VIRGINIA REGISTER OF REGULATIONS

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VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE *VIRGINIA REGISTER*

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

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

PUBLICATION SCHEDULE AND DEADLINES

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

July 2015 through August 2016

Volume: Issue	Material Submitted By Noon*	Will Be Published On
31:23	June 24, 2015	July 13, 2015
31:24	July 8, 2015	July 27, 2015
31:25	July 22, 2015	August 10, 2015
31:26	August 5, 2015	August 24, 2015
32:1	August 19, 2015	September 7, 2015
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32:4	September 30, 2015	October 19, 2015
32:5	October 14, 2015	November 2, 2015
32:6	October 28, 2015	November 16, 2015
32:7	November 10, 2015 **(Tuesday)**	November 30, 2015
32:8	November 24, 2015 **(Tuesday)**	December 14, 2015
32:9	December 9, 2015	December 28, 2015
32:10	December 21, 2015 **(Monday)**	January 11, 2016
32:11	January 6, 2016	January 25, 2016
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32:15	March 2, 2016	March 21, 2016
32:16	March 16, 2016	April 4, 2016
32:17	March 30, 2016	April 18, 2016
32:18	April 13, 2016	May 2, 2016
32:19	April 27, 2016	May 16, 2016
32:20	May 11, 2016	May 30, 2016
32:21	May 25, 2016	June 13, 2016
32:22	June 8, 2016	June 27, 2016
32:23	June 22, 2016	July 11, 2016
32:24	July 6, 2016	July 25, 2016
32:25	July 20, 2016	August 8, 2016
32:26	August 3, 2016	August 22, 2016

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Initial Agency Notice

Title of Regulation: **18VAC60-20. Regulations Governing Dental Practice.**

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

Name of Petitioner: Terry Dickinson.

Nature of Petitioner's Request: To amend regulations for unprofessional conduct to adopt, by reference, the Principles of Ethics and Code of Professional Conduct of the American Dental Association.

Agency Plan for Disposition of Request: The petition will be published on July 13, 2015, in the Virginia Register of Regulations and also posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov to receive public comment ending August 12, 2015. The request to amend regulations and any comments for or against the petition will be considered by the board at its meeting scheduled for September 18, 2015.

Public Comment Deadline: August 12, 2015.

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

VA.R. Doc. No. R15-35; Filed June 11, 2015, 9:22 a.m.

Agency Decision

Title of Regulation: **18VAC60-20. Regulations Governing Dental Practice.**

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

Name of Petitioner: Mandepp Sood.

Nature of Petitioner's Request: Amend 18VAC60-20-60 to accept dental school programs accredited by Commission on Dental Accreditation of Canada (CDAC) since there is an existing reciprocal agreement between CDAC and Commission on Dental Accreditation of the American Dental Association (CODA) to bilaterally recognize programs that are accredited by either of these commissions.

Agency Decision: Request granted.

Statement of Reason for Decision: The petition and public comment, including a letter of support from CODA, were considered by the board on June 9, 2015. The board's decision was to amend its regulation by a fast-track action.

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

VA.R. Doc. No. R15-31; Filed June 15, 2015, 2:34 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Extension of Public Comment Period

Title of Regulation: **1VAC20-40. Voter Registration (amending 1VAC20-40-70).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

The State Board of Elections noticed a public comment period on amendments to the voter registration application regulation (1VAC20-40-70) and form (VA-NVRA-1) in the June 15, 2015, issue of the Virginia Register of Regulations (31:21 V.A.R. 1773-1774 June 15, 2015).

The proposed amendments address material and immaterial omissions from applications for voter registration and make changes to the state voter registration application form.

The board at its meeting on June 22, 2015, extended the public comment period to seek public comment on the proposed regulation amendments and form changes.

The public comment period has been extended to Monday August 3, 2015, using the Virginia Regulatory Town Hall website, http://www.townhall.virginia.gov. Please include the full name of the person commenting and any organization represented. In order to be considered, written comments must be submitted in the Town Hall online comment forum by 11:59 p.m. on August 3, 2015. Persons without Internet access wishing to comment please call Terry Wagoner, Accessibility Coordinator, Department of Elections, 1-800-260-3466 (ext. 8937) TTY: 711.

A public hearing will be held on July 28, 2015, at 8 a.m., Double Tree Hilton, James River Ball Room, 1024 Koger Center Boulevard, Richmond, VA 23235. Oral and written comments are accepted at public hearings.

The proposed form can be viewed at this link also appearing at the end of the proposed regulation text: Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 7/15).

Agency Contact: Martha Brissette, Policy Analyst, Department of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 371-0194, or email martha.brissette@elections.virginia.gov.

