-managed lands except on designated ranges.

Recommended language:

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

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

Rationale:

Due to their often remote locations, the Department's Wildlife Management Areas and other properties are often used as locations for target shooting. This practice is currently prohibited by posted rule except at designated ranges but not specifically under regulation, creating issues with awareness and enforceability.

Unauthorized target shooting presents a hazard to users upon and neighbors to Department properties as shooters may not be using a proper backstop nor have awareness of what might exist downrange. Further, other users may be unaware of shooting activity and inadvertently enter into the line of fire. This activity differs from authorized hunting in the volume of fire and the fact that target shooters are not firing from an elevated position as are many hunters on a WMA. Hunting seasons are well defined and WMA users have an expectation that hunting activity is occurring during those time frames. Use of blaze orange or pink is required during certain seasons and is generally encouraged to create greater awareness and margin of safety. Properly licensed hunters have completed a hunter education course that emphasizes positive target identification and an appropriate backstop. In 2020 incidents related to target shooting on WMAs resulted in damage to private property and imminent threats to human safety.

Definitions & Miscellaneous Regulations

4VAC15-20-240

Definitions and Miscellaneous: In General: Use of drones for certain activities prohibited.

Summary:

This recommendation is to modify the current unmanned aerial vehicles (drone/UAV) language to include a time restriction for use as related to hunting/scouting purposes.

Recommended language of amendment:

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

- A. Except as authorized by the Director or the director's designee, it shall be unlawful at any time for any person to use a drone or unmanned aircraft:
1. To hunt, take, or kill a wild animal or to drive or herd any wild animal for the purpose of hunting, trapping, or killing.
 2. ~~To attempt to locate, surveil, aid, or assist in the hunting of any wild animal.~~
 3. To harass any wild animal. For the purposes of this section, "harass" means any action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns, which include breeding, feeding, or sheltering.
 4. On department-owned lands, except that department employees and contractors or agents acting on behalf of the department may use drones or other unmanned aircraft when addressing human safety, law enforcement, management, or other needs approved by the department.
- Provided further, it shall be unlawful for any person to hunt or assist another to hunt on the same calendar day on a property after having used a drone or unmanned aircraft to locate or surveil any wild animal during any open season.
- B. No part of this section shall be construed to restrict the use of drones or other unmanned aircraft for wildlife management activities conducted or authorized by the department; by employees of the United States government or any of its agencies whose responsibility includes fisheries and wildlife management; or by county, city, or town animal control officers in the performance of their official duties.

Rationale:

The unmanned aerial vehicles regulation was passed in 2019 without any time restrictions regarding usage during open hunting seasons. During deer committee discussions in 2021, law enforcement recommended adding a time component to this regulation to allow the use of drones when a person was not intending to go hunting within that calendar day. The addition of this time component (calendar day) now clarifies the intent of the original regulation.

4VAC15-20-260 (New)

Definitions and Miscellaneous: In General: Coyote and furbearer hunting contests.

Summary:

The recommendation is to prohibit hunting contests for coyotes and furbearer species in which participants are offered cash, prizes or other inducements.

Recommended language of amendment:

4VAC15-20-260. Coyote and furbearer hunting contests.

It shall be unlawful to organize, sponsor, promote, conduct, participate, or solicit participation in a contest or organized competition in which participants are offered cash, prizes, or other inducements for capturing or killing coyotes or fur-bearing animals defined in § 29.1-100. No part of this regulation shall be construed to restrict coyote bounties authorized in § 15.2-926.1.

Rationale:

Competitive hunts that offer prizes for killing coyotes and furbearer species are controversial and have been prohibited or restricted in five other states. In recent years, there have been numerous predator hunting competition events hosted in Virginia, including several large regional contests with animals transported into Virginia from other states. Although most hunters support the idea of predator hunting contests, some members of the public oppose competition events, especially when large numbers of predators are killed and harvested animals are perceived as not being utilized appropriately. Due to these beliefs and perceptions, some wildlife professionals have expressed concern that negative attitudes associated with these contests may undermine public support for hunting in general. The Department is also concerned that improper disposal of out-of-state carcasses could facilitate the spread of the parasite *Echinococcus multilocularis*, a small tapeworm that has potential human health implications and is much more common in foxes and coyotes in some other states.

