



VIRGINIA

REGISTER OF REGULATIONS

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Virginia Code Commission

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Taverner**; **Christopher R. Nolen**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant; **Karen Perrine**, Staff Attorney.

PUBLICATION SCHEDULE AND DEADLINES

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

January 2013 through January 2014

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013
29:12	January 23, 2013	February 11, 2013
29:13	February 6, 2013	February 25, 2013
29:14	February 20, 2013	March 11, 2013
29:150	March 6, 2013	March 25, 2013
29:16	March 20, 2013	April 8, 2013
29:17	April 3, 2013	April 22, 2013
29:18	April 17, 2013	May 6, 2013
29:19	May 1, 2013	May 20, 2013
29:20	May 15, 2013	June 3, 2013
29:21	May 29, 2013	June 17, 2013
29:22	June 12, 2013	July 1, 2013
29:23	June 26, 2013	July 15, 2013
29:24	July 10, 2013	July 29, 2013
29:25	July 24, 2013	August 12, 2013
29:26	August 7, 2013	August 26, 2013
30:1	August 21, 2013	September 9, 2013
30:2	September 4, 2013	September 23, 2013
30:3	September 18, 2013	October 7, 2013
30:4	October 2, 2013	October 21, 2013
30:5	October 16, 2013	November 4, 2013
30:6	October 30, 2013	November 18, 2013
30:7	November 13, 2013	December 2, 2013
30:8	November 26, 2013 (Tuesday)	December 16, 2013
30:9	December 11, 2013	December 30, 2013
30:10	December 23, 2013 (Tuesday)	January 13, 2014
30:11	January 8, 2014	January 27, 2014

*Filing deadlines are Wednesdays unless otherwise specified.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Medical Assistance Services intends to consider amending **12VAC30-50, Amount, Duration, and Scope of Medical and Remedial Care and Services; 12VAC30-60, Standards Established and Methods Used to Assure High Quality Care; 12VAC30-80, Methods and Standards for Establishing Rates; Other Types of Care; and 12VAC30-120, Waivered Services.** The purpose of the proposed action is to promote improved quality of Medicaid-covered behavioral therapy services provided to children and adolescents who may have autism spectrum disorders and similar developmental disorders. The proposed changes will differentiate Medicaid's coverage of behavioral therapy services, including applied behavior analysis, from coverage of community mental health and other developmental services. Regulatory action is needed to establish provider qualifications and clear criteria for Medicaid payment of these EPSDT Behavioral Therapy Services.

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

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

Public Comment Deadline: February 13, 2013.

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

VA.R. Doc. No. R13-3527; Filed December 12, 2012, 1:41 p.m.

proposed action will revise the current review fees to reflect the increased cost of staff time and resources necessary for review of projects and administration of the program.

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

Statutory Authority: §§ 10.1-2202 and 58.1-339.2 of the Code of Virginia.

Public Comment Deadline: February 13, 2013.

Agency Contact: Elizabeth Tune, Manager, Office of Preservation Incentives, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, telephone (804) 482-6093, FAX (804) 367-2391, TTY (804) 367-2386, or email elizabeth.tune@dhr.virginia.gov.

VA.R. Doc. No. R13-3494; Filed December 21, 2012, 9:55 a.m.

TITLE 17. LIBRARIES AND CULTURAL RESOURCES

DEPARTMENT OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Historic Resources intends to consider amending **17VAC10-30, Historic Rehabilitation Tax Credits.** The purpose of the proposed action is to address deficiencies in the existing program regulations that cause confusion about the program requirements and application process and to amend the regulation to prevent fraud and misuse of the program. The

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 3.2-703 of the Code of Virginia, which exempts quarantine to prevent or retard the spread of a pest into, within, or from the Commonwealth.

Title of Regulation: 2VAC5-335. **Virginia Emerald Ash Borer Quarantine for Enforcement of the Virginia Pest Law (repealing 2VAC5-335-10 through 2VAC5-335-130).**

Statutory Authority: § 3.2-703 of the Code of Virginia.

Effective Date: December 28, 2012.

Agency Contact: Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email erin.williams@vdacs.virginia.gov.

Summary:

This action repeals 2VAC5-335, Virginia Emerald Ash Borer Quarantine for Enforcement of the Virginia Pest Law. The entire Commonwealth has been under state quarantine since July 2012 when the Commissioner of Agriculture and Consumer Services expanded the quarantine after the detection of the emerald ash borer in new localities. The detections in the additional localities indicated that the quarantine was no longer effective in preventing the artificial spread of the emerald ash borer within Virginia. In August 2012 the United States Department of Agriculture expanded the federal Emerald Ash Borer quarantine (7 CFR 301.53) to include the entire Commonwealth. Given that a federal statewide quarantine is already in place, a state-issued quarantine is redundant and no longer necessary.

VA.R. Doc. No. R13-3487; Filed December 28, 2012, 12:11 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 3.2-6542 of the Code of Virginia, which excludes actions of the board relating to the establishment, operation, and maintenance of the Virginia Dangerous Dog Registry.

Title of Regulation: 2VAC5-620. **Regulations Pertaining to the Establishment of the Dangerous Dog Registry (amending 2VAC5-620-10 through 2VAC5-620-50, 2VAC5-620-80 through 2VAC5-620-100; adding 2VAC5-620-110; repealing 2VAC5-620-60).**

Statutory Authority: §§ 3.2-6540 and 3.2-6542 of the Code of Virginia.

Effective Date: December 18, 2012.

Agency Contact: Dan Kovich, DVM, Program Manager, Animal Care and Health Policy, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, TTY (800) 828-1120, or email dan.kovich@vdacs.virginia.gov.

Summary:

To conform to the amendments to §§ 3.2-6540 and 3.2-6542 by Chapters 107 and 236 of the 2012 Acts of Assembly, the Department of Agriculture and Consumer Services (VDACS) has revised 2VAC5-620. Specifically, the revisions:

- 1. Clarify that the regulation only applies to the owners of dogs that have been deemed dangerous by a court of law.*
- 2. Remove defunct language relevant to the initial establishment of the registry.*
- 3. Simplify the flow of information between dangerous dog owners, local governments, and the department and remove duplicitous or unnecessary mandates for the collection and maintenance of information.*
- 4. Provide that owners will only have to interact with and supply information to their local government, and the local government in turn will communicate directly with VDACS. Owners will pay one fee of \$150 upon initial registration and one annual renewal fee of \$85 directly to their local government. The local government will annually remit \$90 and \$25 respectively of these fees to VDACS for maintenance of the registry.*

Part I

Purpose and Applicability; Definition

2VAC5-620-10. Purpose and applicability.

The purpose of this regulation is to establish the procedures and requirements for registration of dangerous dogs with local jurisdictions and the Commonwealth of Virginia Dangerous Dog Registry. This regulation describes the responsibilities of owners of dangerous dogs; local animal control and law-enforcement officers; ~~the Commissioner of the Virginia Department of Agriculture and Consumer Services;~~ and the State Veterinarian.

2VAC5-620-20. Definition.

The following word and term when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

"Dangerous dog" means a canine or canine crossbreed that has ~~bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat~~ been found to be a dangerous dog by a court of law pursuant to § 3.2-6540 of the Code of Virginia.

~~When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if such attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. (See § 3.2-6540 of the Code of Virginia.)~~

Part II

Registration, Renewal, and Notifications

2VAC5-620-30. Initial registration requirements for owners of dangerous dogs.

A. The owner of a dog adjudicated to be dangerous shall within ~~40~~ 45 calendar days of the finding by a court of competent jurisdiction, unless the dog has been euthanized:

1. Provide the local animal control officer the following information required to obtain a Dangerous Dog Registration Certificate:

- a. The names, addresses, and telephone numbers of all owners;
- b. All information necessary to locate the owners and the dog at all times;
- ~~a.~~ c. Identification verifying that all owners of the dangerous dog are 18 years of age or older or the identification of the guardian of any owner under the age of 18;

d. The acts that resulted in the dog being designated as dangerous;

e. The parties to the proceeding wherein the dog was found to be dangerous, the docket number and the court where the case was tried, and the requirements imposed by the judge on the owners of the dog;

~~b.~~ f. The address where the dangerous dog is maintained and the name of the owner residing at that address;

~~e.~~ g. The dangerous dog's name, sex, age, weight, primary breed, secondary breed, color and markings;

~~d.~~ h. Two photographs of the dangerous dog, one front view and one side view head to paw;

~~e.~~ i. The number of the dog ~~tag~~ license issued by the locality;

~~f.~~ j. Verification that the dangerous dog has a current rabies vaccination including expiration date, name, address, and telephone number of the veterinary practice that administered the vaccine and the rabies tag number;

~~g.~~ k. Documentation from a veterinarian that the dangerous dog has been neutered or spayed, including to include date of surgery, and name of the veterinarian performing the surgery, and the practice name, address, and telephone number ~~of the veterinary practice that performed the surgery;~~

~~h.~~ l. Evidence that the dangerous dog is or will be confined in a proper enclosure or is or will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until a proper enclosure is constructed;

~~i.~~ m. Evidence that the residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property;

~~j.~~ n. Documentation that the ~~animal~~ dangerous dog has been identified permanently by means of a tattoo or electronic implantation or both, including the name, practice name, address, and telephone number of the veterinary practice that performed the procedure, the identification number(s), and the microchip company;

~~k.~~ o. A copy of the liability insurance coverage from a company licensed to do business in Virginia in the amount of at least \$100,000 that covers the owners for damages caused by dog bites. In lieu of liability insurance, the owner may obtain and maintain a bond in surety in the amount of \$100,000. The bond shall be made to the chief administrative officer of the locality where one of the owners resides or where the dangerous dog is maintained for the benefit of those damaged by the bite of a dangerous dog. The form of the bond should be approved by the local jurisdiction's attorney; and

~~l.~~ p. A signed statement of compliance with the provisions of the order finding the dog dangerous;

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2. Obtain a Dangerous Dog Registration Certificate from the local animal control officer or treasurer for a fee of ~~50~~ 150 in addition to other fees that may be authorized by law.

3. Obtain a uniformly designed Virginia Dangerous Dog tag from the local animal control officer or treasurer that has a unique identification number and identifies the animal as a Virginia dangerous dog.

4. Affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times.

~~B. The owner of a dog adjudicated to be dangerous shall within 45 calendar days of the finding by a court of competent jurisdiction, unless the dog has been euthanized:~~

~~1. Provide the local animal control officer the following information required to register the animal with the Virginia Dangerous Dog Registry:~~

~~a. The names, addresses, and telephone numbers of all owners;~~

~~b. All information necessary to locate the owners and the dog at all times;~~

~~c. The acts that resulted in the dog being designated as dangerous;~~

~~d. The parties to the proceeding wherein the dog was found to be dangerous, the docket number and the court where the case was tried, and the requirements imposed by the judge on the owners of the dog;~~

~~e. Any other complaints or incidents of attack by the dangerous dog upon any person or cat or dog after the dog has been declared dangerous;~~

~~f. Any claims made or lawsuits brought as a result of any attack occurring after the dog has been declared dangerous; and~~

~~g. A copy of a valid dangerous dog registration certificate as prepared in subsection A of this section.~~

~~2. The owner of a dog adjudicated to be dangerous shall submit by mail to the State Veterinarian, payable to the Treasurer of Virginia, a \$100 check or money order for the fee for registration in the Commonwealth of Virginia Dangerous Dog Registry postmarked within 45 days of the date of final adjudication finding the dog to be dangerous.~~

~~C. B.~~ The owner of the dangerous dog shall retain the original Dangerous Dog Registration Certificate ~~with his permanent records~~ so long as the dangerous dog remains in his possession.

2VAC5-620-40. Initial registration requirements for local animal control officers.

~~A.~~ The local animal control officer, upon receipt of all information from the owner as required under 2VAC5-620-30 A, shall then certify a dog found dangerous by a court of competent jurisdiction within ~~40~~ 45 calendar days of such finding. The local animal control officer shall:

1. Provide the owner with a copy of the law and this regulation.

2. Verify the owner has submitted all information required by law and this regulation.

3. Fill out the Dangerous Dog Registration Certificate with the owner.

4. Transmit electronically the Dangerous Dog Registration Certificate information to the State Veterinarian within five business days of certification.

5. Provide the owner with a Dangerous Dog Registration Certificate. The fee for the certificate shall be ~~50~~ 150 payable to the treasurer of the locality, in addition to other fees that may be authorized by law.

~~6. Provide the owner with a remittance form for the \$100 Commonwealth of Virginia Dangerous Dog Registry registration fee and information for submission to the State Veterinarian.~~

~~7. 6.~~ Provide the owner with a ~~change of address form and~~ a Dangerous Dog Renewal Registration Form from the Dangerous Dog Registry website.

~~8. 7.~~ Provide the owner or cause the treasurer of the locality to provide the owner with a uniformly designed Virginia Dangerous Dog tag with a unique identification number.

~~B. The local animal control officer, upon receipt of all information from the owner as required under 2VAC5-620-30 A and B, shall submit the information to the State Veterinarian by electronic mail within 45 days of any adjudication by a court of competent jurisdiction that a dog has been found to be dangerous. The local animal control officer shall:~~

~~1. Fill out the Dangerous Dog Verification of Compliance and Registration Form with the owner.~~

~~2. Transmit electronically the information from the Dangerous Dog Verification of Compliance and Registration Form to the State Veterinarian for entry into the Registry.~~

2VAC5-620-50. Renewal registration procedures and requirements.

The following shall be the procedures and requirements for renewal of registration in the dangerous dog registry:

1. The State Veterinarian shall mail each owner of a dangerous dog a ~~Dangerous Dog Renewal Registration Form and remittance form for the Dangerous Dog Registry renewal reminder~~ at least 60 days prior to January 31 of each year that the Dangerous Dog Registration Certificate needs to be renewed. A copy shall be sent to the animal control officer of the political subdivision where the dangerous dog is maintained.

2. By January 31 of each year, until the dangerous dog is deceased, each owner of a dangerous dog shall renew the Dangerous Dog Registration Certificate ~~with the local~~

animal control officer for the same fee and in the same manner as the initial certificate was obtained for a fee of \$85 by submission of a Dangerous Dog Renewal Form to the local animal control officer.

~~3. By January 31 of each year, until the dangerous dog is deceased, each owner of a dangerous dog shall submit a Dangerous Dog Renewal Registration Form to the local animal control officer for renewal of the Dangerous Dog Registration Certificate and for renewal of registration in the Dangerous Dog Registry.~~

~~4. 3. The Dangerous Dog Renewal Registration Form shall include all information initially submitted on the Dangerous Dog Verification of Compliance and Registration Form and any updates necessary to ensure continued compliance with § 3.2-6540 of the Code of Virginia.~~

~~5. 4. The local animal control officer shall verify all information submitted by the owner on the Dangerous Dog Renewal Registration Form and transmit electronically the information to the Dangerous Dog Registry maintained by the State Veterinarian for entry into the Dangerous Dog Registry within five business days of such verification.~~

~~6. Each owner of a dangerous dog shall submit a \$35 renewal registration fee and remittance form postmarked no later than January 31 to the State Veterinarian for renewal registration in the Dangerous Dog Registry.~~

~~7. 5. The owner of any dog found to be dangerous by a court of competent jurisdiction within 60 calendar days prior to January 31 shall be exempt from the first annual renewal registration.~~

2VAC5-620-60. Registration procedures and requirements for dangerous dogs adjudicated prior to July 1, 2006. (Repealed.)

The following shall be the procedures and requirements for dangerous dogs adjudicated prior to July 1, 2006:

~~1. By October 1, 2007, each owner of a dog found to be dangerous prior to July 1, 2006, shall contact the local animal control officer to register the dangerous dog in the Dangerous Dog Registry. There shall be no fee for initial registration of dogs adjudicated prior to July 1, 2006.~~

~~2. The local animal control officer shall transmit electronically this information to the State Veterinarian by October 1, 2007.~~

~~3. After initial registration in the Dangerous Dog Registry, each owner of a dangerous dog adjudicated prior to July 1, 2006, is required to renew the registration annually by January 31 in the same manner and for the same fees for renewal as required by these regulations.~~

~~4. The Dangerous Dog Registration Certificates shall be renewed annually by January 31 as required by these regulations.~~

2VAC5-620-80. Notification requirements for dangerous dog incidents.

At any time during the adjudication process or after ~~an animal~~ a dog has been found to be a dangerous dog by a court of competent jurisdiction, the ~~animal's~~ dog's owner shall notify the local animal control officer within 24 hours if any of the following occur:

- ~~1. The dangerous dog is loose or unconfined.~~
- ~~2. The dangerous dog bites or attacks a person or another animal.~~
- ~~3. There is a complaint that the dangerous dog bit or attacked a person or another animal.~~
4. Any claims are made or lawsuits are brought as a result of any attack by the dog.
- ~~4. 5. The dangerous dog is sold, given away, or dies.~~

The local animal control officer shall promptly notify the State Veterinarian of these facts by electronic mail.

2VAC5-620-90. Notification requirements for change of address or contact information; updated information.

If, at any time during the adjudication process or after an animal has been found to be a dangerous dog by a court of competent jurisdiction, there is a change in the address of the owner or a change in the address where the dangerous dog is maintained (within or outside of the Commonwealth of Virginia), the following notification shall occur within 10 days:

~~1. The owner shall provide written notice of an address change to the local animal control officer for both the old address from which the animal has moved and the new address to which that animal has been moved.~~

~~2. 1. If the owner moves the dangerous dog to a new address within the same jurisdiction, the owner shall submit a Dangerous Dog Change of Address Renewal Form to the local animal control officer indicating the new address.~~

~~3. 2. If the owner moves the dangerous dog to a different local jurisdiction, the owner shall submit a Dangerous Dog Renewal Registration Form and Dangerous Dog Change of Address Form to both the local animal control officer in the new jurisdiction to which the animal has moved indicating the new address and any other updated information and to the animal control officer in the former jurisdiction.~~

~~4. 3. The local animal control officer of the jurisdiction of the old address from which the animal has moved shall verify that the local animal control officer of the new jurisdiction has received the Dangerous Dog Renewal Form. If the form has not been received, he shall provide written notice to the local animal control officer of the new jurisdiction, including the new address of the dangerous dog and any information necessary to contact the owner of the dangerous dog.~~

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~~5. 4.~~ The local animal control officer of the ~~old address from which the animal has moved and the local animal control officer of the~~ new jurisdiction to which the animal has been moved shall ~~send~~ electronically submit notice of the change and verification of compliance with § 3.2-6540 of the Code of Virginia to the State Veterinarian ~~by electronic mail.~~

~~6. 5.~~ The owner shall notify the local animal control officer ~~from~~ for the jurisdiction where the dangerous dog is maintained of any change in or updating of information required by the law or regulation. The local animal control officer shall ~~transmit~~ note the changed information or updates ~~into~~ on the Dangerous Dog Renewal Registration Form and ~~send notice of this change~~ electronically submit such information to the State Veterinarian ~~by electronic mail.~~

~~7. 6.~~ There shall be no charge for submitting updated information between registration renewals.

Part III

Commonwealth of Virginia Dangerous Dog Registry

2VAC5-620-100. ~~Establishment, operation~~ Operation and maintenance of the Dangerous Dog Registry.

The following shall be the procedures and requirements for ~~establishment,~~ the operation, and maintenance of the Dangerous Dog Registry:

~~1. By July 1, 2007, the Commissioner of Agriculture and Consumer Services shall establish the Dangerous Dog Registry to be maintained by the Virginia Department of Agriculture and Consumer Services, State Veterinarian's Office.~~

~~2. 1.~~ The State Veterinarian shall ~~cause~~ operate and maintain a website to be ~~created and~~ named the Virginia Dangerous Dog Registry.

~~3. 2.~~ A personal identification number (PIN) shall be assigned by the State Veterinarian to each local jurisdiction for administrative access to the Dangerous Dog Registry.

~~4. 3.~~ All information in the Dangerous Dog Registry shall be available to the State Veterinarian and local jurisdictions, ~~and the public~~ via the website.

~~4.~~ The address of the owner, name and breed, acts which resulted in the animal being found dangerous, and information necessary to access court records of the adjudication for each dangerous dog shall be available to the public via the website.

~~5.~~ Any funds collected for the Dangerous Dog Registry shall be used by the State Veterinarian to maintain the Dangerous Dog Registry and website.

All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any

training course required under § 3.2-6556 of the Code of Virginia.

The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous and vicious dogs provided, however, that no locality may impose a felony penalty for violation of such local ordinances.

2VAC5-620-110. Local treasurers to remit a portion of fees collected to the State Veterinarian.

The State Veterinarian will send each locality an invoice within five business days of July 1 for fees due for each dog currently listed in the Dangerous Dog Registry within the locality. Local treasurers shall remit to the State Veterinarian by July 31 of each year \$90 for each dangerous dog for which an initial Dangerous Dog Registration Certificate was issued and \$25 for each dangerous dog for which a Dangerous Dog Renewal Registration Form was issued within their locality during the previous fiscal year. Localities will not be liable for the portion of the fee due to the State Veterinarian if they have not collected the fee from the dangerous dog owner provided a good faith effort was made to collect such fee.