VA.R. Doc. No. R15-4128; Filed June 24, 2015, 8:41 a.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

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.

Title of Regulation: **4VAC20-70. Pertaining to the Harvesting of Clams (amending 4VAC20-70-20 through 4VAC20-70-50, 4VAC20-70-70, 4VAC20-70-80, 4VAC20-70-90; adding 4VAC20-70-135).**

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

Effective Date: July 1, 2015.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) establish the criteria for harvesting cultured hard clams by water rakes on leased ground and (ii) add clarifying language to the description of sections relating to hydraulic dredging on leased and public grounds.

4VAC20-70-20. Definitions.

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

"Bull rake" means a device designed for use by hand for the purpose of harvesting clams, and which has the following characteristics: rake mouth width shall not exceed 30 inches, the teeth on the bar shall not be longer than ~~4½~~ 4-1/2 inches, the holding basket shall not hold greater than ~~¾~~ 3/4 of a bushel of clams and bottom material, and the handle shall not be longer than 30 feet. A bull rake may be equipped with skids to adjust the teeth for depth of penetration into the bottom.

"Commission" means the Marine Resources Commission.

"Conventional dredge" means the type of dredge that has become customarily used in Virginia to dredge oysters and crabs. It excludes any type of dredge where the dredging action functions or is aided by hydraulic action.

"Conventional hard clam rake" means a device designed for use by hand for the purpose of harvesting clams, and which has the following characteristics: rake mouth width shall not exceed 16 inches, the teeth on the bar shall not be longer than seven inches, the attached holding basket shall not hold greater than ~~one-tenth~~ 1/10 of a bushel of clams and bottom material, and the handle shall not be longer than 10 feet.

"Cultured clams" means hard shell clams (Mercenaria mercenaria) that have been spawned in a hatchery, planted on leased ground, and covered with netting or other means protected from predators until harvest.

"Public ground" means the grounds defined by §§ 28.2-551 and 28.2-639 through 28.2-649 of the Code of Virginia, and any areas set aside as public ground by court order.

"Leased ground" means any grounds leased by the Marine Resources Commission pursuant to the provisions of Chapter 6 (§ 28.2-600 et seq.) of Title 28.2 of the Code of Virginia.

"Officer" means a law-enforcement officer of the Marine Resources Commission.

"Unassigned ground" means any ground outside the public ground as defined by this chapter and which has not been set aside, or assigned by lease, permit or easement by the Marine Resources Commission.

"Water rake" means a device for use by hand for the harvesting of cultured clams on leased grounds. The mouth of the water rake shall not exceed 36 inches in width, and the water rake shall be attached by a hose to a single pump engine of no greater than 7.5 horsepower and shall only be pulled by a single person, with no mechanical assistance.

Part II
Pertaining to the Taking or Catching of Soft Shell Clams from Leased Grounds

4VAC20-70-30. License required for use of a hydraulic dredge on leased ground.

A. It shall be unlawful to take or catch soft shell clams from any leased grounds in any of the tidal waters of the Commonwealth by the use of a hydraulic dredge without first obtaining (i) a soft shell clam dredge license for each boat used for such a purpose and (ii) a permit for each boat and operator thereof.

B. Any lessee desiring to take or catch soft shell clams from leased ground by the use of a hydraulic dredge shall apply to the officer in charge of the district, in writing, specifying the location and identity of the specific lease or leases where he desires to dredge and request the privilege to dredge the specific lease or leases.

C. Each application will be reviewed by the commission. The commission may conduct a public hearing on such application if, in its discretion, it is deemed necessary. If the commission deems it wise to permit dredging of soft shell clams within the area of such a lease, the commission engineers shall first approve the existing boundaries, survey and plat of each lease. Any surveying or marking of the lease which may be necessary shall be at the expense of the lessee, unless such survey shows that the leased ground was properly marked.

4VAC20-70-40. Additional permits required for use of a hydraulic dredge on leased ground.

A. After the license is issued by the officer in charge of the district and before the licensee may begin to operate the hydraulic dredge, the lessee shall obtain from the officer in charge of the district a separate and individual permit which combines the identification of each lease, boat, and the operator thereof. An additional permit shall be obtained from the officer in charge of the district each time there is any change in operations which does not comply with all provisions in the original permit.

B. The license and permit shall at all times be on board the boat available for inspection by any inspector of the commission.

4VAC20-70-50. Operation of a hydraulic dredge on leased ground.

A. It shall be unlawful to operate a hydraulic dredge in the nighttime between the hours of sunset and sunrise or on Sunday for the catching of soft shell clams from leased ground.

B. It shall be unlawful to operate a hydraulic dredge on any lease for less than three acres unless adjoining other leases where the combined leases total more than three acres.