General Regulations

4VAC15-40-220

Game: In General: Use of deadfalls prohibited; restricted use of snares.

Summary:

The recommendation is to change the language defining the maximum permissible snare loop size from 12” in diameter to 38” in circumference.

Recommended language of amendment:

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

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

Rationale:

The current regulation that restricts the maximum snare loop size to a diameter of 12” can cause confusion when the loop is set in a shape that is not perfectly round. Although a snare may have a loop that measures 12” in diameter when round, it may hang in a teardrop shape when set in the field and measure more than 12” from top to bottom. By defining the maximum loop size as having a 38” circumference, this confusion can be eliminated since the circumference does not change when the loop shape is modified. This change does not increase snare loop size, since a snare with a 38” circumference has a loop diameter of 12” when set perfectly round. This regulation will help reduce confusion by trappers when setting snares in the field.

4VAC15-40-240

Game: In General: Animal population control.

Summary:

The recommendation is to allow the Director to issue special permits to take game and fur-bearing animals for the purpose of population reduction in situations where existing statutory and regulatory options for population reduction are not applicable.

Recommended language of amendment:

4VAC15-40-240. Animal population control.

Whenever biological evidence suggests that populations of game animals or fur-bearing animals may exceed or threaten to exceed the carrying capacity of a specified range, or whenever population reduction of a species is necessary to manage for another wildlife species, or whenever the health or general condition of a species indicates the need for population reduction, or whenever the threat of human public health and safety or significant economic loss indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction by licensed hunters or licensed trappers on areas prescribed by department wildlife biologists. Further, in situations where existing statutory and regulatory options for population reduction are not applicable, the director is authorized to issue special permits to obtain the desired population reduction by individuals named within the director's authorization document. Designated game species or fur-bearing species may be taken in excess of the general bag limits, during closed seasons, with all legal methods outlined in the Code of Virginia or board regulation, and with any type of lawful weapon, as defined in § 29.1-519 of the Code of Virginia and in board regulation, on special permits issued under this section under such conditions as may be prescribed by the director.

Rationale:

Over the past decade, Department staffs have encountered instances of property owners experiencing conflicts with overabundant game and furbearer populations, but where existing legal mechanisms to address the situation were not applicable. Staff would like to amend the animal population control regulation to allow special permits to be issued to address these very unique management situations. As envisioned, this amendment would not result in the creation of a formal program but would be handled on a case by case basis as these limited situation arose.

2021-22 WILDLIFE REGULATION REVIEW AND AMENDMENT PROCESS

Regulation Amendment Recommendations



CONSERVE. CONNECT. PROTECT.

2021-22 Wildlife Regulation Process

Oct 12 – Dec 11, 2020 -- Public Scoping Period: public comments solicited via web-based input forms, staffs contact constituent groups and/or individuals to assess regulatory concerns

January 20 & 21, 2021 – Wildlife & Boat Committee/DWR Board Meetings: preliminary review of issues, solicit Board regulatory concepts

Dec 14, 2020 – February 2021: Staff committees review input, analyze data, and consult with constituent groups and individual stakeholders to develop proposal-stage regulation amendment recommendations

March 16 & 18, 2021 – Wildlife & Boat Committee/DWR Board Meetings: Staffs present proposal-stage recommendations to the Board, public comments accepted on presented recommendations and additional recommendations, Board deliberates and proposes regulation amendments

March 26 – May 10, 2021: Regulation Proposal Comment Period: public input is solicited on the Board's proposed regulation amendments