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

FORMS (2VAC5-620)

~~Dangerous Dog Verification of Compliance and Registration Form, VDACS DDR 01 (eff. 07/09).~~

~~Dangerous Dog Verification of Compliance and Registration Supplemental Owner Information Form, VDACS DDR 02 (eff. 07/09).~~

~~Dangerous Dog Renewal Registration Form, VDACS DDR 03 (eff. 07/09).~~

~~Dangerous Dog Registration Change of Address Form, VDACS DDR 04 (eff. 07/09).~~

~~Dangerous Dog Registration Change of Address Supplemental Owner Information Form, VDACS DDR 05 (eff. 07/09).~~

~~Dangerous Dog Registration Remittance Form, VDACS DDR 06 (eff. 07/09).~~

[Dangerous Dog Registration Form and Registration Certificate, VDACS DDR 07 \(eff. 12/12\).](#)

[Dangerous Dog Renewal Form, VDACS DDR 08 \(eff. 12/12\).](#)

[Dangerous Dog Secondary Owner Form, VDACS DDR 09 \(eff. 12/12\).](#)

VA.R. Doc. No. R13-3523; Filed December 18, 2012, 4:18 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

MARINE RESOURCES COMMISSION

Final Regulation

Title of Regulation: 4VAC20-252. **Pertaining to the Taking of Striped Bass (amending 4VAC20-252-55, 4VAC20-252-140, 4VAC20-252-150, 4VAC20-252-160).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments reduce each of the recreational and commercial striped bass harvest quotas to 1,230,110 pounds, open the commercial harvest season on January 16, and establish new quota transfer requirements.

4VAC20-252-55. Recreational harvest quota.

The total allowable level of all recreational harvest of striped bass for all open seasons and for all legal gear shall be ~~1,430,361~~ 1,230,110 pounds of whole fish. At such time as the total recreational harvest of striped bass is projected to reach ~~1,430,361~~ 1,230,110 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for recreational purposes.

4VAC20-252-140. Commercial seasons, areas, and size limits.

Except as may be adjusted pursuant to 4VAC20-252-150, the open commercial striped bass fishing seasons, areas, and applicable size limits shall be as follows:

1. In the Chesapeake area, the open commercial season shall be from ~~February 1~~ January 16 through December 31, inclusive. The minimum size limit shall be 18 inches total length during the periods of ~~February 1~~ January 16 through December 31. The maximum size limit shall be 28 inches from March 26 through June 15.

2. In the coastal area, the open commercial season shall be ~~February 1~~ January 16 through December 31, inclusive, and the minimum size limit shall be 28 inches total length.

4VAC20-252-150. Individual commercial harvest quota.

A. The commercial harvest quota for the Chesapeake area shall be determined annually by the Marine Resources Commission. The total allowable level of all commercial harvest of striped bass from the Chesapeake Bay and its tributaries and the Potomac River tributaries of Virginia for all open seasons and for all legal gear shall be ~~1,430,361~~ 1,230,110 pounds of whole fish. At such time as the total commercial harvest of striped bass from the Chesapeake area is projected to reach ~~1,430,361~~ 1,230,110 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the Chesapeake area.

B. The commercial harvest quota for the coastal area of Virginia shall be determined annually by the Marine Resources Commission. The total allowable level of all commercial harvest of striped bass from the coastal area for all open seasons and for all legal gear shall be 184,853 pounds of whole fish. At such time as the total commercial harvest of striped bass from the coastal area is projected to reach 184,853 pounds, and announced as such, it shall be unlawful for any person to land or possess striped bass caught for commercial purposes from the coastal area.

C. For the purposes of assigning an individual's tags for commercial harvests in the Chesapeake area as described in 4VAC20-252-160, the individual commercial harvest quota of striped bass in pounds shall be converted to an estimate in numbers of fish per individual harvest quota based on the average weight of striped bass harvested by the permitted individual during the previous fishing year. The number of striped bass tags issued to each individual will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each individual.

D. For the purposes of assigning an individual's tags for commercial harvests in the coastal area of Virginia as described in 4VAC20-252-160, the individual commercial harvest quota of striped bass in pounds shall be converted to a quota in numbers of fish per individual commercial harvest quota, based on the estimate of the average weight of striped bass harvested by the permitted individual during the previous fishing year. The number of striped bass tags issued to each individual will equal the estimated number of fish to be landed by that individual harvest quota, plus a number of striped bass tags equal to 10% of the total allotment determined for each individual.

4VAC20-252-160. Individual transferable shares; tagging.

A. For each person permitted under the provisions of 4VAC20-252-130 to harvest striped bass commercially, a weight quota shall be issued to permitted fishermen in amounts equal to the percentage share of the Chesapeake area and coastal area striped bass harvest quota they hold. Tags issued for Chesapeake area harvest quota shall only be used for striped bass harvests in the Chesapeake area, and tags

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issued for the coastal area harvest quota shall only be used for striped bass harvests in the coastal area.

B. It shall be unlawful for any person or any person aboard any vessel to possess striped bass tags, as described in this subsection, except as described in subsection C of this section. Unlawful striped bass tags shall be confiscated and impounded by the commission and returned to the issuing agency.

1. Chesapeake area tags in the coastal area.
2. Tags issued for previous years for either the Chesapeake area or coastal area.
3. Potomac River Fisheries Commission striped bass tags in Virginia waters, excluding the Virginia tributaries of the Potomac River.
4. Maryland striped bass tags in Virginia waters.
5. Tags from any other jurisdiction in Virginia waters.

C. It shall be lawful for any person or any person onboard a vessel to possess Maryland or Potomac River Fisheries Commission current year striped bass tags in the Great Wicomico River and those Virginia waters north and west of a line beginning at Fleton Point; thence extending to the southern most point of Tangier Island, and thence to a point due north on the Virginia-Maryland state boundary. Unlawful striped bass tags shall be confiscated and impounded by the commission and returned to the issuing agency.

D. Shares of the commercial striped bass quota held by any permitted fisherman may be transferred to any other person who is a licensed registered commercial fisherman; such transfer shall allow the transferee to harvest striped bass in a quantity equal to the share transferred. Any transfer of striped bass commercial shares shall be limited by the following conditions:

1. Commercial striped bass shares shall not be transferred in any quantity less than ~~200~~ 500 pounds, or 100% of unused permanent shares, in any year from February 1 through September 30, and transfers shall be prohibited during the period of ~~December 1 through February 1~~ October 1 through November 30 and December 16 through January 31.

2. Temporary transfer of commercial striped bass shares in any quantity greater than 200 pounds shall be permitted between December 1 and December 16.

~~2.~~ 3. No licensed registered commercial fisherman shall hold more than 2.0% of the total annual Chesapeake area commercial striped bass harvest quota or more than 11% of the total annual coastal area commercial striped bass harvest quota.

~~3.~~ 4. No transfer of striped bass commercial harvest quota shall be authorized by the commission unless transferor and transferee provide up-to-date records of all commercial landings of striped bass and striped bass tag use to the commission prior to such transfer.

~~4.~~ 5. No transfer of striped bass commercial harvest quota shall be authorized unless such transfer is documented on a form provided by the Marine Resources Commission, notarized by a lawful Notary Public, and approved by the commissioner.

E. Transfers of Chesapeake area or coastal area striped bass commercial quota from one person to another may be permanent or temporary. Transferred quota from the Chesapeake area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the Chesapeake area, and transferred quota from the coastal area striped bass commercial quota shall only be used by the transferee for striped bass harvested from the coastal area. Permanent transfers of commercial quota shall grant to the transferee that transferred percentage of the quota for future years, and the transferor loses that same transferred percentage of the quota in future years. Temporary transfers of individual striped bass commercial harvest quota shall allow the transferee to harvest only that transferred percentage of the quota during the year in which the transfer is approved. Transferors are solely responsible for any overage of the transferred percentage of the quota by the transferee. Thereafter, any percentage of the transferred striped bass commercial quota, less any overage incurred by the transferee, reverts back to the transferor.

F. The commission will issue striped bass tags to permitted striped bass commercial fishermen as follows: those fishermen permitted only for Chesapeake area or coastal area harvests of striped bass will receive their allotment of tags prior to the start of the fishing season. Any permitted fisherman, eligible for both Chesapeake area and coastal area tags, shall receive only one type of area-specific tag allotment, of his choosing, prior to the start of the fishing season, and his other type of area-specific tags will be distributed when it has been determined from the commission's mandatory harvest reporting program that the fisherman has used all of his first allotment of tags and has not exceeded his individual harvest quota. The commissioner may authorize the distribution of the second allotment of area-specific tags to a fisherman eligible for both Chesapeake area and Coastal area tags prior to that fisherman's complete use of his first allotment of tags, provided that fisherman surrenders any remaining tags of his first allotment of tags.

G. Striped bass tags are valid only for use by the permittee to whom the tags were allotted. The permittee shall be on board the boat or vessel when striped bass are harvested and tags are applied. Nothing in this subsection shall prevent a permitted commercial hook-and-line fisherman from using three crew members who are not registered commercial fishermen to assist in the harvest of his allotment of striped bass.

H. At the place of capture, and before leaving that place of capture, tags shall be passed through the mouth of the fish and one gill opening, and interlocking ends of the tag shall

then be connected such that the tag may only be removed by breaking. Failure to comply with these provisions shall be a violation of this chapter.

I. It shall be unlawful to bring to shore any commercially caught striped bass that has not been tagged at the place of capture by the fisherman with a tamper evident, numbered tag provided by the commission. It shall be unlawful to possess striped bass in a quantity greater than the number of tags in possession. If a permittee violates this section, the entire amount of untagged striped bass, as well as the number of tags equal to the amount of striped bass in his possession, shall be confiscated. Any confiscated striped bass shall be considered as a removal from that permittee's harvest quota. Any confiscated striped bass tags shall be impounded by the commission. Upon confiscation, the marine police officer shall inventory the confiscated striped bass and may redistribute the catch by one or a combination of the following methods:

1. The marine police officer shall secure a minimum of two bids for purchase of the confiscated striped bass from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder, and all funds derived from such sale shall be deposited to the Commonwealth pending court resolution of the charge of violating the possession limits established in this chapter. All of the collected funds and confiscated tags will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilt.
2. The marine police officer shall provide the confiscated striped bass to commission staff for biological sampling of the catch. Upon receipt of confiscated striped bass, commission staff will secure a minimum of two estimates of value per pound for striped bass from approved and licensed seafood buyers. The confiscated tags and the estimated value of confiscated striped bass provided for biological sampling will be reimbursed to the accused upon a finding of innocence or retained by the commission upon a finding of guilt.

J. Altering or attempting to alter any tag for the purpose of reuse shall constitute a violation of this chapter.

K. Prior to receiving any commercial season's allotment of striped bass tags, a permitted commercial harvester shall be required to have returned all unused tags from the previous commercial season to the commission within 30 days of harvesting their individual harvest quota, or by the second Thursday in January, whichever comes first. Any unused tags that cannot be turned in to the commission shall be accounted for by the harvester submitting an affidavit to the commission that explains the disposition of the unused tags that are not able to be turned into the commission. Each individual shall be required to pay a processing fee of \$25, plus \$0.13 per tag, for any unused tags that are not turned in to the commission.

L. Any individual with remaining unused striped bass commercial quota in the current year requesting additional

commercial season striped bass tags shall provide up-to-date records of landings and account for all previously issued tags prior to receiving an additional allotment of tags. The harvester shall submit an affidavit to the commission that explains the disposition of the tags that are not accounted for and shall be required to pay a processing fee of \$25, plus \$0.13 per tag, for such tags to the commission.

M. For the commercial fishing season, one type of tag shall be distributed to Chesapeake area permittees and one type of tag shall be distributed to coastal area permittees. For the Chesapeake area, the tag shall only be used on striped bass 18 inches or greater. For the coastal area, the tag shall only be used on striped bass 28 inches or greater. The possession of any improperly tagged striped bass by any permitted striped bass fisherman shall be a violation of this chapter.

VA.R. Doc. No. R13-3514; Filed December 18, 2012; 9:01 a.m.

Final Regulation

Title of Regulation: 4VAC20-610. **Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4VAC20-610-20, 4VAC20-610-25, 4VAC20-610-60; adding 4VAC20-610-26).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments reclassify the current requirements for the reporting and permitting of oyster aquaculture product owners and harvesters and clam aquaculture product owners and harvesters.

4VAC20-610-20. Definitions.

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

"Agent" means any person who possesses the commercial fisherman registration license, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

"Clam aquaculture harvester" means any person who harvests clams from leased, subleased, or fee simple ground or any growing area, within or adjacent to Virginia tidal waters.

"Clam aquaculture product owner" means any person or firm that owns clams on leased, subleased, or fee simple ground, or on any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336,

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General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Clam aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by a clam aquaculture product owner, used to transport clam aquaculture harvesters who do not possess an individual clam aquaculture harvester permit.

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of the Marine Resources Commission.

"Continuing business enterprise" means any business that is required to have a Virginia Seafood Buyer's License or is required to have a business license by county, city or local ordinance.

"Oyster aquaculture harvester" means any person who harvests oysters from leased, subleased, or fee simple ground or any growing area, within or adjacent to Virginia tidal waters.

"Oyster aquaculture product owner" means any person or firm that owns oysters on leased, subleased, or fee simple ground, or on any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336, General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Oyster aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by an oyster aquaculture product owner, used to transport oyster aquaculture harvesters who do not possess an individual oyster aquaculture harvester permit.

"Sale" means sale, trade, or barter.

"Sell" means sell, trade, or barter.

"Selling" means selling, trading, or bartering.

"Sold" means sold, traded, or bartered.

4VAC20-610-25. Oyster ~~and clam~~ aquaculture permit requirements.

A. For the purposes of collecting oyster fisheries statistics from the Virginia aquaculture industry, as authorized by § 28.2-204 of the Code of Virginia, and in accordance with § 28.2-613 of the Code of Virginia, which describes conditions that determine the duration of a lease, any oyster aquaculture product owner shall obtain an oyster aquaculture product owner's permit and shall report harvest of any oysters from leased, subleased, or fee simple ground or on any aquaculture growing area within or adjacent to Virginia tidal waters in accordance with 4VAC20-610-60.

~~B. For the purposes of collecting clam fisheries statistics from the Virginia aquaculture industry as authorized by § 28.2-204 of the Code of Virginia, and in accordance with § 28.2-613 of the Code of Virginia, which describes conditions that determine the duration of a lease, any clam~~

~~aquaculture product owner shall obtain a clam aquaculture product owner's permit and shall report harvest of any clams from leased, subleased or fee simple ground or on any growing area within or adjacent to Virginia tidal waters in accordance with 4VAC20-610-60.~~

~~C. Any person, who is not a permitted oyster aquaculture product owner, who harvests oysters from leased, subleased or fee simple ground or on any growing area within or adjacent to Virginia tidal waters, shall obtain an oyster aquaculture harvester's permit for the purposes of providing fisheries effort statistics to the commission as authorized by § 28.2-204 of the Code of Virginia.~~

~~D. Any person who is not a permitted clam aquaculture product owner who harvests clams from leased, subleased or fee simple ground or on any growing area within or adjacent to Virginia tidal waters shall obtain a clam aquaculture harvester's permit for the purposes of providing fisheries effort statistics to the commission as authorized by § 28.2-204 of the Code of Virginia.~~

B. It shall be unlawful for any person, except an oyster aquaculture product owner permittee, oyster aquaculture harvester permittee, or a harvester designated for harvest by an oyster aquaculture product owner vessel permit, to harvest oysters from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters, unless that person is authorized to harvest oysters from areas described in this subsection by an oyster aquaculture product owner.

~~E. C. It shall be unlawful for any person permitted as an oyster aquaculture harvester to fail to possess that permit on his person while harvesting unless that permit is in the possession of a legally permitted oyster aquaculture product owner, and the permitted harvester is harvesting oysters of that oyster aquaculture product owner person is on a permitted oyster aquaculture product owner vessel and is harvesting oysters of that oyster aquaculture product owner.~~

~~F. It shall be unlawful for any person permitted as a clam aquaculture harvester to fail to possess that permit on his person while harvesting unless that permit is in the possession of a legally permitted clam aquaculture product owner, and the permitted harvester is harvesting clams of that clam aquaculture product owner.~~

~~G. D. Minor persons younger than 18 years of age shall be exempt from the requirements to obtain an oyster aquaculture harvester's permit provided that minor person is harvesting oysters under the supervision of a legally permitted oyster aquaculture product owner.~~

~~H. Minor persons younger than 18 years of age shall be exempt from the requirements to obtain a clam aquaculture harvester's permit provided that minor person is harvesting clams under the supervision of a legally permitted clam aquaculture product owner.~~

4VAC20-610-26. Clam aquaculture permit requirements.

A. For the purposes of collecting clam fisheries statistics from the Virginia aquaculture industry, as authorized by § 28.2-204 of the Code of Virginia and in accordance with § 28.2-613 of the Code of Virginia, which describes conditions that determine the duration of a lease, any clam aquaculture product owner shall obtain a clam aquaculture product owner's permit and shall report harvest of any clams from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters, in accordance with 4VAC20-610-60.

B. It shall be unlawful for any person, except a clam aquaculture product owner permittee, clam aquaculture harvester permittee, or a harvester designated for harvest by a clam aquaculture product owner vessel permit, to harvest clams from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters, unless that person is authorized to harvest clams from areas described in this subsection by a clam aquaculture product owner.

C. It shall be unlawful for any person permitted as an clam aquaculture harvester to fail to possess that permit on his person while harvesting unless that person is on a permitted clam aquaculture product owner vessel and is harvesting clams of that clam aquaculture product owner.

D. Minor persons younger than 18 years of age shall be exempt from the requirements to obtain a clam aquaculture harvester's permit provided that minor person is harvesting clams under the supervision of a legally permitted clam aquaculture product owner.

4VAC20-610-60. Mandatory harvest reporting.

A. It shall be unlawful for any valid commercial fisherman registration licensee, seafood landing licensee, oyster aquaculture product owner permittee, or clam aquaculture product owner permittee to fail to fully report harvests and related information as set forth in this chapter.

B. It shall be unlawful for any recreational fisherman, charter boat captain, head boat captain, commercial fishing pier operator, or owner of a private boat licensed pursuant to §§ 28.2-302.7 through 28.2-302.9 of the Code of Virginia, to fail to report recreational harvests, upon request, to those authorized by the commission.

C. All registered commercial fishermen and any valid seafood landing licensee, ~~oyster aquaculture product owner permittee, and clam aquaculture product owner permittee~~ shall complete a daily form accurately quantifying and legibly describing that day's harvest from Virginia tidal waters and federal waters. The forms used to record daily harvest shall be those provided by the commission or another form approved by the commission. Registered commercial fishermen and seafood landing licensees may use more than one form when selling to more than one buyer.

~~D.~~ Any oyster aquaculture product owner permittee or clam aquaculture product owner permittee shall complete a monthly form accurately quantifying and legibly describing that month's harvest from Virginia tidal waters. The forms used to record monthly harvest shall be those provided by the commission or another form approved by the commission.

~~E.~~ Registered commercial fishermen, seafood landing licensees, valid oyster aquaculture product owner permittees and valid clam aquaculture product owner permittees shall submit a monthly harvest report to the commission no later than the fifth day of the following month. This report shall be accompanied by the daily harvest records described in subsection ~~E~~ F of this section. Completed forms shall be mailed or delivered to the commission or other designated locations.

~~E.~~ F. The monthly harvest report requirements shall be as follows:

1. Registered commercial fishermen shall be responsible for providing monthly harvest report and daily harvest records that include the name and signature of the registered commercial fisherman and his commercial fisherman's registration license number; the name and license registration number of any agent, if used; the license registration number of no more than five helpers who were not serving as agents; any buyer or private sale information; the date of any harvest; the city or county of landing that harvest; the water body fished, gear type, and amount of gear used for that harvest; the number of hours any gear was fished and the number of hours the registered commercial fisherman fished; the number of crew on board, including captain; species harvested; market category; live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number). Any information on the price paid for the harvest may be provided voluntarily.

2. The monthly harvest report ~~and daily harvest records~~ from oyster aquaculture product owner permittees and clam aquaculture product owner permittees shall include the name, signature, permit number, lease number, date of ~~harvest~~ the last day of the reporting month, city or county of landing, gear (growing technique) used, weight or amount of species harvested by market category, total number of individual crew members for the month, and buyer or private sale information.

3. The monthly harvest report and daily harvest records from seafood landing licensees shall include the name and signature of the seafood landing licensee and his seafood landing license number; buyer or private sale information; date of harvest; city or county of landing; water body fished; gear type and amount used; number of hours gear fished; number of hours the seafood landing licensee fished; number of crew on board, including captain; nonfederally permitted species harvested; market category;

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live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number).

~~F.~~ G. Registered commercial fishermen, oyster aquaculture product owner permittees and clam aquaculture product owner permittees not fishing during a month, or seafood landing licensees not landing in Virginia during a month, shall so notify the commission no later than the fifth of the following month by postage paid postal card provided by the commission or by calling the commission's toll free telephone line.

~~G.~~ H. Any person licensed as a commercial seafood buyer pursuant to § 28.2-228 of the Code of Virginia shall maintain for a period of one year a copy of each fisherman's daily harvest record form for each purchase made. Such records shall be made available upon request to those authorized by the commission.

~~H.~~ I. Registered commercial fishermen, seafood landing licensees, oyster aquaculture product owner permittees and clam aquaculture product owner permittees shall maintain their ~~daily~~ harvest records for one year and shall make them available upon request to those authorized by the commission.

~~I.~~ J. Registered commercial fishermen, seafood landing licensees, and licensed seafood buyers shall allow those authorized by the commission to sample harvest and seafood products to obtain biological information for scientific and management purposes only. Such sampling shall be conducted in a manner that does not hinder normal business operations.