C. It shall be unlawful to operate a hydraulic dredge on any leased ground unless the boundaries of the lease are distinctly marked between corners to the satisfaction of the officer in charge of the district. All such marking shall be continually maintained during the dredging operations.

4VAC20-70-70. License required for use of a hydraulic dredge on public ground.

A. It shall be unlawful for any person, other than an employee of the commission or the Virginia Institute of Marine Science while conducting tests or experiments, to take or catch soft shell clams from any public grounds in the tidal waters of the Commonwealth by the use of a dredge without first obtaining (i) a soft shell clam dredge license ~~as set forth in subsection E of this section~~ for each boat used for such purpose and (ii) a permit for each boat and operator thereof.

B. Any person desiring to take or catch soft shell clams from the public grounds by the use of a hydraulic dredge shall apply to the officer in charge of the district, in writing, describing the area and requesting the privilege to dredge the specific area.

C. Each application shall be reviewed by the commission. The commission shall conduct a public hearing to determine the suitability of the area for the production of oysters, and shall make such further investigations and studies as in its discretion it deems necessary. If the commission deems it wise to permit dredging of soft shell clams in such an area,

the area must be surveyed and marked by the commission before a license and permit is issued.

D. If the application is approved by the commission, no person shall have the exclusive use of the area for taking or catching soft shell clams by hydraulic dredge. The area shall be open to the general public for such a purpose provided each person obtains the necessary license and permit and complies with all other provisions of this chapter.

4VAC20-70-80. Additional permit required for use of a hydraulic dredge on public ground.

A. After the license is issued by the officer in charge of the district, and before the licensee may begin to operate the hydraulic dredge, the licensee shall obtain from the officer in charge of the district a separate and individual permit which combines the identification of the approved area, boat and the operator thereof. An additional permit shall be obtained from the officer in charge of the district each time there is any change in operations which does not comply with the provisions in the original permit.

B. The license and permit shall at all times be on board the boat available for inspection by any officer.

4VAC20-70-90. Operation of a hydraulic dredge on public ground.

It shall be unlawful to operate a hydraulic dredge in the nighttime between the hours of sunset and sunrise, or on Saturday or Sunday, for the catching of soft shell clams from public ground.

4VAC20-70-135. Water rakes.

A. It shall be unlawful for any person to purchase a water rake permit, unless that person is a valid clam aquaculture product owner permittee.

B. It shall be unlawful for any person to harvest or attempt to harvest cultured clams by water rake from leased ground without a water rake permit.

C. It shall be unlawful for any person to pull a water rake by any means, other than by hand, and it shall be unlawful for that person to use any mechanical assistance while harvesting or attempting to harvest cultured clams.

D. It shall be unlawful for any person to harvest or attempt to harvest cultured clams by water rake prior to sunrise or after sunset. It shall be unlawful for any person to leave the dock prior to one hour before sunrise, or return to the dock after sunset, on a boat with a water rake on that boat.

VA.R. Doc. No. R15-4419; Filed June 24, 2015, 11:19 a.m.

Final Regulation

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.

Title of Regulation: **4VAC20-1090. Pertaining to Licensing Requirements and License Fees (amending 4VAC20-1090-30).**

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

Effective Date: July 1, 2015.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendment adds a water rake permit fee of $24.00 for harvesting cultured clams by water rake.

4VAC20-1090-30. License fees.

The following listing of license fees applies to any person who purchases a license for the purposes of harvesting for commercial purposes, or fishing for recreational purposes, during any calendar year. The fees listed below include a $1.00 agent fee.

1. COMMERCIAL LICENSES	
Commercial Fisherman Registration License	$190.00
Commercial Fisherman Registration License for a person 70 years or older	$90.00
Delayed Entry Registration	$190.00
Delayed Entry Registration License for a person 70 years or older	$90.00
Seafood Landing License for each boat or vessel	$175.00
For each Commercial Fishing Pier over or upon subaqueous beds (mandatory)	$83.00
Seafood Buyer's License -- For each boat or motor vehicle	$63.00
Seafood Buyer's License -- For each place of business	$126.00
Clam Aquaculture Product Owner's Permit	$10.00
Oyster Aquaculture Product Owner's Permit	$10.00
Clam Aquaculture Harvester's Permit	$5.00

