

**Regulation 4VAC15-20.  
Definitions and Miscellaneous: In General.**

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

**SUMMARY:**

The proposal is to: (i) update the date reference to the federal list of endangered and threatened wildlife species; and (ii) update the Virginia List of Endangered and Threatened Species to remove the state endangered Big Sandy crayfish to reflect its status in Virginia more accurately.

**PROPOSED LANGUAGE OF AMENDMENT:**

**4VAC15-20-130. Definitions and Miscellaneous: In General. 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 ~~December 23, 2015~~ June 7, 2016, and declares all species listed thereon to be endangered or threatened species in the Commonwealth. Pursuant to Code § 29.1-103.12, 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 Code §§ 29.1-501 and 29.1.502.

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

1. Fish:

Endangered:

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

Threatened:

Darter, Carolina	Etheostoma collis
Darter, golden	Etheostoma denoncourti
Darter, greenfin	Etheostoma chlorbranchium
Darter, sickle	Percina williamsi
Darter, western sand	Ammocrypta clara
Madtom, orangefin	Noturus gilberti

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

## 2. Amphibians:

### Endangered:

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

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

## 3. Reptiles:

### Endangered:

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

### Threatened:

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

## 4. Birds:

### Endangered:

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

### Threatened:

Falcon, peregrine	<i>Falco peregrinus</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>
Sparrow, Bachman's	<i>Aimophila aestivalis</i>
Sparrow, Henslow's	<i>Ammodramus henslowii</i>
Tern, gull-billed	<i>Sterna nilotica</i>

## 5. Mammals:

### Endangered:

Bat, Rafinesque's eastern big-eared	<i>Corynorhinus rafinesquii macrotis</i>
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. Molluscs:

### 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>
Ghostsnailed, 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>Fonitgens morrisoni</i>
Supercoil, spirit	<i>Paravitrea hera</i>

### Threatened:

Floater, green	<i>Lasmigona subviridis</i>
Papershell, fragile	<i>Leptodea fragilis</i>
Pigtoe, Atlantic	<i>Fusconaia masoni</i>
Pimpleback	<i>Quadrula pustulosa pustulosa</i>
Pistolgrip	<i>Tritogonia verrucosa</i>
Riversnail, spiny	<i>Io fluviialis</i>
Sandshell, black	<i>Ligumia recta</i>
Supercoil, brown	<i>Paravitrea septadens</i>

## 7. Arthropods:

### Threatened:

Amphipod, Madison Cave	<i>Stygobromus stegerorum</i>
Pseudotremia, Ellett Valley	<i>Pseudotremia cavernarum</i>
Xystodesmid, Laurel Creek	<i>Sigmoria whiteheadi</i>

## 8. Crustaceans:

### Endangered:

Crayfish, Big Sandy	<i>Cambarus veteranus</i>
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C. It shall be unlawful to take, transport, process, sell, or offer for sale within the Commonwealth any threatened or endangered species of fish or wildlife except as authorized by law.

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

Species	Location	Allowable Circumstances	Required Conservation Measures	Expected Incidental Take
<p>Little brown bat</p> <p>Tri-colored bat</p>	<p>Statewide</p>	<p>Human health risk – need for removal of individual animals from human-habited structures</p>	<p>Between May 15 and August 31, no exclusion of bats from maternity colonies, except for human health concerns.</p> <p>DGIF-permitted nuisance wildlife control operator with DGIF-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>	<p>Little to no direct lethal taking expected</p>
		<p>Public safety or property damage risk – need for tree removal, application of prescribed fire, or other land management actions affecting known roosts; removal</p>	<p>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</p>	<p>Little to no direct lethal taking expected</p>

		<p>of animals from known roosts.</p>	<p>a 1/4-mile radius with the following conditions: for timber harvests greater than 20 acres, retain snags and wolf trees (if not presenting public safety or property risk) and small tree groups up to 15 trees of 3-inch diameter at breast height (dbh) or greater, 1 tree group per 20 acres. Otherwise, document the need (public safety, property damage risk) for tree removal during this period and verify that no known roost trees exist in the buffer area. Tree removal and prescribed fire are permitted outside of these dates.</p> <p>Known Roost Trees: no tree removal, use of prescribed fire, or other land management action within 150-foot radius buffer area from June 1 through July 31, if possible. Otherwise, document public safety or property damage risk.</p> <p>DGIF-permitted nuisance wildlife control operator with DGIF-recognized certification in techniques associated</p>	
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			<p>with removal of bats</p> <p>Use of exclusion devices that allow individual animals to escape</p> <p>Manual collection of individual animals incapable of sustaining themselves; transport to a willing and appropriately-permitted wildlife rehabilitator.</p>	
		<p>Facility or project operations when conducted in accordance with a 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/action, the specific mitigation to be taken, and the expected incidental take.</p>	<p>Little to no direct lethal taking expected</p>

## **RATIONALE:**

- (i) ***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 the department's Cooperative Agreements with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding interagency management of these species.
  
- (ii) ***Changes to the State List of Endangered and Threatened Species-Removal of the Big Sandy crayfish as an endangered species:*** On May 9, 2016, the U.S. Fish and Wildlife Service officially added the Big Sandy crayfish, a species found in southwestern Virginia, as a threatened species to the federal list of endangered and threatened species. The intent of 4VAC15-20-130 is for the Board to identify as state endangered or threatened those species that do not already appear on the federal list. Since this species is now on the federal list, the proposal is to remove it from the state list itemized in this section of regulation.