~~J.~~ K. The reporting of oyster harvest and transactions by licensed seafood buyers, oyster aquaculture product owner permittees, clam aquaculture product owner permittees, and any registered commercial fisherman who self-markets his oyster harvest shall be made in accordance with 4VAC20-200 and Article 3 (§ 28.2-538 et seq.) of Chapter 5 of Title 28.2 of the Code of Virginia.

~~K.~~ L. The reporting of the harvest of federally permitted species from beyond Virginia's tidal waters that are sold to a federally permitted dealer shall be exempt from the procedures described in this section.

~~L.~~ M. The owner of any purse seine vessel or bait seine vessel (snapper rig) licensed under the provisions of § 28.2-402 of the Code of Virginia shall submit the Captain's Daily Fishing Reports to the National Marine Fisheries Service, in accordance with provisions of Amendment 1 to the Interstate Fishery Management Plan of the Atlantic States Marine Fisheries Commission for Atlantic Menhaden, which became effective July 2001.

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

FORMS (4VAC20-610)

Captain's Daily Fishing Report (eff. 8/02).

[Monthly Harvest Reporting Form, MR027540 \(rev. 2/10\).](#)

VA.R. Doc. No. R13-3515; Filed December 18, 2012, 2:36 p.m.

Final Regulation

Title of Regulation: **4VAC20-751. Pertaining to the Setting and Mesh Size of Gill Nets (amending 4VAC20-751-20).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments allow legally licensed commercial striped bass harvesters to set or fish any gill net with a stretched mesh size from five inches to six inches from January 16 through the last day in February within prescribed regulatory restricted areas.

4VAC20-751-20. Gill net mesh sizes, restricted areas, and season.

A. From January 1 through March 25 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size between 3-3/4 inches and six inches within the restricted areas as set forth below, except that ~~during the month of~~ from January 16 through the end of February any legally licensed fisherman may place, set, or fish any gill net with a stretched mesh size from five inches to six inches within the restricted areas described in this subsection. From March 26 through June 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size greater than six inches within the restricted areas set forth below, except as described in 4VAC20-252-135:

1. In James River, those tidal waters upstream of a line connecting Willoughby Spit and Old Point Comfort;
2. In Back River, those tidal waters upstream of a line connecting Factory Point and Plumtree Point;
3. In Poquoson River, those tidal waters upstream of a line connecting Marsh Point and Tue Point;
4. In York River, those tidal waters upstream of a line connecting Tue Point and Guinea Marshes;

- 5. In Mobjack Bay, those tidal waters upstream of a line connecting Guinea Marshes and New Point Comfort;
- 6. In Milford Haven, those tidal waters upstream of a line connecting Rigby Island and Sandy Point;
- 7. In Piankatank River, those tidal waters upstream of a line connecting Cherry Point and Stingray Point; and
- 8. In Rappahannock River, those tidal waters upstream of a line connecting Stingray Point to Windmill Point.

B. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish more than 8,400 feet of gill net.

C. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net in the Chesapeake Bay or in Virginia's portion of the Territorial Sea, that is made, set or fished in a tied-down manner, by connecting the net's head rope and foot rope with lines, which cause the net to form a pocket of webbing.

D. During the period June 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net with a stretched mesh greater than six inches in the Virginia portion of the Territorial Sea, south of a line connecting Smith Island Light and the three-mile limit line.

E. From June 1 through October 15, it shall be unlawful for any person to place any unattended gill net within 500 yards of the mean high-water mark, on the ocean side of Northampton and Accomack counties, north of a line, beginning at the southern most point of Smith Island and thence extending due east to the three-mile limit line.

VA.R. Doc. No. R13-3516; Filed December 18, 2012, 8:41 a.m.

Final Regulation

Title of Regulation: **4VAC20-900. Pertaining to Horseshoe Crab (amending 4VAC20-900-20, 4VAC20-900-25, 4VAC20-900-35, 4VAC20-900-36; adding 4VAC20-900-21, 4VAC20-900-39, 4VAC20-900-45, 4VAC20-900-50; repealing 4VAC20-900-30, 4VAC20-900-40).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments increase the 2013 total annual horseshoe crab quota to 172,828; establish a male-only horseshoe crab quota of 81,331 east of the COLREGS line; and establish horseshoe crab quota permit categories, a limited entry system, and criteria for the transfer of a horseshoe crab license or permit.

4VAC20-900-20. Definition.

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

"COLREGS Line" means ~~the COLREGS Demarcation Lines, as specified in Coastal Pilot, 35th and 36th editions by Lighthouse Press~~ the COLREGS Demarcation Line, as defined in the Code of Federal Regulations (33 CFR 80.510 Chesapeake Bay Entrance, VA).

"Horseshoe crab" means any crab of the species *Limulus polyphemus*.

"Land" or "landing" means to enter port with horseshoe crabs on board any boat or vessel, to begin offloading horseshoe crabs, or to offload horseshoe crabs.

4VAC20-900-21. License requirements and exemption.

A. The taking by hand of as many as five horseshoe crabs in any one day for personal use only shall be exempt from the licensing requirements.

B. Except as provided for in 4VAC20-900-25 G 3, it shall be unlawful for any boat or vessel to land horseshoe crabs in Virginia for commercial purposes without first obtaining a horseshoe crab endorsement license as described in this section. The horseshoe crab endorsement license shall be required of each boat or vessel used to land horseshoe crabs for commercial purposes. Possession of any quantity of horseshoe crabs that exceeds the limit described in subsection A of this section shall be presumed for commercial purposes. There shall be no fee for the license.

C. To be eligible for an unrestricted horseshoe crab endorsement license, the boat or vessel shall have landed and sold at least 500 horseshoe crabs in Virginia in at least one year during the period 1998 through 2000, except as described in subsection D of this section.

1. The owner shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of the applicant's name, address, telephone number, boat or vessel name, and its registration or documentation number.

2. The owner shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of landings data from the National Marine Fisheries Service.

D. To be eligible for a restricted horseshoe crab endorsement license that is limited to using a crab dredge to harvest horseshoe crabs, a Virginia registered commercial fisherman's boat or vessel shall have landed at least 10,000 pounds of whelk in any one year from 2002 through 2005.

1. The Virginia registered commercial fisherman shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of the applicant's name,

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address, telephone number, boat or vessel name, and its registration or documentation number.

2. The Virginia registered commercial fisherman shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of whelk landings data from the National Marine Fisheries Service.

E. To be eligible for a horseshoe crab hand harvester permit, the individual shall have been issued a horseshoe crab hand harvester permit prior to the license moratorium of May 1, 2011, and shall have documented on Virginia mandatory harvest reporting forms a minimum harvest of one horseshoe crab by hand harvest methods at any time from 1993 through 2010.

F. It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess any type of a valid horseshoe crab endorsement license or horseshoe crab hand harvester permit to possess horseshoe crabs without first obtaining a valid horseshoe crab bycatch permit from the Marine Resources Commission.

4VAC20-900-25. Commercial fisheries management measures.

A. It shall be unlawful for any person to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet in any direction of the mean low water line from May 1 through June 7. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.

B. From January 1 through June 7 of each year, it shall be unlawful for any person to land, in Virginia, any horseshoe crab harvested from federal waters.

C. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.

D. The commercial quota of horseshoe crab for ~~2012~~ 2013 shall be ~~452,495~~ 172,828 horseshoe crabs. Additional quantities of horseshoe crab may be transferred to Virginia by other jurisdictions, in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the commercial quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs. It shall be unlawful for any person to harvest from Virginia waters, or to land in Virginia, any horseshoe crab for commercial purposes after any calendar-year commercial quota of horseshoe crab has been attained and announced as such.

E. It shall be unlawful for any person to harvest or land horseshoe crabs during any calendar year, from waters east of the COLREGS line by any gear after ~~40% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area~~ 81,331 male horseshoe crabs have been landed and announced as such, to also include the following provisions:

1. It shall be ~~lawful~~ unlawful for any person to harvest or land any ~~amount of female~~ horseshoe crabs from waters east of the COLREGS line ~~by any gear other than trawl until it has been projected that 27.512% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area and announced as such.~~

2. It shall be ~~lawful~~ unlawful for any person to harvest or land any amount of horseshoe crabs from waters east of the COLREGS line ~~by trawl as described in subsection B of 4VAC20-900-36 until it has been projected that 12.488% of Virginia's commercial horseshoe crab quota and any and all transfers of quota have been attained for this designated area and announced as such~~ by any gear, except for trawl or dredge gear.

F. ~~It shall be unlawful for any person whose harvest of horseshoe crabs is from waters east of the COLREGS Line to possess aboard a vessel or to land in Virginia any quantity of horseshoe crabs that, in aggregate, is not comprised of at least a minimum ratio of two male horseshoe crabs to one female horseshoe crab.~~ For the purposes of this regulation, no horseshoe crab shall be considered a male horseshoe crab unless it possesses at least one modified, hook-like appendage as its first pair of walking legs.

G. Limitations on the daily harvest and possession of horseshoe crabs for any vessel described below are as follows:

1. It shall be unlawful for any person who holds a valid unrestricted horseshoe crab endorsement license, as described in ~~4VAC20-900-30-D~~ 4VAC20-900-21 C, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500, except that when it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person who meets the requirements of ~~4VAC20-900-30-D~~ 4VAC20-900-21 C and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 1,250.

2. It shall be unlawful for any person who holds a valid restricted horseshoe crab endorsement license, as described in ~~4VAC20-900-30-E~~ 4VAC20-900-21 D, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,000, except that when it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person who meets the requirements of ~~4VAC20-900-30-E~~ 4VAC20-900-21 D, and holds a valid horseshoe crab endorsement license to possess aboard any vessel in Virginia any number of horseshoe crabs in excess of 500. The harvest of horseshoe crabs, described in this subdivision, shall be restricted to using only crab dredge.

3. ~~It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess a valid horseshoe crab endorsement license to~~

~~possess horseshoe crabs, without first obtaining a valid horseshoe crab bycatch permit from the Marine Resources Commission.~~ It shall be unlawful for a horseshoe crab bycatch permittee to possess aboard any vessel more than 500 horseshoe crabs or for any vessel to land any number of horseshoe crabs in excess of 500 per day except as described in subdivision 4 of this subsection. When it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any person with a horseshoe crab bycatch permit to possess aboard any vessel more than 250 horseshoe crabs or for any vessel to land any number of horseshoe crabs in excess of 250 per day except as described in subdivision 4 of this subsection.

4. It shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel to possess or land more than 1,000 horseshoe crabs per day. When it is projected and announced that 80% of the commercial quota is taken, it shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel to possess or land more than 500 horseshoe crabs per day.

5. It shall be unlawful for any registered commercial fisherman or seafood landing licensee who does not possess a horseshoe crab endorsement license or a horseshoe crab bycatch permit to possess any horseshoe crabs.

6. It shall be unlawful for any person who possesses a horseshoe crab endorsement license or a horseshoe crab bycatch permit to harvest horseshoe crabs by gill net, except as described in this subdivision.

a. Horseshoe crabs shall only be harvested from a gill net, daily, between the hours of sunrise and sunset.

b. It shall be unlawful for any person to land horseshoe crabs caught by a gill net in excess of 250 horseshoe crabs per day.

H. It shall be unlawful for any fisherman issued a horseshoe crab endorsement license to offload any horseshoe crabs between the hours of 10 p.m. and 7 a.m.

I. When it is projected and announced that ~~32%~~ 65,065 of the commercial quota, as described in subsection ~~D~~ E of this section, has been taken from waters east of the COLREGS line, the limitations on the possession and landing of male horseshoe crabs are as follows:

1. It shall be unlawful for any person who possesses a valid unrestricted horseshoe crab endorsement license to possess aboard any vessel in waters east of the COLREGS Line or to land more than 1,250 male horseshoe crabs per day.

2. It shall be unlawful for any person who possesses a valid restricted horseshoe crab endorsement license to possess aboard any vessel in waters east of the COLREGS Line or to land more than 500 male horseshoe crabs per day.

3. It shall be unlawful for any person who possesses a valid horseshoe crab bycatch permit to possess aboard any vessel

east of the COLREGS Line or to land more than 250 male horseshoe crabs per day.

4. It shall be unlawful for any two horseshoe crab bycatch permittees fishing from the same boat or vessel, east of the COLREGS Line, to possess or land more than 500 male horseshoe crabs per day.

4VAC20-900-30. License requirements and exemption. (Repealed.)

~~A. It shall be unlawful for any person to harvest horseshoe crabs by hand for commercial purposes without first obtaining a commercial fisherman registration license and a horseshoe crab hand harvester license.~~

~~B. The taking by hand of as many as five horseshoe crabs in any one day for personal use only shall be exempt from the above licensing requirement.~~

~~C. Except as provided for in 4VAC20-900-25-G-3, it shall be unlawful for any boat or vessel to land horseshoe crabs in Virginia for commercial purposes without first obtaining a horseshoe crab endorsement license as described in this section. The horseshoe crab endorsement license shall be required of each boat or vessel used to land horseshoe crabs for commercial purposes. Possession of any quantity of horseshoe crabs that exceeds the limit described in subsection B of this section shall be presumed for commercial purposes. There shall be no fee for the license.~~

~~D. To be eligible for an unrestricted horseshoe crab endorsement license, the boat or vessel shall have landed and sold at least 500 horseshoe crabs in Virginia in at least one year during the period 1998-2000, except as described in subsection E of this section.~~

~~1. The owner shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.~~

~~2. The owner shall complete a notarized authorization to allow the Marine Resources Commission to obtain copies of landings data from the National Marine Fisheries Service.~~

~~E. To be eligible for a restricted horseshoe crab endorsement license that is limited to using a crab dredge to harvest horseshoe crabs, a Virginia registered commercial fisherman's boat or vessel shall have landed at least 10,000 pounds of whelk in any one year from 2002 through 2005.~~

~~1. The Virginia registered commercial fisherman shall complete an application for each boat or vessel by providing to the Marine Resources Commission a notarized and signed statement of the applicant's name, address, telephone number, boat or vessel name and its registration or documentation number.~~

~~2. The Virginia registered commercial fisherman shall complete a notarized authorization to allow the Marine~~

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~~Resources Commission to obtain copies of whelk landings data from the National Marine Fisheries Service.~~

4VAC20-900-35. Monitoring requirements.

A. Any person harvesting or landing horseshoe crabs in Virginia shall report monthly on forms provided by the Marine Resources Commission all harvests of horseshoe crabs including, but not limited to, bait fisheries, bycatch, biomedical industry, and scientific and educational research harvests. Reporting requirements shall consist of numbers and pounds landed by sex, harvest method and harvest location.

B. It shall be unlawful for a restricted or unrestricted horseshoe crab endorsement license holder to fail to contact the Marine Resources Operations Station prior to the vessel issued a horseshoe crab endorsement license offloading horseshoe crabs. The horseshoe crab endorsement license holder shall provide the Marine Resources Commission the name of the vessel and its captain and the anticipated or approximate offloading time and site. Following offloading, the horseshoe crab endorsement license holder shall contact the Marine Resources Operation Station and provide the total number of horseshoe crabs landed, gear type, and location of harvest.

C. It shall be unlawful for any horseshoe crab bycatch permittee or horseshoe crab hand harvester permittee to fail to contact the Virginia Marine Resources Commission Interactive-Voice-Response (IVR) System within 24 hours of landing and provide his Commercial Fisherman Registration License number, and the time, date, number of horseshoe crabs landed, gear type, and location of harvest.

D. It shall be unlawful for any person, firm or corporation to buy any horseshoe crabs from any lawful harvester on or after July 1, 2007, without first having obtained a Horseshoe Crab Buying Permit from the Marine Resources Commission. The permit application shall be completed in full by the licensed seafood buyer, and a copy of the permit shall be kept in possession of the licensed buyer while buying or possessing horseshoe crabs.

E. Any licensed seafood buyer permitted to purchase horseshoe crabs shall provide written reports to the Marine Resources Commission of daily purchases and harvest information on forms provided by the Marine Resources Commission. Such information shall include the date of the purchase, the buyer's horseshoe crab permit number and harvester's Commercial Fisherman Registration License number, gear type used, water area fished, city or county of landing, and number of female horseshoe crabs and male horseshoe crabs purchased. These reports of any current weekly purchases shall be completed in full and submitted to the Marine Resources Commission no later than Thursday of the following week. In addition, once it has been projected and announced that 85% of the commercial quota of horseshoe crab has been landed or ~~34%~~ 69.131 of the commercial quota of horseshoe crab established for the horseshoe crab harvest east of the COLREGS Line has been

landed each permitted buyer shall call the Marine Resources Commission's IVR on a daily basis to report his name and permit number, date, number of female horseshoe crabs and number of male horseshoe crabs purchased, gear used and water area fished by the harvester.

F. Persons harvesting horseshoe crabs for biomedical use and owners of facilities using horseshoe crabs for biomedical purposes shall monitor and report monthly to the Marine Resources Commission all harvests or purchases of horseshoe crabs and the percentage of mortality up to the point of release including that mortality which occurs during harvest, shipping, handling, and bleeding.

G. Owners of biomedical facilities using horseshoe crabs shall participate in the tagging program of the Marine Resources Commission to evaluate the post-release mortality of horseshoe crabs.

H. Monthly reports shall be due to the Marine Resources Commission no later than the fifth day of the following month.

4VAC20-900-36. Quota allocation.

A. When it has been projected and announced that 40.348% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by dredge gears, it shall be unlawful for any person to harvest or land horseshoe crabs caught by dredge gears.

B. When it has been projected and announced that 12.488% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by trawl gears, it shall be unlawful for any person to harvest or land horseshoe crabs caught by trawl gears.

C. When it has been projected and announced that 22.095% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by ~~licensed hand harvesters~~ horseshoe crab hand harvester permittees, it shall be unlawful for any person to harvest or land horseshoe crabs caught by hand harvesting.

D. When it has been projected and announced that 18.142% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by pound nets, it shall be unlawful for any person to harvest or land horseshoe crabs caught by pound net.

E. When it has been projected and announced that 6.927% of the commercial quota, as described in 4VAC20-900-25 D, has been landed by gears not described in subsections A through D of this section, it shall be unlawful for any person to harvest or land horseshoe crabs by gears not described in subsections A through D of this section.

4VAC20-900-39. Permit transfers.

The commissioner or his designee may approve transfers of a horseshoe crab license or permit, as described in 4VAC20-900-21, to any individual who meets any of the following criteria:

1. Demonstrates a significant hardship on the basis of health and provides the commissioner documentation by an attending physician of the medical condition.
2. Demonstrates a significant hardship on the basis of a call to active military duty and provides the commissioner an explanation in writing and copy of the military orders for active duty.
3. Documents the death of an immediate family member eligible for a horseshoe crab license or permit and possessing a legal Commercial Fisherman Registration License.

4VAC20-900-40. Penalty. (Repealed.)

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

4VAC20-900-45. Requirements of authorized agents.

A. It shall be unlawful for any person to serve as an agent for a horseshoe crab hand harvest permittee.

B. Any person serving as an agent to harvest horseshoe crabs for any lawful licensed or permitted horseshoe crab fisherman, except as described in subsection A of this section, shall be limited to the use of only one registered commercial fisherman's horseshoe crab license or permit.

4VAC20-900-50. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R13-3517; Filed December 18, 2012, 2:40 p.m.

Final Regulation

Title of Regulation: **4VAC20-950. Pertaining to Black Sea Bass (amending 4VAC20-950-45, 4VAC20-950-47, 4VAC20-950-48).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments allow the recreational harvest of black sea bass during January and February 2013 and increase the total commercial landing quota to 356,000 pounds in 2013.

4VAC20-950-45. Recreational possession limits and seasons.

A. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than 25 black sea bass. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for that boat or vessel and shall be equal to the number of persons on board legally eligible to fish, multiplied by 25. The captain or operator of the boat or vessel shall be responsible for that boat or vessel possession limit. Any black sea bass taken after the possession limit has been reached shall be returned to the water immediately.

B. Possession of any quantity of black sea bass that exceeds the possession limit described in subsection A of this section shall be presumed to be for commercial purposes.

C. The open recreational fishing ~~season~~ seasons in 2013 shall be from January 1 through the last day of February, May 19 through October 14, and from November 1 through ~~November 19~~ December 31, except as provided in subsection D of this section.

D. Only if the Atlantic States Marine Fisheries Commission authorizes an open recreational fishing season of January 1 through the end of February 2013 shall Virginia establish an open season of January 1 through the end of February in 2013.

E. It shall be unlawful for any person fishing recreationally to take, catch, or possess any black sea bass, except during an open recreational season.

4VAC20-950-47. Commercial harvest quotas.

A. The ~~2012~~ 2013 commercial black sea bass directed fishery quota is ~~302,000~~ 316,000 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The ~~2012~~ 2013 commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the quota overage shall be deducted from the following year's bycatch fishing quota.

4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31,

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2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery permittee shall be limited to landings in Virginia in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;
2. Possess aboard a vessel or land in Virginia more than 1,000 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, Loligo squid, and Atlantic mackerel on board the vessel; or
3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. Any hardship exception quota granted by the commission prior to October 27, 2009, shall be converted to a percentage of the directed fishery quota based on the year in which that hardship exception quota was originally granted. The hardship exception quota shall not be transferred for a period of five years from the date the commission granted that hardship exception quota.

G. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

V.A.R. Doc. No. R13-3524; Filed December 18, 2012, 2:10 p.m.

◆ ————— ◆

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

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

Titles of Regulations: **9VAC5-50. New and Modified Stationary Sources (Rev. I12) (amending 9VAC5-50-400, 9VAC5-50-410).**

9VAC5-60. Hazardous Air Pollutant Sources (Rev. I12) (amending 9VAC5-60-60, 9VAC5-60-90, 9VAC5-60-100).

Statutory Authority: § 10.1-1308 of the Code of Virginia; § 112 of the Clean Air Act; 40 CFR Parts 61 and 63.

Effective Date: February 13, 2013.

Agency Contact: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, TTY (804) 698-4021, or email karen.sabasteanski@deq.virginia.gov.

Summary:

The amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2012. The new standards in the federal regulations that are being incorporated into the regulations by reference are as follows:

1. Two NSPSs are being modified: Subpart D, Fossil Fuel-Fired Steam Generators (40 CFR 60.40 through 40 CFR 60.46), and Subpart Da, Electric Utility Steam Generating

Units (40 CFR 60.40Da through 40 CFR 60.52Da). The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

2. No new NESHAPs are being incorporated. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

3. One MACT is being modified: Subpart X, Secondary Lead Smelting (40 CFR 63.541 through 40 CFR 63.552). Two new MACTs are being incorporated: Subpart UUUUU, Coal-fired and Oil-fired Electric Utility Steam Generating Units (40 CFR 63.9980 through 40 CFR 63.10042); and Subpart HHHHHHH, Polyvinyl Chloride and Copolymers Production (40 CFR 63.11860 through 40 CFR 63.12000). The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Article 5

Environmental Protection Agency Standards of Performance for New Stationary Sources (Rule 5-5)

9VAC5-50-400. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (NSPSs), as promulgated in 40 CFR Part 60 and designated in 9VAC5-50-410 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-50-420. The complete text of the subparts in 9VAC5-50-410 incorporated herein by reference is contained in 40 CFR Part 60. The 40 CFR section numbers appearing under each subpart in 9VAC5-50-410 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR (~~2011~~) (2012) in effect July 1, ~~2011~~ 2012. In making reference to the Code of Federal Regulations, 40 CFR Part 60 means Part 60 of Title 40 of the Code of Federal Regulations; 40 CFR 60.1 means 60.1 in Part 60 of Title 40 of the Code of Federal Regulations.

9VAC5-50-410. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1 through 40 CFR 60.3, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11 through 40 CFR 60.15, 40 CFR 60.18 through 40 CFR 60.19

(applicability, definitions, units and abbreviations, notification and recordkeeping, performance tests, compliance, circumvention, monitoring requirements, modification, reconstruction, general control device requirements, and general notification and reporting requirements)

Subpart B - Not applicable.

Subpart C - Not applicable.

Subpart Ca - Reserved.

Subpart Cb - Not applicable.

Subpart Cc - Not applicable.

Subpart Cd - Not applicable.

Subpart Ce - Not applicable.

Subpart D - ~~Fossil Fuel-Fired~~ Fossil Fuel-Fired Steam Generators ~~for which Construction is Commenced after August 17, 1971.~~

40 CFR 60.40 through 40 CFR 60.46

~~(fossil fuel-fired~~ (fossil fuel-fired steam generating units of more than 250 million Btu per hour heat input rate, and ~~fossil fuel-fired fossil fuel-fired~~ and ~~wood residue-fired~~ wood residue-fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da - Electric Utility Steam Generating Units ~~for which Construction is Commenced after September 18, 1978.~~

~~40 CFR 60.40a through 40 CFR 60.49a~~ 40 CFR 60.40Da through 40 CFR 60.52Da

(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); ~~electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator,~~ and for which construction, reconstruction, or modification is commenced after September 18, 1978)

Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40b through 40 CFR 60.49b

(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40c through 40 CFR 60.48c

(industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54

(incinerator units of more than 50 tons per day charging rate)

Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989, and on or before September 20, 1994

40 CFR 60.50a through 40 CFR 60.59a

(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

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Subpart Eb - Large Municipal Combustors for which Construction is Commenced after September 20, 1994, or for which Modification or Reconstruction is Commenced after June 19, 1996

40 CFR 60.50b through 40 CFR 60.59b

(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

Subpart Ec - Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996

40 CFR 60.50c through 40 CFR 60.58c

(hospital/medical/infectious waste incinerators that combust any amount of hospital waste and medical/infectious waste or both)

Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64

(kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G - Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74

(nitric acid production units)

Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85

(sulfuric acid production units)

Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93

(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt; and the loading, transfer and storage systems associated with emission control systems)

Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106

(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart K - Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka - Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.

40 CFR 60.110a through 40 CFR 60.115a

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

40 CFR 60.110b through 40 CFR 60.117b

(storage vessels with capacity greater than or equal to 10,566 gallons)

Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123

(pot furnaces of more than 550 pound charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133

(reverberatory and electric furnaces of 2205 pound or greater production capacity and blast (cupola) furnaces of 550 pounds per hour or greater production capacity)

Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

40 CFR 60.140 through 40 CFR 60.144

(basic oxygen process furnaces)

Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

40 CFR 60.140a through 40 CFR 60.145a

(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs)

Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154

(incinerators that combust wastes containing more than 10% sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2205 pounds per day municipal sewage sludge (dry basis))

Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166

(dryers, roasters, smelting furnaces, and copper converters)

Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176

(roasters and sintering machines)

Subpart R - Primary Lead Smelters

40 CFR 60.180 through 40 CFR 60.186

(sintering machines, sintering machine discharge ends, blast furnaces, dross reverberatory furnaces, electric smelting furnaces and converters)

Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195

(potroom groups and anode bake plants)

Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204

(reactors, filters, evaporators, and hot wells)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214

(evaporators, hot wells, acid sumps, and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224

(reactors, granulators, dryers, coolers, screens, and mills)

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234

(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills, and facilities which store run-of-pile triple superphosphate)

Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244

(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y - Coal Preparation and Processing Plants.

40 CFR 60.250 through 40 CFR 60.258

(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems)

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266

(electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA - Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276

(electric arc furnaces and dust-handling systems that produce carbon, alloy or specialty steels)

Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a

(electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems that produce carbon, alloy, or specialty steels)

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285

(digester systems, brown stock washer systems, multiple effect evaporator systems, black liquor oxidation systems, recovery furnaces, smelt dissolving tanks, lime kilns, condensate strippers and kraft pulping operations)

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296

(glass melting furnaces)

Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304

(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers, and all grain handling operations)

Subpart EE - Surface Coating of Metal Furniture.

40 CFR 60.310 through 40 CFR 60.316

(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF - (Reserved)

Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335

(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344

(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374

(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386

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(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397

(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404

(phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424

(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435

(publication rotogravure printing presses, except proof presses)

Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447

(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456

(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating.

40 CFR 60.460 through 40 CFR 60.466

(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is

applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.

40 CFR 60.470 through 40 CFR 60.474

(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and On or Before November 7, 2006.

40 CFR 60.480 through 40 CFR 60.489

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart VVa - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

40 CFR 60.480a through 40 CFR 60.489a

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506

(total of all loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks)

Subparts YY through ZZ - (Reserved)

Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b

(wood heaters)

Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548

(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subpart CCC - (Reserved)

Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566

(for polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility; if terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

Subpart EEE - (Reserved)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585

(each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and On or Before November 7, 2006.

40 CFR 60.590 through 40 CFR 60.593

(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart GGGa - Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

40 CFR 60.590a through 40 CFR 60.593a

(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities.

40 CFR 60.600 through 40 CFR 60.604

(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618

(each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625

(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636

(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648

(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM - (Reserved)

Subpart NNN - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668

(each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two or more units and the recovery system into which their vent streams are discharged)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676

(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685

(each rotary spin wool fiberglass insulation manufacturing line)

Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699

(individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries)

Subpart RRR - Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

40 CFR 60.700 through 40 CFR 60.708

(each reactor process not discharging its vent stream into a recovery system, each combination of a reactor process

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and the recovery system into which its vent stream is discharged, and each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged)

Subpart SSS - Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718

(each coating operation and each piece of coating mix preparation equipment)

Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726

(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Subpart UUU - Calciners and Dryers in Mineral Industries.

40 CFR 60.730 through 40 CFR 60.737

(each calciner and dryer at a mineral processing plant)

Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748

(each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates)

Subpart WWW - Municipal Solid Waste Landfills.

40 CFR 60.750 through 40 CFR 60.759

(municipal solid waste landfills for the containment of household and RCRA Subtitle D wastes)

Subpart AAAA - Small Municipal Waste Combustors for which Construction is Commenced after August 30, 1999, or for which Modification or Reconstruction is Commenced after June 6, 2001.

40 CFR 60.1000 through 40 CFR 60.1465

(municipal waste combustor units with a capacity less than 250 tons per day and greater than 35 tons per day of municipal solid waste or refuse-derived fuel)

Subpart BBBB - Not applicable.

Subpart CCCC - Commercial/Industrial Solid Waste Incinerators for which Construction is Commenced after November 30, 1999, or for which Modification or Construction is Commenced on or after June 1, 2001.

40 CFR 60.2000 through 40 CFR 60.2265

(an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility, or an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility)

Subpart DDDD - Not applicable.

Subpart EEEE - Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004,

or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006.

40 CFR 60.2880 through 40 CFR 60.2977

(very small municipal waste combustion units with the capacity to combust less than 35 tons per day of municipal solid waste or refuse-derived fuel, and institutional waste incineration units owned or operated by an organization having a governmental, educational, civic, or religious purpose)

Subpart FFFF - Reserved.

Subpart GGGG - Reserved.

Subpart HHHH - Reserved.

Subpart IIII - Stationary Compression Ignition Internal Combustion Engines.

40 CFR 60.4200 through 40 CFR 60.4219

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart JJJJ - Stationary Spark Ignition Internal Combustion Engines.

40 CFR 60.4230 through 40 CFR 60.4248

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart KKKK - Stationary Combustion Turbines.

40 CFR 60.4300 through 40 CFR 60.4420

(stationary combustion turbine with a heat input at peak load equal to or greater than 10.7 gigajoules (10 MMBtu) per hour)

Subpart LLLL - Sewage Sludge Incineration Units.

40 CFR 60.4760 through 40 CFR 60.4925

(an incineration unit combusting sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter, including the sewage sludge feed system, auxiliary fuel feed system, grate system, flue gas system, waste heat recovery equipment, and bottom ash system; and all ash handling systems connected with the bottom ash handling system)

Appendix A - Test methods.

Appendix B - Performance specifications.

Appendix C - Determination of Emission Rate Change.

Appendix D - Required Emission Inventory Information.

Appendix E - (Reserved)

Appendix F - Quality Assurance Procedures.

Appendix G - (Not applicable)

Appendix H - (Reserved)

Appendix I - Removable label and owner's manual.

Part II
Emission Standards

Article 1

Environmental Protection Agency National Emission
Standards for Hazardous Air Pollutants (Rule 6-1)

9VAC5-60-60. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (NESHAP), as promulgated in 40 CFR Part 61 and designated in 9VAC5-60-70 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-60-80. The complete text of the subparts in 9VAC5-60-70 incorporated herein by reference is contained in 40 CFR Part 61. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-70 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(2011)~~ (2012) in effect July 1, ~~2011~~ 2012. In making reference to the Code of Federal Regulations, 40 CFR Part 61 means Part 61 of Title 40 of the Code of Federal Regulations; 40 CFR 61.01 means 61.01 in Part 61 of Title 40 of the Code of Federal Regulations.

Article 2

Environmental Protection Agency National Emission
Standards for Hazardous Air Pollutants for Source Categories
(Rule 6-2)

9VAC5-60-90. General.

The Environmental Protection Agency (EPA) National Emission Standards for Hazardous Air Pollutants for Source Categories (Maximum Achievable Control Technologies, or MACTs) as promulgated in 40 CFR Part 63 and designated in 9VAC5-60-100 are, unless indicated otherwise, incorporated by reference into the regulations of the board as amended by the word or phrase substitutions given in 9VAC5-60-110. The complete text of the subparts in 9VAC5-60-100 incorporated herein by reference is contained in 40 CFR Part 63. The 40 CFR section numbers appearing under each subpart in 9VAC5-60-100 identify the specific provisions of the subpart incorporated by reference. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(2011)~~ (2012) in effect July 1, ~~2011~~ 2012. In making reference to the Code of Federal Regulations, 40 CFR Part 63 means Part 63 of Title 40 of the Code of Federal Regulations; 40 CFR 63.1 means 63.1 in Part 63 of Title 40 of the Code of Federal Regulations.

9VAC5-60-100. Designated emission standards.

Subpart A - General Provisions.

40 CFR 63.1 through 40 CFR 63.11; 40 CFR 63.16

(applicability, definitions, units and abbreviations, prohibited activities and circumvention, construction and reconstruction, compliance with standards and maintenance requirements, performance testing

requirements, monitoring requirements, notification requirements, recordkeeping and reporting requirements, control device requirements, performance track provisions)

Subpart B - Not applicable.

Subpart C - List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.

40 CFR 63.60, 40 CFR 63.61, 40 CFR 63.62 and 40 CFR 63.63

(deletion of caprolactam from the list of hazardous air pollutants, deletion of methyl ethyl ketone from the list of hazardous air pollutants, redefinition of glycol ethers listed as hazardous air pollutants, deletion of ethylene glycol monobutyl ether)

Subpart D - Not applicable.

Subpart E - Not applicable.

Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

40 CFR 63.100 through 40 CFR 63.106

(chemical manufacturing process units that manufacture as a primary product one or more of a listed chemical; use as a reactant or manufacture as a product, by-product, or co-product, one or more of a listed organic hazardous air pollutant; and are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

Subpart G - Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

40 CFR 63.110 through 40 CFR 63.152

(all process vents, storage vessels, transfer operations, and wastewater streams within a source subject to Subpart F, 40 CFR 63.100 through 40 CFR 63.106)

Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks.

40 CFR 63.160 through 40 CFR 63.182

(pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, surge control vessels, bottoms receivers, instrumentation systems, and control devices or systems that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of a specific subpart in 40 CFR Part 63)

Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

40 CFR 63.190 through 40 CFR 63.192

(emissions of designated organic hazardous air pollutants from processes specified in this subpart that are located at a plant site that is a major source as defined in § 112 of the federal Clean Air Act)

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Subpart J - Polyvinyl Chloride and Copolymers Production.

40 CFR 63.210 through 40 CFR 63.217

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart K - Reserved.

Subpart L - Coke Oven Batteries.

40 CFR 63.300 through 40 CFR 63.313

(existing by-product coke oven batteries at a coke plant, and existing nonrecovery coke oven batteries located at a coke plant)

Subpart M - Perchloroethylene Dry Cleaning Facilities.

40 CFR 63.320 through 40 CFR 63.325

(each dry cleaning facility that uses perchloroethylene)

Subpart N - Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

40 CFR 63.340 through 40 CFR 63.347

(each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing)

Subpart O - Ethylene Oxide Commercial Sterilization and Fumigation Operations.

40 CFR 63.360 through 40 CFR 63.367

(sterilization sources using ethylene oxide in sterilization or fumigation operations)

Subpart P - Reserved.

Subpart Q - Industrial Process Cooling Towers.

40 CFR 63.400 through 40 CFR 63.406

(industrial process cooling towers that are operated with chromium-based water treatment chemicals)

Subpart R - Gasoline Distribution Facilities.

40 CFR 63.420 through 40 CFR 63.429

(bulk gasoline terminals and pipeline breakout stations)

Subpart S - Pulp and Paper Industry.

40 CFR 63.440 through 40 CFR 63.458

(processes that produce pulp, paper, or paperboard, and use the following processes and materials: kraft, soda, sulfite, or semi-chemical pulping processes using wood; or mechanical pulping processes using wood; or any process using secondary or nonwood fibers)

Subpart T - Halogenated Solvent Cleaning.

40 CFR 63.460 through 40 CFR 63.469

(each individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses any solvent containing methylene chloride, perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, or chloroform)

Subpart U - Group I Polymers and Resins.

40 CFR 63.480 through 40 CFR 63.506

(elastomer product process units that produce butyl rubber, halobutyl rubber, epichlorohydrin elastomers, ethylene propylene rubber, Hypalon™, neoprene, nitrile butadiene rubber, nitrile butadiene latex, polysulfide rubber, polybutadiene rubber/styrene butadiene rubber by solution, styrene butadiene latex, and styrene butadiene rubber by emulsion)

Subpart V - Reserved.

Subpart W - Epoxy Resins Production and Non-Nylon Polyamides Production.

40 CFR 63.520 through 40 CFR 63.527

(manufacturers of basic liquid epoxy resins and wet strength resins)

Subpart X - Secondary Lead ~~Smelting~~ Smelting.

40 CFR 63.541 through 40 CFR ~~63.550~~ 60.552

(at all secondary lead smelters: blast, reveratory, rotary, and electric smelting furnaces; refining kettles; agglomerating furnaces; dryers; process fugitive sources; and fugitive dust sources)

Subpart Y - Marine Tank Vessel Tank Loading Operations.

40 CFR 63.560 through 40 CFR 63.567

(marine tank vessel unloading operations at petroleum refineries)

Subpart Z - Reserved.

Subpart AA - Phosphoric Acid Manufacturing Plants.

40 CFR 63.600 through 40 CFR 63.610

(wet-process phosphoric acid process lines, evaporative cooling towers, rock dryers, rock calciners, superphosphoric acid process lines, purified acid process lines)

Subpart BB - Phosphate Fertilizers Production Plants.

40 CFR 63.620 through 40 CFR 63.631

(diammonium and monoammonium phosphate process lines, granular triple superphosphate process lines, and granular triple superphosphate storage buildings)

Subpart CC - Petroleum Refineries.

40 CFR 63.640 through 40 CFR 63.654

(storage tanks, equipment leaks, process vents, and wastewater collection and treatment systems at petroleum refineries)

Subpart DD - Off-Site Waste and Recovery Operations.

40 CFR 63.680 through 40 CFR 63.697

(operations that treat, store, recycle, and dispose of waste received from other operations that produce waste or recoverable materials as part of their manufacturing processes)

Subpart EE - Magnetic Tape Manufacturing Operations.

40 CFR 63.701 through 40 CFR 63.708

(manufacturers of magnetic tape)

Subpart FF - Reserved.

Subpart GG - Aerospace Manufacturing and Rework Facilities.

40 CFR 63.741 through 40 CFR 63.752

(facilities engaged in the manufacture or rework of commercial, civil, or military aerospace vehicles or components)

Subpart HH - Oil and Natural Gas Production Facilities.

40 CFR 63.760 through 40 CFR 63.779

(facilities that process, upgrade, or store hydrocarbon liquids or natural gas; ancillary equipment and compressors intended to operate in volatile hazardous air pollutant service)

Subpart II - Shipbuilding and Ship Repair (Surface Coating).

40 CFR 63.780 through 40 CFR 63.788

(shipbuilding and ship repair operations)

Subpart JJ - Wood Furniture Manufacturing Operations.

40 CFR 63.800 through 40 CFR 63.819

(finishing materials, adhesives, and strippable spray booth coatings; storage, transfer, and application of coatings and solvents)

Subpart KK - Printing and Publishing Industry.

40 CFR 63.820 through 40 CFR 63.831

(publication rotogravure, product and packaging rotogravure, and wide-web printing processes)

Subpart LL - Primary Aluminum Reduction Plants.

40 CFR 63.840 through 40 CFR 63.859

(each pitch storage tank, potline, paste production plant, or anode bulk furnace associated with primary aluminum production)

Subpart MM - Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semicheical Pulp Mills.

40 CFR 63.860 through 40 CFR 63.868

(chemical recovery systems, direct and nondirect contact evaporator recovery furnace systems, lime kilns, sulfite combustion units, semicheical combustion units)

Subpart NN - Reserved.

Subpart OO - Tanks--Level 1.

40 CFR 63.900 through 40 CFR 63.907

(for off-site waste and recovery operations, fixed-roof tanks)

Subpart PP - Containers.

40 CFR 63.920 through 40 CFR 63.928

(for off-site waste and recovery operations, containers)

Subpart QQ - Surface Impoundments.

40 CFR 63.940 through 40 CFR 63.948

(for off-site waste and recovery operations, surface impoundment covers and vents)

Subpart RR - Individual Drain Systems.

40 CFR 63.960 through 40 CFR 63.966

(for off-site waste and recovery operations, inspection and maintenance of individual drain systems)

Subpart SS - Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.

40 CFR 63.980 through 40 CFR 63.999

(closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process, when associated with facilities subject to a referencing subpart)

Subpart TT - Equipment Leaks - Control Level 1.

40 CFR 63.1000 through 40 CFR 63.1018

(control of air emissions from equipment leaks when associated with facilities subject to a referencing subpart)

Subpart UU - Equipment Leaks - Control Level 2.

40 CFR 63.1019 through 40 CFR 63.1039

(control of air emissions from equipment leaks when associated with facilities subject to a referencing subpart: pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, closed vent systems and control devices)

Subpart VV - Oil-Water Separators and Organic-Water Separators.

40 CFR 63.1040 through 40 CFR 63.1049

(for off-site waste and recovery operations, oil-water separators and organic-water separator roofs and vents)

Subpart WW - Storage Vessels (Tanks) - Control Level 2.

40 CFR 63.1060 through 40 CFR 63.1066

(storage vessels associated with facilities subject to a referencing subpart)

Subpart XX - Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste.