May 27, 2021 – DWR Board Meeting: Staffs present final recommendations to the Board, public comments accepted on proposed amendments, Board deliberates and votes on proposed regulation amendments (*Wildlife & Boat Committee meeting date – TBD*)

August 1, 2021: Effective date for regulations amendments adopted by the Board



Public Comments

Individual Comment Forms Received – 1,722

Online submissions: 1,562

Email/hand-written submissions: 160

Number of Comments Contained Within Comment Forms – 2,038



Elk

4VAC15-20-65. Hunting, trapping, and fishing license and permit fees. (pg. 5)

- Establish Resident (\$40) & Nonresident (\$400) Special Elk Hunting License for Elk Management Zone
- Reduce Nonresident license fee for fishing designated stocked trout waters (\$46 to \$22)

4VAC15-20-250. Definitions; Elk Management Zone. (pg. 12)

- Defines zone as Buchanan, Dickenson, and Wise counties

4VAC15-90-500. Elk hunting outside the Elk Management Zone. (pg. 13)

- Maintains all existing hunting regulations for elk outside the EMZ from 4VAC15-90-85
- Establishes separate section within existing regulation chapter for regulations specific to elk



Elk

4VAC15-90-510. Elk hunting within the Elk Management Zone. (pg. 14)

- Establishes open season – Second Saturday in October through following Friday
- Outlines bag limit, blaze color, and license tag validation and reporting requirements

4VAC15-90-520. Special provisions for hunting elk within the Elk Management Zone. (pg. 15)

- Outlines provisions for field dressing harvested elk, wanton waste, hunting techniques, and youth/apprentice hunters being accompanied/supervised by another

4VAC15-90-530. Special elk hunting license – random drawing license program. (pg. 17)

- Outlines application period, application requirements, and notification and future eligibility of successful applicants



Elk

4VAC15-90-540. Special elk hunting license – Landowner License Program. (pg. 19)

- Establishes program to provide free public access to hunt elk on private lands
- Outlines program details including application deadline, application requirements, accrual of points toward receiving a special elk hunting license, and guidelines for use of the special elk hunting license

4VAC15-90-550. Special elk hunting license – Conservation License Program. (pg. 21)

- Establishes program to award a Special Elk Hunting License to a wildlife conservation organization
- Outlines program details including application deadline, application requirements, submission and review of organization's proposal, handling of proceeds generated, and transfer of Special Elk Hunting License to hunter



Elk

4VAC15-270-10. Size rifles for hunting bear and deer. (pg. 24)

- Includes elk in the list of species for which rifles $\geq .23$ caliber must be used for hunting
- Removes the word “killing” from the regulation to allow humane dispatch of these species in circumstances where firearms $< .23$ caliber would be the appropriate weapon choice



Elk

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to the elk regulations as presented by staff.



Chronic Wasting Disease

4VAC15-90-10. Open season; generally. (pg. 26)

- Creates early and late antlerless only firearms season in Clarke, Frederick, Shenandoah, and Warren counties (not on National Forest)
- Creates early antlerless only firearms season in Culpeper, Fauquier, Madison, Orange, and Rappahannock counties
- Creates opportunity for either early or late antlerless only deer seasons in Culpeper, Fauquier, Madison, Orange, Page, and Rappahannock counties

4VAC15-90-89. Earn a buck (EAB). (pg. 36)

- Reformats text into concise, more easily understood language
- Initiates EAB requirement in 9 counties (6- deer management; 3 – CWD management)
- Reduces # of antlerless deer which need to be harvested under EAB in 3 counties (CWD)
- Increased # of antlerless deer which need to be harvested under EAB in 2 counties (deer)



Chronic Wasting Disease

4VAC15-90-260. Hunting with dogs prohibited in certain counties and areas. (pg. 40)

4VAC15-50-110. Use of dogs in hunting bear. (pg. 41)