40 CFR 63.1080 through 40 CFR 63.1098

(any cooling tower system or once-through cooling water system)

Subpart YY - Generic Maximum Achievable Control Technology Standards.

40 CFR 63.1100 through 40 CFR 63.1113

(acetal resins production, acrylic and modacrylic fibers production, hydrogen fluoride production, polycarbonate production)

Regulations

Subpart ZZ - Reserved.

Subpart AAA - Reserved.

Subpart BBB - Reserved.

Subpart CCC - Steel Pickling - Hydrogen Chloride Process Facilities and Hydrochloric Acid Regeneration Plants.

40 CFR 63.1155 through 40 CFR 63.1174

(steel pickling facilities that pickle carbon steel using hydrochloric acid solution, hydrochloric acid regeneration plants)

Subpart DDD - Mineral Wool Production.

40 CFR 63.1175 through 40 CFR 63.1199

(cupolas and curing ovens at mineral wool manufacturing facilities)

Subpart EEE - Hazardous Waste Combustors.

40 CFR 63.1200 through 40 CFR 63.1221

(hazardous waste combustors)

Subpart FFF - Reserved.

Subpart GGG - Pharmaceutical Production.

40 CFR 63.1250 through 40 CFR 63.1261

(pharmaceutical manufacturing operations)

Subpart HHH - Natural Gas Transmission and Storage Facilities.

40 CFR 63.1270 through 40 CFR 63.1289

(natural gas transmission and storage facilities that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user)

Subpart III - Flexible Polyurethane Foam Production.

40 CFR 63.1290 through 40 CFR 63.1309

(flexible polyurethane foam or rebond processes)

Subpart JJJ - Group IV Polymers and Resins.

40 CFR 63.1310 through 40 CFR 63.1335

(facilities which manufacture acrylonitrile butadiene styrene resin, styrene acrylonitrile resin, methyl methacrylate butadiene styrene resin, polystyrene resin, poly(ethylene terephthalate) resin, or nitrile resin)

Subpart KKK - Reserved.

Subpart LLL - Portland Cement Manufacturing.

40 CFR 63.1340 through 40 CFR 63.1359

(kilns; in-line kilns/raw mills; clinker coolers; raw mills; finish mills; raw material dryers; raw material, clinker, or finished product storage bins; conveying system transfer points; bagging systems; bulk loading or unloading systems)

Subpart MMM - Pesticide Active Ingredient Production.

40 CFR 63.1360 through 40 CFR 63.1369

(pesticide active ingredient manufacturing process units, waste management units, heat exchange systems, and cooling towers)

Subpart NNN - Wool Fiberglass Manufacturing.

40 CFR 63.1380 through 40 CFR 63.1399

(glass melting furnaces, rotary spin wool fiberglass manufacturing lines producing bonded wool fiberglass building insulation or bonded heavy-density product)

Subpart OOO - Amino/Phenolic Resins Production.

40 CFR 63.1400 through 40 CFR 63.1419

(unit operations, process vents, storage vessels, equipment subject to leak provisions)

Subpart PPP - Polyether Polyols Production.

40 CFR 63.1420 through 40 CFR 63.1439

(polyether polyol manufacturing process units)

Subpart QQQ - Primary Copper Smelting.

40 CFR 63.1440 through 40 CFR 63.1-1459

(batch copper converters, including copper concentrate dryers, smelting furnaces, slag cleaning vessels, copper converter departments, and the entire group of fugitive emission sources)

Subpart RRR - Secondary Aluminum Production.

40 CFR 63.1500 through 40 CFR 63.1520

(scrap shredders; thermal chip dryers; scrap dryers/delacquering kilns/decoating kilns; group 2, sweat, dross-only furnaces; rotary dross coolers; processing units)

Subpart SSS - Reserved.

Subpart TTT - Primary Lead Smelting.

40 CFR 63.1541 through 40 CFR 63.1550

(sinter machines, blast furnaces, dross furnaces, process fugitive sources, fugitive dust sources)

Subpart UUU - Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

40 CFR 63.1560 through 40 CFR 63.1579

(petroleum refineries that produce transportation and heating fuels or lubricants, separate petroleum, or separate, crack, react, or reform an intermediate petroleum stream, or recover byproducts from an intermediate petroleum stream)

Subpart VVV - Publicly Owned Treatment Works.

40 CFR 63.1580 through 40 CFR 63.1595

(intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment)

Subpart WWW - Reserved.

Subpart XXX - Ferroalloys Production: Ferromanganese and Silicomanganese.

40 CFR 63.1620 through 40 CFR 63.1679

(submerged arc furnaces, metal oxygen refining processes, crushing and screening operations, fugitive dust sources)

Subpart YYY - Reserved.

Subpart ZZZ - Reserved.

Subpart AAAA - Municipal Solid Waste Landfills.

40 CFR 63.1930 through 40 CFR 63.1990

(municipal solid waste landfills that have accepted waste since November 8, 1987, or have additional capacity for waste deposition)

Subpart BBBB - Reserved.

Subpart CCCC - Manufacturing of Nutritional Yeast.

40 CFR 63.2130 through 40 CFR 63.2192

(fermentation vessels)

Subpart DDDD - Plywood and Composite Wood Products.

40 CFR 63.2230 through 40 CFR 63.2292

(manufacture of plywood and composite wood products by bonding wood material or agricultural fiber with resin under heat and pressure to form a structural panel or engineered wood product)

Subpart EEEE - Organic Liquids Distribution (Nongasoline).

40 CFR 63.2330 through 40 CFR 63.2406

(transfer of noncrude oil liquids or liquid mixtures that contain organic hazardous air pollutants, or crude oils downstream of the first point of custody, via storage tanks, transfer racks, equipment leak components associated with pipelines, and transport vehicles)

Subpart FFFF - Miscellaneous Organic Chemical Manufacturing.

40 CFR 63.2430 through 40 CFR 63.2550

(reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment that are used to produce a product or isolated intermediate)

Subpart GGGG - Solvent Extraction for Vegetable Oil Production.

40 CFR 63.2830 through 40 CFR 63.2872

(vegetable oil production processes)

Subpart HHHH--Wet-formed Fiberglass Mat Production.

40 CFR 63.2980 through 63.3079

(wet-formed fiberglass mat drying and curing ovens)

Subpart IIII - Surface Coating of Automobiles and Light-Duty Trucks.

40 CFR 63.3080 through 40 CFR 63.3176.

(application of topcoat to new automobile or new light-duty truck bodies or body parts)

Subpart JJJJ - Paper and Other Web Coating.

40 CFR 63.3280 through 40 CFR 63.3420

(web coating lines engaged in the coating of metal webs used in flexible packaging and in the coating of fabric

substrates for use in pressure-sensitive tape and abrasive materials)

Subpart KKKK - Surface Coating of Metal Cans.

40 CFR 63.3480 through 40 CFR 63.3561

(application of coatings to a substrate using spray guns or dip tanks, including one- and two-piece draw and iron can body coating; sheetcoating; three-piece can body assembly coating; and end coating)

Subpart LLLL - Reserved.

Subpart MMMM - Surface Coating of Miscellaneous Metal Parts and Products.

40 CFR 63.3880 through 40 CFR 63.3981

(application of coatings to industrial, household, and consumer products)

Subpart NNNN - Surface Coating of Large Appliances.

40 CFR 63.4080 through 40 CFR 63.4181

(surface coating of a large appliance part or product, including cooking equipment; refrigerators, freezers, and refrigerated cabinets and cases; laundry equipment; dishwashers, trash compactors, and water heaters; and HVAC units, air-conditioning, air-conditioning and heating combination units, comfort furnaces, and electric heat pumps)

Subpart OOOO - Printing, Coating, and Dyeing of Fabrics and Other Textiles.

40 CFR 63.4280 through 40 CFR 63.4371

(printing, coating, slashing, dyeing, or finishing of fabric and other textiles)

Subpart PPPP - Surface Coating of Plastic Parts and Products.

40 CFR 63.4480 through 40 CFR 63.4581

(application of coating to a substrate using spray guns or dip tanks, including motor vehicle parts and accessories for automobiles, trucks, recreational vehicles; sporting and recreational goods; toys; business machines; laboratory and medical equipment; and household and other consumer products)

Subpart QQQQ - Surface Coating of Wood Building Products.

40 CFR 63.4680 through 40 CFR 63.4781

(finishing or laminating of wood building products used in the construction of a residential, commercial, or institutional building)

Subpart RRRR - Surface Coating of Metal Furniture.

40 CFR 63.4880 through 40 CFR 63.4981

(application of coatings to substrate using spray guns and dip tanks)

Subpart SSSS - Surface Coating of Metal Coil.

40 CFR 63.5080 through 40 CFR 63.5209

Regulations

- (organic coating to surface of metal coil, including web unwind or feed sections, work stations, curing ovens, wet sections, and quench stations)
- Subpart TTTT - Leather Finishing Operations.
40 CFR 63.5280 through 40 CFR 63.5460
(multistage application of finishing materials to adjust and improve the physical and aesthetic characteristics of leather surfaces)
- Subpart UUUU - Cellulose Products Manufacturing.
40 CFR 63.5480 through 40 CFR 63.5610
(cellulose food casing, rayon, cellulosic sponge, cellophane manufacturing, methyl cellulose, hydroxypropyl methyl cellulose, hydroxypropyl cellulose, hydroxyethyl cellulose, and carboxymethyl cellulose manufacturing industries)
- Subpart VVVV - Boat Manufacturing.
40 CFR 63.5680 through 40 CFR 63.5779
(resin and gel coat operations, carpet and fabric adhesive operations, aluminum recreational boat surface coating operations)
- Subpart WWWW - Reinforced Plastic Composites Production.
40 CFR 63.5780 through 40 CFR 63.5935
(reinforced or nonreinforced plastic composites or plastic molding compounds using thermostat resins and gel coats that contain styrene)
- Subpart XXXX - Rubber Tire Manufacturing.
40 CFR 63.5980 through 40 CFR 63.6015
(production of rubber tires and components including rubber compounds, sidewalls, tread, tire beads, tire cord and liners)
- Subpart YYYYY - Stationary Combustion Turbines.
40 CFR 63.6080 through 40 CFR 63.6175
(simple cycle, regenerative/recuperative cycle, cogeneration cycle, and combined cycle stationary combustion turbines)
- Subpart ZZZZ - Stationary Reciprocating Internal Combustion Engines.
40 CFR 63.6580 through 40 CFR 63.6675.
(any stationary internal combustion engine that uses reciprocating motion to convert heat energy into mechanical work)
(NOTE: Authority to enforce provisions related to affected facilities located at a major source as defined in 40 CFR 63.6675 is being retained by the Commonwealth. Authority to enforce the area source provisions of the above standard is being retained by EPA. The provisions of this subpart as they apply to area sources are not incorporated by reference into these regulations)
- Subpart AAAAA - Lime Manufacturing Plants.
40 CFR 63.7080 through 40 CFR 63.7143.
(manufacture of lime product, including calcium oxide, calcium oxide with magnesium oxide, or dead burned dolomite, by calcination of limestone, dolomite, shells or other calcareous substances)
- Subpart BBBBB - Semiconductor Manufacturing.
40 CFR 63.7180 through 40 CFR 63.7195
(semiconductor manufacturing process units used to manufacture p-type and n-type semiconductors and active solid-state devices from a wafer substrate)
- Subpart CCCCC - Coke Ovens: Pushing, Quenching, and Battery Stacks.
40 CFR 63.7280 through 40 CFR 63.7352
(pushing, soaking, quenching, and battery stacks at coke oven batteries)
- Subpart DDDDD - Industrial, Commercial, and Institutional Boilers and Process Heaters.
40 CFR 63.7480 through 40 CFR 63.7575
(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)
- Subpart EEEEE - Iron and Steel Foundries.
40 CFR 63.7680 through 40 CFR 63.7765
(metal melting furnaces, scrap preheaters, pouring areas, pouring stations, automated conveyor and pallet cooling lines, automated shakeout lines, and mold and core making lines)
- Subpart FFFFF - Integrated Iron and Steel Manufacturing.
40 CFR 63.7780 through 40 CFR 63.7852
(each sinter plant, blast furnace, and basic oxygen process furnace at an integrated iron and steel manufacturing facility)
- Subpart GGGGG - Site Remediation.
40 CFR 63.7880 through 40 CFR 63.7957
(activities or processes used to remove, destroy, degrade, transform, immobilize, or otherwise manage remediation material)
- Subpart HHHHH - Miscellaneous Coating Manufacturing.
40 CFR 63.7980 through 40 CFR 63.8105
(process vessels; storage tanks for feedstocks and products; pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks and transfer racks)
- Subpart IIIII - Mercury Cell Chlor-Alkali Plants.
40 CFR 63.8180 through 40 CFR 63.8266
(byproduct hydrogen streams, end box ventilation system vents, and fugitive emission sources associated with cell

rooms, hydrogen systems, caustic systems, and storage areas for mercury-containing wastes)

Subpart JJJJ - Brick and Structural Clay Products Manufacturing.

40 CFR 63.8380 through 40 CFR 63.8515

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart KKKKK - Ceramics Manufacturing.

40 CFR 63.8530 through 40 CFR 63.8665

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart LLLLL - Asphalt Processing and Asphalt Roof Manufacturing.

40 CFR 63.8680 through 40 CFR 63.8698

(preparation of asphalt flux at stand-alone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities)

Subpart MMMMM - Flexible Polyurethane Foam Fabrication Operations.

40 CFR 63.8780 through 40 CFR 63.8830

(flexible polyurethane foam fabrication plants using flame lamination or loop slitter adhesives)

Subpart NNNNN - Hydrochloric Acid Production.

40 CFR 63.8980 through 40 CFR 63.9075

(HCl production facilities that produce a liquid HCl product)

Subpart OOOOO - Reserved.

Subpart PPPPP - Engine Test Cells and Stands.

40 CFR Subpart 63.9280 through 40 CFR 63.9375

(any apparatus used for testing uninstalled stationary or uninstalled mobile (motive) engines)

Subpart QQQQQ - Friction Materials Manufacturing Facilities.

40 CFR 63.9480 through 40 CFR 63.9579

(friction materials manufacturing facilities that use a solvent-based process)

Subpart RRRRR - Taconite Iron Ore Processing.

40 CFR 63.9580 through 40 CFR 63.9652

(ore crushing and handling, ore dryer stacks, indurating furnace stacks, finished pellet handling, and fugitive dust)

Subpart SSSSS - Refractory Products Manufacturing.

40 CFR 63.9780 through 40 CFR 63.9824

(manufacture of refractory products, including refractory bricks and shapes, monolithics, kiln furniture, crucibles, and other materials for liming furnaces and other high temperature process units)

Subpart TTTTT - Primary Magnesium Refining.

40 CFR 63.9880 through 40 CFR 63.9942

(spray dryer, magnesium chloride storage bin scrubber, melt/reactor system, and launder off-gas system stacks)

Subpart UUUUU - ~~Reserved~~ Coal-fired and Oil-fired Electric Utility Steam Generating Units.

40 CFR 63.9980 through 40 CFR 63.10042

(any furnace, boiler, or other device used for combusting fuel for the purpose of producing steam, including fossil fuel-fired steam generators associated with integrated gasification combined cycle gas turbines and excluding nuclear steam generators, for the purpose of powering a generator to produce electricity or electricity and other thermal energy)

Subpart VVVVV - Reserved.

Subpart WWWW - Hospital Ethylene Oxide Sterilizer Area Sources.

40 CFR 63.10382 through 40 CFR 63.10448

(any enclosed vessel that is filled with ethylene oxide gas or an ethylene oxide/inert gas mixture for the purpose of sterilization)

Subpart XXXXX - Reserved.

Subpart YYYYY - Electric Arc Furnace Steelmaking Facility Area Sources.

40 CFR 63.10680 through 40 CFR 63.10692

(a steel plant that produces carbon, alloy, or specialty steels using an electric arc furnace)

Subpart ZZZZZ - Iron and Steel Foundries Area Sources.

40 CFR 63.10880 through 40 CFR 63.10906

(a facility that melts scrap, ingot, and/or other forms of iron and/or steel and pours the resulting molten metal into molds to produce final or near final shape products for introduction into commerce)

Subpart AAAAA - Reserved.

Subpart BBBBB - Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, Area Sources.

40 CFR 63.11080 through 40 CFR 63.11100

(gasoline storage tanks, gasoline loading racks, vapor collection-equipped gasoline cargo tanks, and equipment components in vapor or liquid gasoline service)

Subpart CCCCC - Gasoline Dispensing Facilities, Area Sources.

40 CFR 63.11110 through 40 CFR 63.11132

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart DDDDD - Polyvinyl Chloride and Copolymers Production Area Sources.

40 CFR 63.11140 through 40 CFR 63.11145

Regulations

(plants that produce polyvinyl chloride or copolymers)
Subpart EEEEEEE - Primary Copper Smelting Area Sources.
40 CFR 63.11146 through 40 CFR 63.11152
(any installation or any intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques)
Subpart FFFFFFF - Secondary Copper Smelting Area Sources.
40 CFR 63.11153 through 40 CFR 63.11159
(a facility that processes copper scrap in a blast furnace and converter or that uses another pyrometallurgical purification process to produce anode copper from copper scrap, including low-grade copper scrap)
Subpart GGGGGG - Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.
40 CFR 63.11160 through 40 CFR 63.11168
(cadmium melting furnaces used to melt cadmium or produce cadmium oxide from the cadmium recovered in the zinc production; primary beryllium production facilities engaged in the chemical processing of beryllium ore to produce beryllium metal, alloy, or oxide, or performing any of the intermediate steps in these processes; and primary zinc production facilities engaged in the production, or any intermediate process in the production, of zinc or zinc oxide from zinc sulfide ore concentrates through the use of pyrometallurgical techniques)
Subpart HHHHHH - Paint Stripping and Miscellaneous Surface Coating Operations Area Sources.
40 CFR 63.11169 through 40 CFR 63.11180
(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)
Subpart IIIIII - Reserved.
Subpart JJJJJJ - Industrial, Commercial, and Institutional Boiler Area Sources.
40 CFR 63.11193 through 40 CFR 63.11226
(NOTE: Authority to enforce the above standard is being retained by EPA and is not incorporated by reference into these regulations.)
Subpart KKKKKK - Reserved.
Subpart LLLLLL - Acrylic and Modacrylic Fibers Production Area Sources.
40 CFR 63.11393 through 40 CFR 63.11399
(production of either of the following synthetic fibers composed of acrylonitrile units: acrylic fiber or modacrylic fiber)
Subpart MMMMMM - Carbon Black Production Area Sources.
40 CFR 63.11400 through 40 CFR 63.11406
(carbon black production process units including all waste management units, maintenance wastewater, and

equipment components that contain or contact HAP that are associated with the carbon black production process unit)
Subpart NNNNNN - Chemical Manufacturing Area Sources: Chromium Compounds.
40 CFR 63.11407 through 40 CFR 63.11413
(any process that uses chromite ore as the basic feedstock to manufacture chromium compounds, primarily sodium dichromate, chromic acid, and chromic oxide)
Subpart OOOOOO - Flexible Polyurethane Foam Production and Fabrication Area Sources.
40 CFR 63.11414 through 40 CFR 63.11420
(a facility where pieces of flexible polyurethane foam are cut, bonded, and/or laminated together or to other substrates)
Subpart PPPPPP - Lead Acid Battery Manufacturing Area Sources.
40 CFR 63.11421 through 40 CFR 63.11427
(grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and any other lead-emitting operation that is associated with the lead acid battery manufacturing plant)
Subpart QQQQQQ - Wood Preserving Area Sources.
40 CFR 63.11428 through 40 CFR 63.11434
(pressure or thermal impregnation of chemicals into wood to provide effective long-term resistance to attack by fungi, bacteria, insects, and marine borers)
Subpart RRRRRR - Clay Ceramics Manufacturing Area Sources.
40 CFR 63.11435 through 40 CFR 63.11447
(manufacture of pressed tile, sanitaryware, dinnerware, or pottery with an atomized glaze spray booth or kiln that fires glazed ceramic ware)
Subpart SSSSSS - Glass Manufacturing Area Sources.
40 CFR 63.11448 through 40 CFR 63.11461
(manufacture of flat glass, glass containers, or pressed and blown glass by melting a mixture of raw materials to produce molten glass and form the molten glass into sheets, containers, or other shapes)
Subpart TTTTTT - Secondary Nonferrous Metals Processing Area Sources.
40 CFR 63.11462 through 40 CFR 63.11474
(all crushing and screening operations at a secondary zinc processing facility and all furnace melting operations located at any secondary nonferrous metals processing facility)
Subpart UUUUUU - Reserved.
Subpart VVVVVV - Chemical Manufacturing Area Sources.

40 CFR 63.11494 through 40 CFR 11503

(each chemical manufacturing process unit that uses as feedstocks, generates as byproducts, or produces as products any of the following: 1,3-butadiene; 1,3-dichloropropene; acetaldehyde; chloroform; ethylene dichloride; methylene chloride; hexachlorobenzene; hydrazine; quinoline; or compounds of arsenic, cadmium, chromium, lead, manganese, or nickel)

Subpart WWWW - Plating and Polishing Operations, Area Sources.

40 CFR 63.11504 through 40 CFR 63.11513

(new and existing tanks, thermal spraying equipment, and mechanical polishing equipment used in non-chromium electroplating, electroless or non-electrolytic plating, non-electrolytic metal coating, dry mechanical polishing, electroforming, and electropolishing)

Subpart XXXXXX - Nine Metal Fabrication and Finishing Source Categories, Area Sources.

40 CFR 63.11514 through 40 CFR 63.11523

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart YYYYYY - Ferroalloys Production Facilities, Area Sources.

40 CFR 63.11524 through 40 CFR 63.11543

(manufacture of silicon metal, ferrosilicon, ferrotitanium using the aluminum reduction process, ferrovanadium, ferromolybdenum, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, calcium carbide or other ferroalloy products using electrometallurgical operations including electric arc furnaces or other reaction vessels)

Subpart ZZZZZZ - Aluminum, Copper, and Other Nonferrous Foundries, Area Sources.

40 CFR 63.11544 through 40 CFR 63.11558

(melting operations at aluminum, copper, and other nonferrous foundries, including the collection of induction, reverberatory, crucible, tower, or dry hearth furnaces used to melt metal ingot, alloyed ingot and/or metal scrap to produce molten metal that is poured into molds to make castings)

Subpart AAAAAA - Asphalt Processing and Asphalt Roofing Manufacturing Area Sources.

40 CFR 63.11559 through 40 CFR 63.11567

(asphalt processing operations that prepare asphalt flux at standalone asphalt processing facilities, petroleum refineries, and asphalt roofing facilities that include one or more asphalt flux blowing stills; and asphalt roofing manufacturing operations that manufacture asphalt roofing

products through a series of sequential process steps depending upon whether the type of substrate used is organic or inorganic)

SubpartBBBBBB - Chemical Preparations Industry Area Sources.

40 CFR 63.11579 through 40 CFR 63.11588

(any facility-wide collection of chemical preparation operations, including the collection of mixing, blending, milling, and extruding equipment used to manufacture chemical preparations that contain metal compounds for chromium, lead, manganese, and nickel)

SubpartCCCCC - Paints and Allied Products Manufacturing Area Sources.

40 CFR 63.11599 through 40 CFR 63.11638

(paints and allied products manufacturing processes, including, weighing, blending, mixing, grinding, tinting, dilution or other formulation, as well as cleaning operations, material storage and transfer, and piping)

SubpartDDDDDD - Prepared Feeds Manufacturing Area Sources.

40 CFR 63.11619 through 40 CFR 63.11638

(production of animal feed from the point in the process where a material containing chromium or manganese is added, to the point where the finished product leaves the facility, including areas where materials containing chromium and manganese are stored, areas where materials containing chromium and manganese are temporarily stored prior to addition to the feed at the mixer, mixing and grinding processes, pelleting and pellet cooling processes, packing and bagging processes, crumblers and screens, bulk loading operations, and all conveyors and other equipment that transfer feed materials)

SubpartEEEEEE - Gold Mine Ore Processing and Production Area Sources

40 CFR 63.11640 through 40 CFR 63.11653

(any industrial facility engaged in the processing of gold mine ore that uses any of the following processes: roasting operations, autoclaves, carbon kilns, preg tanks, electrowinning, mercury retorts, or melt furnaces)

SubpartFFFFFF - Reserved.

SubpartGGGGGG - Reserved.

SubpartHHHHHH - Polyvinyl Chloride and Copolymers Production.

40 CFR 63.11860 through 40 CFR 63.12000

(facility-wide collection of PVCPU, storage vessels, heat exchange systems, surge control vessels, wastewater and process wastewater treatment systems that are associated with producing polyvinyl chloride and copolymers)

Appendix A - Test Methods.

Appendix B - Sources Defined for Early Reduction Provisions.

Regulations

Appendix C - Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit.

Appendix D - Alternative Validation Procedure for EPA Waste and Wastewater Methods.

V.A.R. Doc. No. R13-3398; Filed December 11, 2012, 1:26 p.m.

VIRGINIA WASTE MANAGEMENT BOARD

Forms

Title of Regulation: **9VAC20-81. Solid Waste Management Regulations.**

Contact Information: Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, email debra.harris@deq.virginia.gov.

NOTICE: Forms used in administering the following regulation have been filed by the Virginia Waste Management Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (9VAC20-81)

[Annual Report QA/QC Submission Checklist, DEQ Form ARSC-01 \(rev. 7/11\).](#)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement, DEQ Form DISC-01 \(rev. 7/12\).](#)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement - Key Personnel, DEQ Form DISC-02 \(rev. 7/12\).](#)

[Solid Waste Management Facility Disclosure Statement - Quarterly Update, DEQ Form DISC-03 \(rev. 7/12\).](#)

[Request for Certification \(Local Government\), DEQ Form SW-11-1 \(rev. 7/11\).](#)

[Special Waste Disposal Request, DEQ Form SWDR \(rev. 1/12\).](#)

[Solid Waste Part A Application, DEQ Form SW PTA \(rev. 3/11\).](#)

[Solid Waste Disposal Facility Part B Application, DEQ Form SW PTB \(rev. 3/11\).](#)

~~[Solid Waste Information and Assessment Program Reporting Table, DEQ Form 50-25 \(rev. 12/11\).](#)~~

~~[Instructions for Completing Form DEQ 50-25 \(rev. 12/11\).](#)~~

[Solid Waste Information and Assessment Program - Reporting Table, Form DEQ 50-25 \(rev. 11/12\).](#)

[Statement of Economic Benefits and Instructions for Completing Form DEQ 50-25 \(rev. 12/12\).](#)

[Exempt Yard Waste Composting Annual Report, DEQ Form YW-2 \(rev. 7/11\).](#)

[Exempt Yard Waste Compost Facility – Notice of Intent and Certification, DEQ Form YW-3 \(rev. 7/11\).](#)

[Exempt Yard Waste & Herbivorous Manures Compost Facility – Notice of Intent and Certification, DEQ Form YW-4 \(rev. 7/11\).](#)

V.A.R. Doc. No. R13-3526; Filed December 20, 2012, 2:16 p.m.

Forms

Title of Regulation: **9VAC20-90. Solid Waste Management Permit Action Fees and Annual Fees.**

Contact Information: Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, email debra.harris@deq.virginia.gov.

NOTICE: Forms used in administering the following regulation have been filed by the Virginia Waste Management Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (9VAC20-90)

~~[Solid Waste Information and Assessment Program Reporting Table, DEQ Form 50-25 \(rev. 12/11\).](#)~~

~~[Instructions for Completing Form DEQ 50-25 \(rev. 12/11\).](#)~~

[Solid Waste Information and Assessment Program Reporting Table, Form DEQ 50-25 \(rev. 11/12\).](#)

[Statement of Economic Benefits and Instructions for Completing Form DEQ 50-25 \(rev. 12/12\).](#)

[Solid Waste Annual Fee Quarter Payment Form PF001 \(rev. 8/12\).](#)

V.A.R. Doc. No. R13-3541; Filed December 20, 2012, 2:18 p.m.



TITLE 12. HEALTH

BOARD OF HEALTH

Notice of Extension of Emergency Regulation

Titles of Regulations: **12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12VAC5-410-10, 12VAC5-410-60).**

12VAC5-412. Regulations for Licensure of Abortion Facilities (adding 12VAC5-412-10 through 12VAC5-412-380).

Statutory Authority: § 32.1-127 of the Code of Virginia.

Effective Dates: December 29, 2011, through June 29, 2013.

On December 27, 2012, the Governor approved the State Board of Health's request to extend the expiration date of the

above-referenced emergency regulations as provided in § 2.2-4011 D of the Code of Virginia. The emergency regulation was published in 28:10 V.A.R. 914-925 January 16 2012. (<http://register.dls.virginia.gov/vol28/iss10/v28i10.pdf>). The Board of Health approved the emergency regulations on September 15, 2011. Following approval by the Governor, the emergency regulations became effective on December 29, 2011. The Department of Health presented proposed permanent regulations to the Board of Health on June 15, 2012. However, the regulations as approved by the board were not certified by the Office of the Attorney General. The Department of Health presented revised proposed permanent regulations to the Board of Health on September 13, 2012. The board approved the revised proposed regulations, which were then certified by the Office of the Attorney General. Due to the fact that it took longer than originally planned for the board to approve permanent proposed regulations that were certified by the Office of the Attorney General, additional time is needed in order to complete final permanent regulations. Consequently, the Department of Health requested that the emergency regulations for licensure of abortion facilities be extended for six months. The expiration date of the emergency regulation is extended to June 29, 2013.

Agency Contact: Joe Hilbert, Director of Governmental and Regulatory Affairs, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7006, FAX (804) 864-7022, or email joe.hilbert@vdh.virginia.gov.

V.A.R. Doc. No. R12-2970; Filed December 27, 2012, 2:11 p.m.

◆ ————— ◆

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

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

Title of Regulation: **20VAC5-305. Rules for Electricity and Natural Gas Submetering and for Energy Allocation Equipment (amending 20VAC5-305-10, 20VAC5-305-20, 20VAC5-305-50, 20VAC5-305-60, 20VAC5-305-70, 20VAC5-305-90, 20VAC5-305-110; adding 20VAC5-305-95).**

Statutory Authority: §§ 12.1-13 and 56-245.3 of the Code of Virginia.

Effective Date: January 1, 2013.

Agency Contact: Brian Beckman, Assistant Utility Analyst, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 225-3267, FAX (804) 371-9350, or email brian.beckman@scc.virginia.gov.

Summary:

Chapter 338 of the 2012 Acts of Assembly directs the State Corporation Commission to promulgate regulations and standards for the installation of submetering equipment or energy allocation equipment at campgrounds for the purpose of fairly allocating the cost of electrical or natural gas consumption for each guest to use such equipment. The amendments include the use of submetering and energy allocation equipment for electricity and natural gas at campgrounds and, among other things, provide general requirements for the use of such equipment at campgrounds and for the billing of campsite tenants for actual measured usage of electricity and natural gas. The only change from the proposed version of the regulation is the insertion of provisions to address the potential pipeline safety implications of natural gas distribution to and throughout campgrounds.

AT RICHMOND, DECEMBER 12, 2012

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2012-00084

Ex Parte: In the matter concerning rules for electricity and natural gas submetering and for energy allocation equipment at campgrounds

ORDER ADOPTING REGULATIONS

On August 6, 2012, the State Corporation Commission ("Commission") initiated a rulemaking required by Chapter 338 of the 2012 Acts of Assembly ("Acts"). Through these Acts, the Virginia General Assembly directed the Commission to promulgate regulations and standards for the installation of submetering equipment or energy allocation equipment at campgrounds for the purpose of fairly allocating the cost of electrical or natural gas consumption for each guest using such equipment.

The Commission's August 6, 2012 Order for Notice and Comment ("August 6, 2012 Order") set out proposed rules ("Proposed Rules") that had been prepared by the Staff of the Commission ("Staff") after conferring informally with representatives of electric and natural gas utilities in the Commonwealth and the Virginia Campground Association ("VCA"). The August 6, 2012 Order also provided that public notice of the Proposed Rules be given so as to afford any interested persons or entities an opportunity to comment formally on the Proposed Rules, to request a hearing thereon, or to propose modifications or supplements to the Proposed Rules.

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Notice of the proceeding was published in the Virginia Register on August 27, 2012, and in newspapers of general circulation throughout the Commonwealth.¹ Interested persons were directed to file any comments or hearing requests on or before October 1, 2012.

Comments in this proceeding were submitted by: the VCA,² Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP"), and Columbia Gas of Virginia, Inc. ("CGV"). The Commission did not receive a request for a hearing on the Proposed Rules.

In its comments, DVP suggested two modifications to the Proposed Rules. First, DVP recommended adding language to the definition of "Master meter" in 20 VAC 5-305-10 to provide that "[t]he Master meter is the point at which the Utility's facilities and responsibilities end."³ Second, DVP recommended that 20 VAC 5-305-20 be modified to remove the requirement that owners installing submetering or energy allocation equipment notify the utility providing electric service of the installation within ninety days of the installation.⁴

CGV stated in its comments that it is supportive of the Proposed Rules "to the extent that the Proposed Rules address the fair allocation of the cost of electrical or natural gas consumption for each customer billed through such equipment."⁵ CGV recommended additional provisions to 20 VAC 5-305-20 to "address potential safety concerns associated with the introduction of natural gas submetering or energy allocation equipment in the context of campgrounds and campsites."⁶ Specifically, CGV requested that the following text be included as the next to last paragraph in 20 VAC 5-305-20:

Natural gas submetering and energy allocation equipment, including related piping and materials, for which the owner is responsible shall be installed, operated and maintained by the owner in conformity with all municipal, state and federal requirements and with the National Fuel Gas Code. The nature and conditions of such equipment shall be such as not to endanger life or property. In addition, the owner shall install only such equipment as is suitable for operation with the character of gas supplied by the utility. If these conditions are violated, the utility may refuse service or discontinue service without notice until the owner conforms its equipment to the foregoing specifications.⁷

As directed by the August 6, 2012 Order, the Staff filed a report ("Staff Report") on October 15, 2012, in which the Staff reviewed the comments on the Proposed Rules. According to the Staff, DVP's modification to the definition of "Master meter" in 20 VAC 5-305-10 "goes beyond the scope of this proceeding and modifies tariffs more appropriately addressed in a biennial rate review."⁸ Regarding DVP's proposed modification to 20 VAC 5-305-20, the Staff noted that the proposed change would affect all electric utilities providing service within Virginia and, "[w]hile DVP

states that it does not need notice of the installation of submetering and energy allocation equipment, other electric utilities may not share DVP's position."⁹ The Staff recommended that the Commission decline to adopt DVP's suggested modifications to the Proposed Rules.

Addressing CGV's proposed revisions, the Staff concluded that CGV's safety concerns are adequately addressed in the first sentence of the suggested revision. Staff stated that it did not object to the first sentence of CGV's modification and recommended that, if the provision is adopted, a reference to § 56-257.2 of the Code of Virginia be included, as follows:

Natural gas submetering and energy allocation equipment, including related piping and materials, for which the owner is responsible shall be installed, operated and maintained by the owner in conformity with all municipal, state and federal requirements, including but not limited to § 56-257.2, and with the National Fuel Gas Code.¹⁰

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed regulations as revised and set forth in the Staff Report should be adopted. We further find that these regulations should be made effective as of January 1, 2013.

Accordingly, IT IS ORDERED THAT:

(1) The Commission's Regulations regarding Rules for Electricity and Natural Gas Submetering and for Energy Allocation Equipment, 20 VAC 5-305-10 et seq., are hereby adopted as shown in Appendix A to this Order and shall become effective as of January 1, 2013.

(2) A copy of these regulations as set out in Appendix A of this Order shall be forwarded to the Registrar of Regulations for publication in the Virginia Register.

(3) There being nothing further to come before the Commission, this case hereby is dismissed from the Commission's docket of active causes, and the papers filed herein shall be placed in the Commission's file for ended causes.

AN ATTESTED COPY hereof shall be delivered by the Clerk of the Commission to: William H. Baxter, Esquire, Dominion Resources Services, 120 Tredegar Street, Richmond, Virginia 23219; James S. Copenhagen, Assistant General Counsel, NiSource Inc., 1809 Coyote Drive, Chester, Virginia 23836; and David Gorin, Virginia Campground Association, P.O. Box 9928, McLean, Virginia 22102. A copy hereof shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.

¹ See Memoranda from Laura S. Martin of the Commission's Division of Information Resources filed in this docket on August 29, 2012, and August 30, 2012.

² The VCA's comments were supportive of the Proposed Rules and did not suggest any modifications thereto.

³ Comments of DVP at 3.

⁴Id.

⁵ Comments of CGV at 1.

⁶ Id. (emphasis original).

⁷ Id. at 3.

⁸ Staff Report at 2.

⁹ Id. at 3.

¹⁰ Id. at 4.

20VAC5-305-10. Definitions.

Certain words as used in this chapter shall be understood to have the following meaning:

"Apartment house" means a building or buildings with the primary purpose of residential occupancy containing more than two dwelling units all of which are rented primarily for nontransient use, with rental paid at intervals of one week or longer. Apartment house includes residential condominiums and cooperatives whether rented or owner-occupied.

"Building" means all of the individual units served through the same utility-owned meter within an apartment house, office building, or shopping center as defined in this section.

"Campground" means and includes but is not limited to a travel trailer camp, recreation camp, family campground, camping resort, camping community, or any other area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements. "Campground" does not include a summer camp, migrant labor camp, or park for mobile homes as defined in §§ 32.1-203 and 35.1-1 of the Code of Virginia, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing sanitary facilities within the individual owner's property lines.

"Campsite" means and includes any plot of ground within a campground used or intended for occupation by the camping unit.

"Commission" means the State Corporation Commission of Virginia.

"Dwelling" means a room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities.

"Energy allocation equipment" means any device, other than submetering equipment, used to determine approximate electric or natural gas usage for any dwelling unit ~~or~~, nonresidential rental unit, or campsite within an apartment house, office building, ~~or shopping center, or campground.~~

"Energy unit" means the billing units for energy delivered to the master-metered customer. For electricity, the units are generally kilowatt hours (Kwh). For natural gas, the units are generally therms, but may be dekatherms (Dth), cubic feet

(cf), hundreds of cubic feet (Ccf), or thousands of cubic feet (Mcf).

"Master meter" means a meter used to measure for billing purposes, all electric or natural gas usage of an apartment house, office building, ~~or shopping center, or campground,~~ including common areas, common facilities, and dwelling or rental units therein.

"Month" or "monthly" means the period between two consecutive meter readings, either actual or estimated, at approximately ~~thirty (30) days of~~ 30-day intervals.

"Nonresidential rental unit" means a room or rooms in which retail or commercial services, clerical work, or professional duties are carried out.

"Office building" means a building or buildings containing more than two rental units which are rented primarily for retail, commercial, or professional use, with rental paid at intervals of one month or longer.

"Owner" means any owner, operator, or manager of an apartment house, office building, ~~or shopping center, or campground~~ engaged in electrical or natural gas submetering or the use of energy allocation equipment.

"Owner-paid areas" means those areas for which the owner bears financial responsibility for energy costs which include but are not limited to areas outside individual residential or nonresidential units or in owner-occupied or - shared areas such as maintenance shops, vacant units, meeting units, meeting rooms, offices, swimming pools, laundry rooms, or model apartments.

"Shopping center" means a building or buildings containing more than two stores which are rented primarily for commercial, retail, or professional use.

"Submeter" means electric energy or natural gas measurement device used in submetering.

"Submetering" means dwelling or rental unit electrical or natural gas direct remetering performed by the owner to measure the tenant's electrical or natural gas usage and to render a bill for such usage.

"Submetering equipment" means equipment used to measure actual electricity or natural gas usage in any dwelling unit ~~or~~, nonresidential rental unit, or campsite when such equipment is not owned or controlled by the electric or natural gas utility serving the apartment house, office building, ~~or shopping center, or campground~~ in which the dwelling unit ~~or~~, nonresidential rental unit, or campsite is located.

"Tenant" means the occupant or occupants of a submetered dwelling ~~or~~, rental unit, or campsite.

"Utility" means the supplier of electric service or natural gas service to a master meter.

20VAC5-305-20. General requirements.

Submetering or energy allocation equipment may not be used in any dwelling unit unless all dwelling units in the

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apartment house utilize such equipment to the extent permitted by the physical facilities.

Any individual nonresidential rental unit ~~or, store, or campground~~ may utilize submetering or energy allocation equipment, provided the rental agreement or lease between the owner and the tenant clearly states that the nonresidential rental unit ~~or, store, or campsite~~ is or will be using submetering or energy allocation equipment.

All rental agreements and leases between the owner and the tenants shall clearly state that the dwelling unit ~~or non-residential, nonresidential~~ rental unit, or campsite utilizes submetering or energy allocation equipment, that the basis of bills for electric or natural gas consumption will be rendered based on readings of such equipment, and that any disputes relating to the amount of the tenant's bill and the accuracy of the equipment will be between the tenant and the owner. ~~The~~ Where applicable, the provisions of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq. of the Code of Virginia) will govern the landlord-tenant relationship concerning the use of submetering or energy allocation equipment on all related issues other than those covered by these rules.

Each owner shall be responsible for providing, installing, sealing (if necessary), and maintaining all submetering or energy allocation equipment necessary for the measurement or allocation of the costs for electrical energy or natural gas consumed by tenants.

Any electric submeter installed will be of a type and class to register properly the electrical consumption of the dwelling unit ~~or, nonresidential rental unit, or campsite~~, and such meter will meet the standards of ~~the latest edition of~~ the American National Standards Institute, Inc., Standard ~~C12- C12.1-2008~~ Code for Electricity Metering (ANSI ~~C12~~) C12.1.

Any natural gas submeter installed will be of a type and class to register properly the natural gas consumption of the dwelling ~~or, nonresidential rental unit, or campsite~~, and such meter will meet the standards of ~~the latest edition of~~ the American National Standard Institute Standards ANSI/ASC ANSI B109.1 (2000) and B109.2 (2000) for Diaphragm Type Gas Displacement Meters and ANSI/ASC ANSI B109.3 (2000) for Rotary Type Gas Displacement Meters (hereafter, ANSI ~~B-109~~ B109).

Any energy allocation equipment installed will be of a type and class appropriate to the heating, ventilation, and air conditioning (HVAC) system of the apartment house, office building, ~~or~~ shopping center, or campground and used in accordance with the manufacturer's installation specifications and procedures for such energy allocation equipment.