- Initiation of early antlerless only deer season in several counties to address CWD impacted the existing language of these regulations
- Maintains all existing opportunities for hunting deer and bear with dogs

4VAC15-90-293. Unauthorized cervid parts, excretions, and carcass importation, movement, possession, and use. (pg. 42)

- Adds “cleaned jaw bones” to list of importable carcass parts
- Enables transport to authorized locations in other states
- Enables transport between separate DMAs unless prohibited
- Provides mechanism to allow transport from areas of low-risk to areas of high-risk, but prohibit transport from areas of high-risk to low-risk within a DMA



Chronic Wasting Disease

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to chronic wasting disease regulations as presented by staff.



Deer & Muzzleloader Hunting

4VAC15-90-70. Archery hunting. (pg. 45)

- Updates Code reference for “Common Interest Communities”

4VAC15-90-80. Muzzleloading gun hunting. (pg. 47)

- Increases either-sex hunting days in Augusta and Dickenson (private lands) counties
- Clarifies types of muzzleloading weapons which can be used
- Accommodates new .40 caliber muzzleloader

4VAC15-50-71. Muzzleloading gun hunting. (pg. 50)

- Clarifies types of muzzleloading weapons which can be used
- Accommodates new .40 caliber muzzleloader



Deer & Muzzleloader Hunting

4VAC15-90-90. Bag limit, bonus deer permits and special antlerless provision for youth hunters. (pg. 52)

- Established unlimited daily bag limit in cities and towns (except Chesapeake, Suffolk, and Virginia Beach)
- Creates uniform 1 deer per day bag limit on national forest, department-owned, and department-managed lands
- Clarifies that national forest lands in Amherst, Bedford, and Nelson counties are included in the West of the Blue Ridge bag limit

4VAC15-90-91. General firearms season either-sex deer hunting days. (pg. 54)

- Increases either-sex hunting days in 11 counties or portions of the county
- Increases either-sex hunting days on 2 WMAs
- Decreases either-sex hunting days on 3 WMAs
- Removes 1 WMA from countywide season due to increase in either-sex hunting days in that county



Deer & Muzzleloader Hunting

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to deer and muzzleloader hunting regulations as presented by staff.



Harvest Reporting

4VAC15-90-231. Validating tags and checking deer by licensee or permittee. (pg. 63)

4VAC15-50-81. Validating tags and checking bear and tooth submission by licensee or permittee. (pg. 66)

4VAC15-240-81. Validating tags and checking turkey by licensee. (pg. 68)

- Modified to reflect transition to 100% electronic harvest reporting beginning Sept 1, 2021



Harvest Reporting

4VAC15-90-241. Checking deer by persons exempt from license requirement or holding a license authorization number. (pg. 70)

4VAC15-50-91. Checking bear and tooth submission by persons exempt from license requirement or holding a license authorization number. (pg. 72)

4VAC15-240-91. Checking turkey by persons exempt from license requirement or holding a license authorization number. (pg. 74)

- Modified to reflect transition to 100% electronic harvest reporting beginning Sept 1, 2021



Harvest Reporting

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to harvest reporting regulations as presented by staff.



Bear & Wild Turkey

4VAC15-50-120. Bear hound training season. (pg. 77)

- Correct error in text to add Dinwiddie County which should have been included in 2013

4VAC15-240-20. Open season; certain counties and areas; two-week turkey season. (pg. 78)

4VAC15-240-32. Open season; certain counties and areas; six-week turkey season. (pg. 79)

- Moves Orange County from two-week and places it in the six-week season

4VAC15-240-40. Open season; spring season for bearded turkeys. (pg. 80)

- Establishes all-day hunting throughout the spring turkey season

4VAC15-240-60. Archery hunting. (pg. 82)

- Makes season consistent with existing statewide archery season for deer and bear



Bear & Wild Turkey

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to bear and wild turkey regulations as presented by staff.