Any owner installing submetering or energy allocation equipment shall notify the ~~Commission~~ commission and the utility providing electric or natural gas service to the apartment house, office building, ~~or~~ shopping center, or campground in writing within 90 days of completion of such installation that the equipment has been installed and shall

give the name of the apartment house, office building, ~~or~~ shopping center, or campground; number of dwelling units ~~or, nonresidential rental units, or campsites~~ in the project; location; mailing address of the owner; the approximate date of installation of the equipment; and the ~~type(s)~~ type, ~~manufacturer(s)~~ manufacturer, and model ~~number(s)~~ number of such equipment.

[Natural gas submetering and energy allocation equipment, including related piping and materials, for which the owner is responsible shall be installed, operated, and maintained by the owner in conformity with all municipal, state, and federal requirements, including but not limited to § 56-257.2 of the Code of Virginia, and with the 2006 edition of the National Fuel Gas Code.]

No building or buildings which qualify as an apartment house, office building, or shopping center shall be excluded from ~~these rules~~ this chapter because the apartment house, office building, or shopping center contains a mixture of dwelling units and nonresidential rental units.

20VAC5-305-50. Energy allocation.

Energy allocation equipment may be used solely to allocate the cost of electric or natural gas service among tenants using the apartment house, office building, ~~or~~ shopping center, or campground.

Energy allocation systems should provide a reasonable determination of energy use and resulting costs for each dwelling unit ~~or, nonresidential rental unit, or campsite~~. The energy allocation system should be appropriate for the HVAC system application. Components should be properly installed to assure correct measurements of allocation parameters. There should be proper calculation procedures in converting from measurement to allocation.

Energy allocation equipment in service may be tested by the owner, the ~~Commission~~ commission, or any other lawfully constituted authority having jurisdiction. Testable components of the energy allocation system should be accurate, consistent with manufacturer's specifications. The ~~Commission~~ commission may, by order, require that energy allocation equipment meet other independent, authoritative technical standards or operational guidelines, such as standards developed under the auspices of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE).

20VAC5-305-60. Testing capability and metering equipment.

Each owner shall engage a qualified expert or factory representative to perform the equipment tests required by these terms and conditions; such tests being performed with instruments, portable standards, reference manuals, and other equipment and facilities all of which shall comply with standards of ANSI ~~C12~~ C12.1 or ANSI B109 for submetering equipment, and with manufacturer's recommended practices for energy allocation equipment. All such practices shall be

available at all reasonable times for inspection by the ~~Commission's~~ commission's representatives.

20VAC5-305-70. Periodic tests and checks.

Each owner shall have a testing program the primary purpose of which is to maintain an acceptable degree of accuracy during the service life of the equipment. All submetering equipment shall be tested in accordance with the provisions of ~~the latest edition of~~ ANSI ~~C12~~ C12.1 or ANSI B109. All energy allocation equipment shall be tested in accordance with manufacturer's suggested testing procedures and practices for such equipment.

No submeter shall be placed in service until its percentage registration has been established. This may be accomplished either through the engagement of a qualified expert or by a certificate provided by the manufacturer. All submeters shall be adjusted as close as possible to the condition of 100% registration. No electric submeter that exceeds the test calibration limits for watt-hour meters as set forth by ~~the latest edition of~~ ANSI ~~C12~~ C12.1 shall be placed in service or left in service. No natural gas submeter that exceeds the test calibration limits for meters as set forth by ~~the latest edition of~~ ANSI B109 shall be placed in service or left in service.

Whenever a submeter is found to exceed these limits, it shall be adjusted.

Energy allocation equipment shall be adjusted to the manufacturer's specifications before being placed in service.

If any submetering or energy allocation equipment is removed from service or replaced by other equipment for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again.

The owner shall keep and maintain the following records:

1. A record of all submetering or energy allocation equipment, showing the equipment number and location (the tenant's address where installed or if in reserve) in the apartment house, office building, ~~or~~ shopping center, or campground.
2. The record of each test made shall show the identifying number of the equipment, the standard number and other necessary devices used, the date and kind of test made, by whom, the percentage registration at each load tested for submetering equipment, the accuracy level of the parameter measured by the energy allocation equipment, and sufficient data to permit verification of the calculations.
3. A record of all the portable standards and reference standards used to test equipment. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations of all standards shall be kept on file in the office of the owner.

The aforementioned records for each dwelling ~~or~~, nonresidential rental unit, or campsite shall be made

available, upon request, to the tenant of that unit during reasonable business hours at the resident manager's office or, if there is no resident manager, at the dwelling ~~or~~, nonresidential rental unit, or campsite of the tenant at the convenience of the owner and tenant. The owner of the building or campground may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

All records shall be made available to the ~~Commission~~ commission upon request.

20VAC5-305-90. Billing for apartment houses, office buildings, and shopping centers.

Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for more or less than that period. Bills shall be calculated and rendered as promptly as possible following receipt by the owner of the bill from the utility, but no later than 15 days after receipt of the utility's bill. The submetering or energy allocation equipment shall be read within three business days of the scheduled reading date of the utility's master meter.

For submetering, the unit of measurement shall be the energy unit as defined in 20VAC5-305-10. For energy allocation equipment, the units of measurement shall be those characteristics monitored by the allocation equipment.

The energy billed to any tenant shall be only the energy consumed within that dwelling or nonresidential rental unit and so measured or monitored by the equipment. The cost of energy used in owner-paid areas may only be recovered by the owner as provided in the last paragraph of this section, and may not be billed to any tenant as part of the billings rendered pursuant to this chapter and may not be measured through the dwelling or nonresidential rental unit submetering or energy allocation equipment. Where tenant lease agreements have made such provision, energy costs for usage consumed within the dwelling unit or nonresidential rental unit, that are not allocated by energy allocation equipment, may be allocated by the owner among the various tenants in the same proportions as the leased space square footage. These costs shall be listed separately from energy billings based on energy allocation equipment, and appropriately marked on the monthly tenant bills.

The owner shall render bills to the tenant in the same energy ~~unit(s)~~ unit or units as billed the owner by the utility.

The tenant's bills shall be calculated in the following manner:

After receipt of the electric or natural gas bill from the utility, by the owner, said owner shall divide the "total current charges" by the total number of energy units billed by the utility to determine the average cost in cents per energy unit. The average energy unit cost shall be multiplied by each tenant's energy unit consumption to obtain the tenant's monthly charges.

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For the purposes of computing the average cost per energy unit, the "total current charges" shall include/exclude the following, as applicable:

Include:

1. Customer, demand, commodity, and energy charges.
2. Fuel adjustment charge.
3. Purchased gas adjustment.
4. Local taxes.
5. Surcharges, i.e. interim rate relief, unrecovered deferred fuel, temporary energy surcharge.
6. Facilities charge.

Exclude:

- a. Miscellaneous charges, e.g. charges by the utility for late payments.
- b. Outdoor and security lighting charges.
- c. Merchandise charges.

The owner may impose a service charge in accordance with § 56-245.3 of the Code of Virginia per dwelling or ~~non-residential~~ nonresidential rental unit per month to offset the administrative cost of billing.

The tenant's bill shall show all of the following information:

1. The dates and readings of the submetering or energy allocation equipment at the beginning and at the end of the period for which the bill is rendered and the billing date.
2. The number of energy units consumed during the current billing period.
3. The average cost in cents per energy unit used in computing the bill.
4. The amount due for electricity or natural gas consumed, within the dwelling unit or nonresidential rental unit, the administrative service charge, if any, the balance forward, and the total amount due.
5. The name or address, or both, of the tenant to whom the bill is applicable.
6. The name of the firm rendering the tenant's bill and the name or title, address, and telephone number of the ~~person(s)~~ person or persons where payment can be made and, also, who to contact in the case of any questions or disputes concerning the bill.
7. A precise statement that the bill is not from the utility providing service to the apartment house, office building, or shopping center.

Bills will be mailed or delivered to the tenant's premises within three business days after the billing date.

Estimated bills shall not be rendered unless the meter or energy allocation equipment has been tampered with, is out of order, or access cannot be attained, and in such case, the bill shall be distinctly marked "~~estimated~~". "estimated." Such estimates shall be based upon one of the following:

~~A. 1.~~ On consumption or a similar billing period where the information of previous consumption is available; or

~~B. 2.~~ In the event that a tenant has not lived on the premises for one year and, therefore, consumption for a similar billing period is not available, the preceding billing period shall be used; or

~~C. 3.~~ If available, the average of the preceding two billing periods shall be used as a basis for estimates.

Adjustment to the tenant's bills shall be made under any of the following conditions:

~~(1) a.~~ Any billing errors due to incorrect readings or improper billing calculations discovered by the owner on his own initiative or discovered as a result of an investigation because of a question or a dispute by a tenant;:

~~(2) b.~~ It is determined that a cross-metering situation exists. The tenants involved will be rendered corrected bills to cover such period of time as the statute of limitations allows. If a tenant has been underbilled, he shall be allowed to make payment of the amount underbilled in equal monthly installments for as many months as the corrected bill covers, but for not more than 10 months, the entire amount underbilled being due upon termination of tenancy. If a tenant has been overbilled and is due a credit, if he wishes a cash refund, it shall be made, otherwise such credit shall be posted to the tenant's account;:

~~(3) c.~~ The utility adjusts the owner's bill; or

~~(4) Or as~~ d. As detailed in 20VAC5-305-40 (Submetering).

Nothing contained in ~~these rules~~ this chapter shall prohibit the owner from recovery in periodic lease payments the tenant's fair share of electricity or natural gas cost attributable to owner-paid areas and costs incurred in establishing and maintaining the submetering system or energy allocation equipment.

20VAC5-305-95. Billing for campgrounds.

Bills charged to a tenant shall be based upon the tenant's actual measured usage. For submetering, the unit of measurement shall be the energy unit as defined in 20VAC5-305-10. For energy allocation equipment, the units of measurement shall be those characteristics monitored by the allocation equipment.

The owner shall render bills to the tenant in the same energy unit or units as billed the owner by the utility.

The tenant's bills shall be calculated in the following manner: utilizing the most recent electric or natural gas bill from the utility to the owner, said owner shall divide the "total current charges" by the total number of energy units billed by the utility to determine the average cost in cents per energy unit. The average energy unit cost shall be multiplied by each tenant's energy unit consumption to obtain the tenant's charges.

For the purposes of computing the average cost per energy unit, the "total current charges" shall include or exclude the following, as applicable:

Include:

1. Customer, demand, commodity, and energy charges.
2. Fuel adjustment charge.
3. Purchased gas adjustment.
4. Local taxes.
5. Surcharges (i.e., interim rate relief, unrecovered deferred fuel, temporary energy surcharge).
6. Facilities charge.

Exclude:

- a. Miscellaneous charges (e.g., charges by the utility for late payments).
- b. Outdoor and security lighting charges.
- c. Merchandise charges.

The owner may impose a service charge in accordance with § 56-245.3 of the Code of Virginia.

The owner shall recalculate the average cost per energy unit each month based upon the most recent master meter bill received from the utility for the campground. The owner shall implement the new average cost per energy unit within five calendar days of the date the master meter bill is issued to the owner by the utility.

For service at campgrounds where an owner and a tenant have an agreement that clearly states that the campground is or will be using submetering or energy allocation equipment, meter readings for the assigned campsite shall be taken at the time a tenant registers to stay at the campground, and the owner shall provide each tenant a written statement when the tenant registers, stating:

1. That the energy used at the tenant's assigned campsite will be billed to the tenant;
2. A description of how the energy unit cost will be calculated; and
3. The initial meter reading for the assigned campsite.

Meter readings for the assigned campsite shall also be taken at the time of the tenant's checkout. The tenant may be billed at checkout for the tenant's actual electric or natural gas usage at the assigned campsite based upon the tenant's report of the meter reading or upon the owner's reading of the meter for the assigned campsite.

The tenant's bill shall be provided to the tenant at checkout. A tenant's bill shall contain the following:

1. The initial energy reading and date for the current billing period;
2. The final energy reading and date for the current billing period;
3. The applicable rate;
4. The amount due; and

5. A statement that payment is due immediately or the date on which payment is due.

On request of a tenant who has been or will be billed for energy usage, the owner shall show the tenant the master meter bill received from the utility for the campground that corresponds to the rates that the tenant has been or will be charged for the assigned campsite.

Estimated bills shall not be rendered unless the meter or energy allocation equipment has been tampered with, and in such case, the bill shall be distinctly marked "estimated." Such estimates shall be based upon previous consumption at the campsite during a similar billing period.

20VAC5-305-110. Initial and final bills.

1. Initial and final bills shall be rendered for the number of energy units actually consumed in the initial and final billing periods.

2. On the date possession is taken by a tenant of a dwelling or nonresidential rental unit, an initial reading will be taken from the submetering or energy allocation equipment serving such dwelling or nonresidential rental unit to commence service to that tenant. The initial reading will be subtracted from the next reading of the equipment taken on the regularly scheduled monthly reading dates on which other submetering or energy allocation equipment in the building is read, to determine the consumption during the initial billing period. The energy units consumed as determined in the above manner will be multiplied times the average energy unit cost which is determined for the computation of bills for all other tenants for the period ending with the regularly scheduled reading date of that month.

3. On the date a tenant gives up possession of a dwelling or nonresidential rental unit, a final reading will be taken from the submeter equipment serving such unit to terminate service to the tenant. The reading of the equipment taken on the last previous regularly scheduled monthly reading dates on which other submetering or energy allocation equipment in the building was last read will be subtracted from the final reading to determine the consumption during the final billing period. The energy units consumed or determined in the above manner will be multiplied times the average energy unit cost which is determined for the computation of bills for all other tenants for the regularly scheduled monthly reading date after the final reading. If the owner and tenant so agree in writing, the owner may use the average energy unit cost from the previous month when determining the amount due for the last month of tenancy.

The provisions in this section shall only be applicable to apartment houses, office buildings, and shopping centers. Bills for campgrounds shall be rendered as set forth in 20VAC5-305-95.

Regulations

DOCUMENTS INCORPORATED BY REFERENCE
(20VAC5-305)

ANSI C12.1-2008, American National Standard for Electric Meters Code for Electricity Metering, National Electrical Manufacturers Association, 1300 N. 17th Street, Suite 1752, Rosslyn, VA 22209 (<http://www.nema.org>).

ANSI B109.1, Diaphragm-Type Gas Displacement Meters (Under 500 Cubic Feet per Hour Capacity), June 2000, American Gas Association, 1400 N. Capitol Street, NW, Washington, DC 20001, telephone 1-800-699-9277 (<http://www.aga.org>).

ANSI B109.2, Diaphragm-Type Gas Displacement Meters (500 Cubic Feet per Hour Capacity and Over), June 2000, American Gas Association, 1400 N. Capitol Street, NW, Washington, DC 20001, telephone 1-800-699-9277 (<http://www.aga.org>).

ANSI B109.3, Rotary Type Gas Displacement Meters, June 2000, American Gas Association, 1400 N. Capitol Street, NW, Washington, DC 20001, telephone 1-800-699-9277 (<http://www.aga.org>).

[NFPA 54, National Fuel Gas Code, 2006 Edition, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471.]

V.A.R. Doc. No. R12-3224; Filed December 13, 2012, 2:00 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 56 (2012)

Governor's Taskforce on School and Campus Safety

Importance of the Initiative

In the aftermath of the heartbreaking tragedy that devastated Newtown, Connecticut, and the nation, Virginians stand united behind the families and friends of those affected by the loss of so many innocent lives. Indeed, the similarities between this horrific attack and the tragic 2007 shootings at Virginia Tech have left many in the Commonwealth searching for understanding, solutions, and ideas on how to prevent such violence in our country.

The impact of this recent event is not confined to Connecticut. Nor is the grief and outrage confined to Colorado, Arizona, Virginia, or to any other state that shares the burden of grieving for innocent victims lost at the hands of a depraved gunman or group that inexplicably chooses to take human lives en masse in a school, on a campus, or in a public forum.

Public safety is a primary responsibility of government - whether it is at the federal, state, or local level. In the aftermath of the shocking and senseless shootings at Sandy Hook Elementary School, I have asked all local and state leaders that play a role in school or campus safety to review the procedures, plans, policies, and resources dedicated to the safety of students, faculty, and the public. We owe it to our children and young people to provide safe and secure learning environments, and the recent tragedy highlights the timeliness of conducting another comprehensive review. Accordingly, this past Monday, I announced the formation of a plan to review school safety at all levels, and to identify gaps and critical resource needs at the state, local, school division, and college/university levels to ensure that we are doing everything humanly possible to keep our children, young people, educators, and administrators safe while they are in the classroom and on our campuses.

Virginia has already put into place many significant measures to combat violence in schools and to promote a safe learning environment. Sections 22.1-279.8 and 9.1-184 of the Code of Virginia establish the Virginia Center for School Safety (VCSS) and set forth specific requirements for training, crisis management, emergency response, and other preventative measures for situations that pose a threat of harm to students or school personnel. VCSS annually collects, analyzes, and publishes school safety data, including information from annual school safety audits. Moreover, the Department of Education regularly monitors data on violence and criminal acts in schools to identify those schools needing assistance to improve safety. Templates are provided for development of plans and technical assistance is available at the state level. We have also conducted extensive reviews of campus safety and our mental health system in 2007 and 2008 in the wake of

the Virginia Tech shootings, resulting in legislative reforms, administrative changes, and additional mental health funding. As Attorney General, I worked with Governor Kaine to develop these needed reforms.

We have seen the devastating effects that an individual with criminal intent or mental health problems can have on our citizens. Though the majority of individuals with mental illness are more likely to be victims of violence than the perpetrators, we must improve our ability to minimize any risk of harm to oneself or others resulting from serious mental illness and utilize mental health services to prevent violence before danger arises. This is an area that cannot be overlooked when addressing school and campus safety.

We have an obligation to all students, parents, educators, administrators, support staff, and every citizen of the Commonwealth of Virginia to provide the safest possible learning environment.

To accomplish this, in accordance with the authority vested in me by Article V of the Constitution of Virginia and by § 2.2-134 of the Code of Virginia, I hereby create the Governor's Task Force on School and Campus Safety.

Governor's Task Force on School and Campus Safety

The Task Force's responsibilities shall include the following:

- Evaluate school safety audits that have already been conducted and identify best practices that schools or divisions have implemented that would be helpful to all and review any audit findings that have not been addressed.
- Recommend improvements to K-12 school safety protocols and procedures to ensure an even safer learning environment.
- Identify ways to improve and expand the use of School Resource Officers and School Security Officers in Virginia's public schools.
- Recommend a mechanism for schools and localities to identify and share the best practices for improved school safety on an ongoing and continuing basis.
- Suggest additional resources, programs, or tools that the Virginia Center for School Safety or the Department of Education could make available to Virginia's local school divisions and schools.
- Identify any needed improvements to the school safety audit program to allow for better information gathering and sharing.
- Recommend needed improvements to campus safety policies or procedures at Virginia's public and private colleges, community colleges, and universities.

Governor

- Coordinate with the Mental Health Workgroup of the Task Force, described below, and review the Workgroup's recommendations.
- Examine current laws and regulations to identify gaps relating to school and campus safety and provide timely recommendations for legislative or budget amendments.
- Review the recommendations set forth in previous state and national reports and studies and provide strategies for implementation of relevant, realistic recommendations that would enhance school or campus safety.

Task Force Membership

The Task Force will be co-chaired by the Secretary of Education, the Secretary of Public Safety, and the Secretary of Health and Human Resources. The membership will include representatives from state agencies, law enforcement, other public safety professionals, public and private education leaders, health care leaders, and the private sector to collaborate on how to best provide a safer learning environment for our students. Members shall be appointed by and serve at the pleasure of the Governor.

Membership shall include the following individuals or their designees:

- Superintendent of Public Instruction;
- Director of the Virginia Center for School Safety;
- Superintendent of the Virginia Department of State Police;
- Director of the Department of Criminal Justice Services;
- Director of the Department of Juvenile Justice;
- Director of the Department of Emergency Management;
- The Attorney General of Virginia;
- The Commissioner of the Department of Behavioral Health and Developmental Services;
- The Commissioner of the Department of Health;
- Director of the State Council on Higher Education;
- At least six representatives of law enforcement or other first responders, to include a representative of School Resource Officers;
- A member of the Secure Commonwealth Panel;
- At least six representatives of elementary, secondary, and higher education, representing administrators, educators, counselors, and security personnel;
- One high school student at a Virginia school;
- One student attending a Virginia college or university;
- Two parents with at least one child currently in a Virginia school; and

- Two members of the House of Delegates and the Senate of Virginia.

The Governor may appoint other members as he deems necessary.

Mental Health Workgroup

I direct the Secretary of Health and Human Resources to convene a Mental Health Workgroup to evaluate Virginia's mental health system to recommend improvements for identification, intervention, and treatment of behavioral and mental disabilities with a focus on ways to prevent acts of violence. Given the significant medical and legal complexities associated with this law, the Attorney General of Virginia and the Secretary of Health and Human Resources shall co-chair this workgroup. Members of the workgroup shall be named by the Secretary of Health and Human Resources, bringing together experts from the mental health community. The work plan shall be devised by the Secretary of Health and Human Resources and presented at its first meeting. The workgroup shall make recommendations to the Task Force and present a copy of its recommendations to the Governor.

Task Force Staffing and Funding

Necessary staff support for the Task Force's work during its existence shall be furnished by the Office of the Governor, the Office of the Attorney General, and the Offices of the Secretary of Public Safety, Secretary of Education, and the Secretary of Health and Human Resources, as well as such other agencies and offices as designated by the Governor. An estimated 250 hours of staff time will be required to support the work of the Interagency Task Force.

Necessary funding to support the Commission and its staff shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Task Force, as authorized by Section 2.2-135 of the Code of Virginia, as well as any other private sources of funding that may be identified. Estimated direct costs for this Commission are \$1,000.00 per year.

The Task Force shall commence its work promptly and send initial recommendations no later than January 31, 2013. The Task Force shall make additional recommendations on an ongoing basis and shall provide a final report to the Governor no later than June 30, 2013. The Task Force shall issue such other reports and recommendations as necessary or as requested by the Governor. Due to the complex nature of the charge and the need for significant analysis, the Mental Health Workgroup, along with any other Workgroups of the Task Force, shall provide their recommendations no later than June 30, 2013.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and pursuant to § 2.2-135 of the Code of Virginia shall remain in force and effect for one year from its signing unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this twentieth day of December, 2012.

/s/ Robert F. McDonnell
Governor

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

December 13, 2012

Administrative Letter 2012-11

TO: All Companies Licensed under Chapter 10, 11, 12, 25, 26, 28, 40, 41, 42, 43, 46 or 51 of Title 38.2 or § 15.2-2700 et seq. or § 65.2-800 et seq. of the Code of Virginia

RE: Requirements for Reinsurers Applying to Qualify as Acceptable Reinsurers under § 38.2-1316.2 of the Code of Virginia

The provisions of this administrative letter, effective January 1, 2013, replace the provisions of Administrative Letter 1992-3.

During the 2012 General Assembly Session, the Virginia General Assembly enacted legislation that amended the requirements for reinsurers to qualify as an accredited, substantially similar, trustee (single assuming, association incorporated and individual unincorporated underwriters, or incorporated underwriters) or certified reinsurer. House Bill 1139, which amended Article 3.1 of Chapter 13 (§§ 38.2-1316.1 through 38.2-1316.8) of Title 38.2 of the Code of Virginia, provides that all cessions made under reinsurance agreements which have an inception, anniversary, or renewal date on or after January 1, 2013, will be subject to the amended requirements of Article 3.1.

In accordance with Article 3.1, a domestic insurer licensed in Virginia is allowed credit for a reinsurance transaction if the assuming insurer specifically qualifies under the amended provisions of Article 3.1. Additionally, the reinsurance agreement itself must satisfy the conditions set forth in 14 VAC 5-300-150 of the Virginia Administrative Code. Even if the assuming insurer is a qualified reinsurer and the reinsurance agreement satisfies the conditions of 14 VAC 5-300-150, credit shall be disallowed if there is any indication of financial statement distortion, or if the assuming insurer bears no substantial insurance risk or net loss to itself.

This letter sets forth basic criteria which the Bureau of Insurance ("Bureau") will use to determine whether a domestic ceding insurer may take credit pursuant to § 38.2-1316.2. It explains how an assuming insurer can be authorized in Virginia as an accredited, substantially similar, trustee (single assuming, association incorporated and individual unincorporated underwriters, or incorporated underwriters) or certified reinsurer. It also puts into context the responsibilities of ceding insurers licensed in Virginia in regard to their assuming insurers.

ASSUMING INSURER QUALIFICATIONS:

Reinsurers qualifying under § 38.2-1316.2 must satisfy minimum financial standards. When the ceding insurer is a domestic ceding insurer the assuming insurer may qualify under one of the following classifications:

A. Licensed in Virginia as an insurer in good standing (§ 38.2-1316.2 A 1).

B. Accredited in Virginia as an accredited reinsurer with surplus of at least \$20 million (§ 38.2-1316.2 A 2).

C. Licensed and domiciled in a state with credit for reinsurance laws substantially similar to Virginia's credit for reinsurance laws, and having surplus of at least \$20 million or a trustee surplus of \$20 million, in the case of a U.S. branch of an alien assuming insurer (§ 38.2-1316.2 A 3).

D. Recognition as a single assuming insurer with a qualifying trust account and trustee surplus of at least \$20 million (§ 38.2-1316.2 A 4 a and b).

E. Qualified participation in an association of incorporated and individual unincorporated underwriters with a qualifying trust account and trustee surplus of at least \$100 million (§ 38.2-1316.2 A 4 c).

F. Qualified participation in an experienced association of incorporated underwriters with aggregate policyholders' surplus of at least \$10 billion, a qualifying trust account, and a joint trustee surplus of at least \$100 million (§ 38.2-1316.2 A 4 d).

G. Certified in Virginia as a certified reinsurer:

1. With a surplus of at least \$250 million,
2. Domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, and
3. With acceptable financial strength ratings from two or more rating agencies.

Assuming insurers desiring to qualify as reinsurers under the above classifications may obtain the required forms from the Bureau's "Company Home" webpage at <http://www.scc.virginia.gov/boi/co/index.aspx>. The filing requirements are located under the "Licensing and Registration Procedures" link. The Certificate of Assuming Insurer, the Certificate of Certified Reinsurer, Form CR-F and Form CR-S (including instructions) are located under the "Information for Annual License Renewal and Financial Filings" link.

RESPONSIBILITIES OF THE CEDING INSURER

Ceding insurers are responsible for ensuring the validity of any credit reported on their financial statements. A ceding insurer should be able to assign each of its assuming insurers to one of the above classifications of qualifying reinsurers upon request. If the ceding insurer cannot identify its

assuming insurer as falling into one of the classifications cited above, the reinsurance transaction should be effected or secured in a manner that satisfies § 38.2-1316.4 1 or § 38.2-1316.4 2, respectively.

Questions concerning this administrative letter may be addressed to: Gregory T. Chew, Supervisor, Financial Analysis Section, Domestic Companies, Financial Regulation Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9214, or email gregory.chew@scc.virginia.gov.

/s/ Jacqueline K. Cunningham
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Consent Order for Brunswick County Industrial Development Authority

An enforcement action has been proposed for the Brunswick County Industrial Development Authority for alleged violations at the Meherrin jail sewage pump station located at Route 1 and Route 85 in Brunswick County, Virginia. The consent order requires corrective action and a civil charge. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Frank Lupini will accept comments by email at frank.lupini@deq.virginia.gov, FAX (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from January 14, 2013, to February 14, 2013.

Notice of Citizen Nomination of Surface Waters for Water Quality Monitoring

In accordance with § 62.1-44.19:5 F of the Code of Virginia, the Water Quality Monitoring Information and Restoration Act, the Virginia Department of Environmental Quality (DEQ) has developed guidance for requests from the public regarding specific segments that can be nominated for consideration to be included in the Virginia Department of Environmental Quality (DEQ's) annual Water Quality Monitoring Plan.

Any citizen of the Commonwealth who wishes to nominate a water body or stream segment for inclusion in DEQ's Water Quality Monitoring Plan should refer to the guidance in preparation and submittal of their requests. All nominations must be received by April 30, 2013, to be considered for the 2014 calendar year. Copies of the guidance document and nomination form are available online at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/CitizenMonitoring.aspx>.

Contact Information: Stuart Torbeck, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4461, or email stuart.torbeck@deq.virginia.gov.

Draft Water Quality Implementation Plan (IP) for the Chickahominy River and Tributaries Impaired for Bacteria In Hanover, Henrico, Charles City, and New Kent Counties and the City of Richmond

Public meeting: Mechanicsville Branch Library, 7461 Sherwood Crossing Place, Mechanicsville, VA 23111. Public meetings will be held on Thursday, February 7, 2013, at 2 p.m. and 6 p.m. Both meetings are open to the public. Afternoon and evening meetings will cover the same material. In the case of inclement weather please contact Margaret Smigo at (804) 527-5124.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) is announcing a draft Implementation Plan (IP) for the Chickahominy River and its tributaries, which are impaired for primary contact or swimming use due to water quality standard exceedances. The sources of bacteria and reductions necessary to meet the water quality standard and restore the impaired use were detailed in the total maximum daily load (TMDL) study, which was approved by EPA in September 2012. The TMDL is available on the DEQ website at

<http://www.deq.virginia.gov/portals/0/DEQ/Water/TMDL/apptmdls/jamesrvr/chickec.pdf>. The implementation plan is based on the reductions to bacteria identified in the TMDL.

Meeting description: Public meetings provide an opportunity for the public to share their knowledge of the watershed and learn about pollution affecting community waters. Meetings will feature a summary of information from the draft implementation plan, the Best Management Practices (BMPs) identified for reducing bacteria from sources, and the estimated costs of implementation. Those attending the meeting are invited to ask questions, contribute their knowledge of the watershed, and provide feedback during the public comment period.

Description of study: Virginia agencies have identified sources of bacteria in the waters of the Chickahominy River and its tributaries. The impaired waterways are:

Stream	County/City	Length (mi.)	Impairment
Stony Run	Hanover	0.21	Bacteria (Primary Contact/Swimming Use)
Beaverdam Creek	Hanover	6.69	
Chickahominy River	Henrico, Hanover	7.54	
Boatswain Creek	Hanover	3.76	

General Notices/Errata

Collins Run	Charles City County	4.50	
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These streams are impaired for failure to meet the Primary Contact (Recreational or Swimming) designated use due to exceedances of the bacteria water quality standard. The TMDL study reported on the sources of bacteria and recommended total maximum daily loads, or TMDLs. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacterial levels need to be reduced to the TMDL amount. The Implementation Plan (IP) utilizes the source information and reductions identified in the TMDL and recommends a series of watershed measures known as Best Management Practices (BMPs). BMPs can be implemented throughout the watershed in order to meet the TMDL bacteria reduction goals. The development of an IP requires the participation of watershed stakeholders at "working group" meetings to evaluate BMPs for the watersheds and the participation of a steering committee made up of working group members to guide the process. After the initiation of the IP development in May 2012, a government, residential, and agriculture workgroup each met to evaluate potential BMPs and costs in order to meet reduction goals set by the TMDL. The meeting minutes and handouts used during implementation planning are available on the DEQ website at [http://www.deq.virginia.gov/Programs/Water/WaterQualityInformation](http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationProgress.aspx)

TMDLs/TMDL/TMDLImplementation/TMDLImplementationProgress.aspx. The draft implementation plan will be available on the DEQ website one week prior to the public meeting at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationPlans.aspx>.

How a decision is made: After the public meeting and all public comments have been considered and addressed, DEQ will submit the final TMDL report to the State Water Control Board for approval.

How to comment: DEQ accepts written comments by email, FAX, or postal mail. Written comments should include the commenter's name, address, and telephone number and be received by DEQ during the comment period, which will begin on Friday, February 8, 2013, and end on Monday, March 11, 2013.

Contact for additional information: Margaret Smigo, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, or email margaret.smigo@deq.virginia.gov.

DEPARTMENT OF HEALTH

January 1, 2013

Drinking Water Construction Funding Workshops

VDH will offer funding informational meetings at six locations throughout the state. Attendance is on a first come basis and is limited to 50 people at each location.

Material will focus on Drinking Water Construction funding available through VDH. The Drinking Water State Revolving Loan Fund (DWSRF) Program and the Water Supply Assistance Grant Fund (WSAG) Program will be discussed. You will be asked for your specific suggestions and opinions.

You will be advised on program updates and then guided through program criteria, program applications, and the project scheduling steps needed for smooth project implementation.

If you plan to attend, please return the form below by February 1, 2013 so we may properly plan the meeting. You may mail it to Theresa Hewlett at the above address or fax at 804/864-7521. If you have any questions, please call Theresa Hewlett at 804/864-7501.

I (we) wish to attend the meeting indicated below: **NOTE THAT THE CHESTERFIELD WORKSHOP IS IN THE AFTERNOON!!**

- Danville** **9:00 a.m.-12:00 p.m., Wednesday, February 6, 2013 at the Pittsylvania/Danville Health District's Library, 326 Taylor Drive, 2nd Floor, Danville, VA.**
- Abingdon** **9:00 a.m.-12:00 p.m., Thursday, February 7, 2013 at the Southwest VA Higher Education Center, Room 240, Abingdon, VA**
- Lexington** **9:00 a.m.-12:00 p.m., Friday, February 8, 2013 at the Virginia Military Institute's Preston Library, Turman Room, Lexington, VA**
- Chesterfield** **9:00 a.m.-12:00 p.m., Tuesday, February 12, 2013 at the Chesterfield County Health Department's Multi-purpose Room, 9501 Lucy Corr Circle, Chesterfield, VA.**
- Suffolk Area** **9:00 a.m.-12:00 p.m., Wednesday, February 13, 2013 at the Town of Windsor's Municipal Building Counsel Chamber, 8 East Windsor Blvd., Windsor, VA. (Isle of Wight County)**
- Culpeper** **9:00 a.m.-12:00 p.m., Thursday, February 14, 2013 at the County of Culpeper's Board of Supervisors Room (rear entrance to Administration Bldg. and 3-hr. parking across the street), 302 North Main Street, Culpeper, VA**

There will be _____ person(s) in my party as follows:

Name	Address	Phone	Representing
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* * *

General Notices/Errata

JANUARY 1, 2013 - DRINKING WATER STATE REVOLVING FUNDS

The Department of Health (VDH) is pleased to announce several opportunities for funding drinking water infrastructure. Construction applications may be submitted year round. However, applications received after the due date stated below will be considered for funding in the following cycle. Funding is made possible by the Drinking Water State Revolving Fund (DWSRF) Program and the Water Supply Assistance Grant Fund (WSAG) Program (if funds are available). VDH anticipates a funding level of \$20 million. The FY 2014 DWSRF Intended Use Plan will be developed using public input on these issues.

(1) Construction Funds - Must be postmarked by April 1, 2013.

Private and public owners of community waterworks and nonprofit noncommunity waterworks are eligible to apply for construction funds. VDH makes selections based on criteria described in the DWSRF Program Design Manual, such as existing public health problems, noncompliance, affordability, regionalization, the availability of matching funds, etc. Readiness to proceed with construction is a key element. A Preliminary Engineering Report must be submitted if required by VDH. An instruction packet and Construction Project Schedule are included.

(2) Set-Aside Suggestion Forms - Must be postmarked by April 1, 2013.

Anyone has the opportunity to suggest new or continuing set-aside (nonconstruction) activities. Set-aside funds help VDH assist waterworks owners to prepare for future drinking water challenges and assure the sustainability of safe drinking water.

(3) 1452(k) Source Water Protection Initiatives - Must be postmarked by April 1, 2013.

This provision allows VDH to loan money for activities to protect important drinking water resources. Loan funds are available to: (1) community and nonprofit noncommunity waterworks to acquire land/conservation easements and (2) to community waterworks, only, to establish local, voluntary incentive-based protection measures.

(4) Planning and Design Grants - Must be postmarked by September 3, 2013.

Private and public owners of community waterworks are eligible to apply for these grant funds. Grants can be up to \$50,000 per project for small, financially stressed, community waterworks serving fewer than 10,000 persons. Eligible projects may include preliminary engineering planning, design of plans and specifications, performance of source water quality and quantity studies, drilling test wells to determine source feasibility, or other similar technical assistance projects. These funds could assist the

waterworks owner in future submittals for construction funds.

The VDH's DWSRF Program Design Manual describes the features of the above opportunities for funding. After receiving the aforementioned public input, VDH will develop a draft Intended Use Plan for public review and comment. When developed the draft Intended Use Plan will describe specific details for use of the funds. A public meeting is planned and written comments will be accepted before VDH submits a final version to the USEPA for approval.

Request applications, set-aside suggestion forms, Program Design Manuals and information from Steven Pellei, PE, FCAP Director, telephone (804) 864-7500, FAX (804) 864-7521, or postal mail Virginia Department of Health, Office of Drinking Water, 109 Governor Street, 6th Floor, Richmond, VA 23219. Any comments may be directed to Mr. Pellei. The materials are also accessible on the VDH website at <http://www.vdh.virginia.gov/odw/financial/dwfundingprogramdetails.htm>.

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JANUARY 1, 2013 - WATER SUPPLY ASSISTANCE GRANT FUNDING

The 1999 General Assembly created the Water Supply Assistance Grant Fund (WSAG) in § 32.1-171.2 of the Code of Virginia. The purpose of the WSAG is to make grant funds available to localities and owners of waterworks to assist in the provision of drinking water. The Virginia Department of Health does not anticipate WSAG funds being made available at the present time. If WSAG funds are made available VDH will implement the following WSAG requirements.

Funds are available by submitting an application postmarked on or before the dates indicated for the following:

(1) Small Project Construction Grants - Application must be postmarked by April 1, 2013.

Funding for small project construction may be available for projects whose total project cost does not exceed \$150,000. Eligible activities may include (but not be limited to): upgrade or construction of well or spring sources, waterlines, storage tanks, and treatment.

The applicant submits the current VDH construction application to VDH. To promote coordination of funding and streamline the process for applicants, grants are prioritized in accordance with rating criteria of the current DWSRF Program. For WSAG purposes only, up to 30 extra points are added to the VDH rating criteria relative to the Stress Index rank. Preference is given to community waterworks. This priority system ensures that all eligible acute or chronic health/SDWA compliance projects are funded before any other eligible project.

(2) Surface Water Development or Improvement Grants - Application must be postmarked by April 1, 2013.

Funding for community waterworks surface source water development or improvement activities. The application cannot exceed \$200,000. The applicant submits the current construction application to VDH. In ranking of applications, preference is given to those that address problems of small, community waterworks with multi-jurisdictional support. Eligible activities may include: land purchase, options to purchase land, general site development costs, and dam upgrade and construction.

(3) Planning and Design Grants - Application must be postmarked by September 3, 2013.

Funding for waterworks planning and design needs. The application cannot exceed \$50,000.

In ranking of applications, preference is given to those that address problems of small, community waterworks with multijurisdictional support. The applicant submits the current VDH planning and design application to VDH. To promote coordination of funding and streamline the process for applicants, grants are prioritized in accordance with rating criteria of the current DWSRF Program. For WSAG funding purposes only, up to 50 extra points are added to the DWSRF rating criteria relative to the Stress Index rank.

Eligible activities may include (but not be limited to): Capacity building activities addressing regionalization or consolidation, performance of source water quality and quantity studies, drilling test wells to determine source feasibility, income surveys, preliminary engineering planning, design and preparation of plans and specifications, or other similar technical assistance projects.

The VDH's WSAG Program Guidelines describes the features of the above opportunities for funding. Request the applications or program guidelines from Steve Pellei, PE, FCAP Director, telephone (804) 864-7500, FAX (804) 864-7521, or postal mail Virginia Department of Health, Office of Drinking Water, 109 Governor Street, 6th Floor, Richmond, VA 23219. The applications are also accessible on the VDH website at <http://www.vdh.virginia.gov/odw/financial/dwffundingprogramdetails.htm>.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on December 20, 2012. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

Director's Order Number One Hundred Eighteen (12)

Virginia Lottery's "Monopoly™" And More 2nd Chance Official Sweepstakes Requirements (effective December 20, 2012)

Director's Order Number One Hundred Twenty-One (12)

Virginia's Instant Game Lottery 1402 "EZ \$1040" Final Rules for Game Operation (effective December 6, 2012)

Director's Order Number One Hundred Thirty-Five (12)

Virginia's Instant Game Lottery 1384 "Money Bags" Final Rules for Game Operation (effective December 4, 2012)

Director's Order Number One Hundred Thirty-Seven (12)

Virginia's Instant Game Lottery 1399 "5X the Money" Final Rules for Game Operation (effective December 7, 2012)

Director's Order Number One Hundred Thirty-Nine (12)

Virginia's Instant Game Lottery 1370 "10X the Money" Final Rules for Game Operation (effective December 7, 2012)

Director's Order Number One Hundred Forty-Three (12)

Virginia's Instant Game Lottery 1387 "7-11-21®" Final Rules for Game Operation (effective December 7, 2012)

Director's Order Number One Hundred Forty-Four (12)

Virginia's Instant Game Lottery 1396 "Big Winning Numbers" Final Rules for Game Operation (effective December 7, 2012)

Director's Order Number One Hundred Forty-Five (12)

Virginia's Instant Game Lottery 1339 "Hot Chile Tripler" Final Rules for Game Operation (effective December 7, 2012)

VIRGINIA EMPLOYMENT COMMISSION

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Employment Commission is currently reviewing each of the regulations listed below to determine whether it should be terminated, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 14 (2010) and § 2.2-4007.1 of the Code of Virginia. Each regulation will be reviewed to determine whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

16VAC5-10, Definitions and General Provisions

16VAC5-20, Unemployment Taxes

16VAC5-32, Required Records and Reports

General Notices/Errata

16VAC5-42, Combined Employer Accounts

16VAC5-50, Employer Elections to Cover Multistate Workers

16VAC5-60, Benefits

16VAC5-70, Interstate and Multistate Claimants

16VAC5-80, Adjudication

The comment period begins January 14, 2013, and ends on March 6, 2013.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>.

Comments may also be sent to M. Coleman Walsh, Jr., Chief Administrative Law Judge, Virginia Employment Commission, 703 East Main Street, Room 126, Richmond, VA 23219, telephone (804) 786-7263, FAX (804) 786-9034, email coleman.walsh@vec.virginia.gov.

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

STATE WATER CONTROL BOARD

Proposed Consent Order for George's Foods, L.L.C.

An enforcement action has been proposed for George's Foods, L.L.C. for violations in Rockingham County. A proposed consent order describes a settlement to resolve unpermitted discharge violations from the Harrisonburg Food Mill facility. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from January 14, 2013, to February 13, 2013.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/cumultab.htm>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.