Rabbits

4VAC15-200-30. Trapping with box traps. (pg. 84)

- Would restrict transport of live-trapped rabbits to the county of origin (RHDV2)

4VAC15-200-11. Unauthorized wild rabbit carcass importation and possession. (pg. 85)

- Would prohibit importing whole wild rabbit carcasses from other states, except those which a fully field dressed (RHDV2)

4VAC15-200-12. Disposal of wild rabbit parts. (pg. 87)

- Would prohibit wild rabbit carcasses and carcass parts from being discarded/disposed of on the landscape
- Requires such carcasses and/or parts to be buried (2-feet deep), incinerated, or bagged and disposed of in household trash



Rabbits

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to rabbit regulations as presented by staff.



Wildlife Diversity

4VAC15-20-130. Endangered and threatened species; adoption of federal list; additional species enumerated. (pg. 89)

- Update the date reference for the federal list
- Remove barking treefrog (ST); add red-cockaded woodpecker (SE) and Clinch dace (SE); retain black rail (SE) to reflect status in Virginia
- Reduce burden of incidental take requirements for little brown and tricolored bats

4VAC15-30-40. Importation requirements, possession, and sale of nonnative (exotic) animals. (pg. 99)

4VAC15-360-60. Prohibit the sale of salamander and madtom species. (pg. 108)

- Removes Mexican axolotl as a species that cannot be imported, possessed, or sold



Wildlife Diversity

4VAC15-360-10. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for personal use. (pg. 109)

- Limit personal possession of native and naturalized amphibians and reptiles to 1 individual of any species per physical address
- Prohibit personal possession of any native and naturalized amphibians and reptiles designated as a Species of Greatest Conservation Need in the 2015 Wildlife Action Plan
- Prohibit use and sale of salamanders as bait
- Require appropriate permit for collection of amphibians and reptiles on all state and federal lands
- Establish online registry to report possession of native and naturalized amphibians and reptiles held prior to effect date of this regulation
- Require snapping turtles harvested for personal use to have a minimum curved-line carapace length of 13 inches



Wildlife Diversity

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to wildlife diversity regulations as presented by staff.



Lands & Access

4VAC15-20-100. Prohibited use of vehicles on DWR-owned lands. (pg. 114)

- Allow Class I and II electric power-assisted bicycles; prohibit Class III bicycles

4VAC15-20-150. Structures on department-owned lands and national forest lands. (pg. 116)

- Establish time frame & duration for placing/leaving portable tree stand on DWR lands

4VAC15-20-151. Manipulation of vegetation on DWR-owned lands. (pg. 118)

- Prohibits planting, manipulating, cutting, mutilating, destroying, or removing vegetation
- Prohibits removing minerals, artifacts, or other property

4VAC15-20-152. Target shooting on DWR-owned lands. (pg. 119)

- Prohibits target shooting except on designated ranges



Lands & Access

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to lands & access regulations as presented by staff.



Definitions & Miscellaneous

4VAC15-20-240. Use of drones for certain activities prohibited. (pg. 121)

- Modifies language to specify a time restriction for use of a drone as it relates to scouting/hunting purposes

4VAC15-20-260. Coyote and furbearer hunting contests. (pg. 122)

- Prohibits hunting contest for coyotes and furbearer species which offer participants cash, prizes, or other inducements



Definitions & Miscellaneous

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to definitions and miscellaneous regulations as presented by staff.



General

4VAC15-40-220. Use of deadfalls prohibited; restricted use of snares. (pg. 124)

- Redefine the maximum permissible snare loop size from a diameter measurement to an equivalent circumference measurement

4VAC15-40-240. Animal population control. (pg. 125)

- Authorizes the Director to issue special permits to reduce game and fur-bearing animal populations where existing statutory and regulatory options are not applicable



General

Motion

I move that the Wildlife & Boat Committee recommend to the Board of Wildlife Resources proposing the amendments to general regulations as presented by staff.



Questions