Oyster Aquaculture Harvester's Permit	$5.00
Nonresident Harvester's License	$444.00
2. OYSTER RESOURCE USER FEES	
Any licensed commercial fisherman harvesting oysters by hand	$50.00
For any harvester using one or more gear types to harvest oysters or for any registered commercial fisherman who solely harvests or possesses any bushel limit described in 4VAC20-720-80, only one oyster resource user fee, per year, shall be paid	$300.00
On any business shucking or packing no more than 1,000 gallons of oysters	$500.00
On any business shucking or packing more than 1,000 but no more than 10,000 gallons of oysters	$1,000.00
On any business shucking or packing more than 10,000 but no more than 25,000 gallons of oysters	$2,000.00
On any business shucking or packing more than 25,000 gallons of oysters	$4,000.00
On any oyster buyer using a single truck or location	$100.00
On any oyster buyer using multiple trucks or locations	$300.00
Commercial aquaculture operation, on riparian assignment or general oyster planting grounds	$50.00
3. OYSTER HARVESTING, SHUCKING, RELAY, AND BUYERS LICENSES	
Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with one boat or motor vehicle used for buying oysters	$50.00
Any person purchasing oysters caught from the public grounds of the Commonwealth or the Potomac River, for a single place of business with multiple boats or motor vehicles used for buying oysters	$100.00
For each person taking oysters by hand, or with ordinary tongs	$10.00
For each single-rigged patent tong boat taking oysters	$35.00
For each double-rigged patent tong boat taking oysters	$70.00
Oyster Dredge Public Ground	$50.00
Oyster Hand Scrape	$50.00
To shuck and pack oysters, for any number of gallons under 1,000	$12.00
To shuck and pack oysters, for 1,000 gallons, up to 10,000	$33.00
To shuck and pack oysters, for 10,000 gallons, up to 25,000	$74.00
To shuck and pack oysters, for 25,000 gallons, up to 50,000	$124.00
To shuck and pack oysters, for 50,000 gallons, up to 100,000	$207.00
To shuck and pack oysters, for 100,000 gallons, up to 200,000	$290.00
To shuck and pack oysters, for 200,000 gallons or over	$456.00
One-day permit to relay condemned shellfish from a general oyster planting ground	$150.00
4. BLUE CRAB HARVESTING AND SHEDDING LICENSES, EXCLUSIVE OF CRAB POT LICENSES	
For each person taking or catching crabs by dip nets	$13.00
For ordinary trotlines	$13.00
For patent trotlines	$51.00
For each single-rigged crab-scrape boat	$26.00
For each double-rigged crab-scrape boat	$53.00
For up to 210 peeler pots	$36.00
For up to 20 tanks and floats for shedding crabs	$9.00
For more than 20 tanks or floats for shedding crabs	$19.00
For each crab trap or crab pound	$8.00
5. CRAB POT LICENSES	
For up to 85 crab pots	$48.00
For over 85 but not more than 127 crab pots	$79.00

For over 127 but not more than 170 crab pots	$79.00
For over 170 but not more than 255 crab pots	$79.00
For over 255 but not more than 425 crab pots	$127.00
6. HORSESHOE CRAB AND LOBSTER LICENSES	
For each person harvesting horseshoe crabs by hand	$16.00
For each boat engaged in fishing for~~,~~ or landing of~~,~~ lobster using less than 200 pots	$41.00
For each boat engaged in fishing for~~,~~ or landing of~~,~~ lobster using 200 pots or more	$166.00
7. CLAM HARVESTING LICENSES	
For each person taking or harvesting clams by hand, rake~~,~~ or with ordinary tongs	$24.00
For each single-rigged patent tong boat taking clams	$58.00
For each double-rigged patent tong boat taking clams	$84.00
For each boat using clam dredge (hand)	$19.00
For each boat using clam dredge (power)	$44.00
For each boat using hydraulic dredge to catch soft shell clams	$83.00
For each person taking surf clams	$124.00
Water Rake Permit	$24.00
8. CONCH (WHELK) HARVESTING LICENSES	
For each boat using a conch dredge	$58.00
For each person taking channeled whelk by conch pot	$51.00
9. FINFISH HARVESTING LICENSES	
Each pound net	$41.00
Each stake gill net of 1,200 feet in length or under, with a fixed location	$24.00
All other gill nets up to 600 feet	$16.00
All other gill nets over 600 feet and up to 1,200 feet	$24.00
Each person using a cast net or throw net or similar device	$13.00
Each fyke net head, weir, or similar device	$13.00
For fish trotlines	$19.00
Each person using or operating a fish dip net	$9.00
On each haul seine used for catching fish, under 500 yards in length	$48.00
On each haul seine used for catching fish, from 500 yards in length to 1,000 yards in length	$146.00
For each person using commercial hook and line	$31.00
For each person using commercial hook and line for catching striped bass only	$31.00
For up to 100 fish pots or eel pots	$19.00
For over 100 but not more than 300 fish pots or eel pots	$24.00
For over 300 fish pots or eel pots	$62.00
10. MENHADEN HARVESTING LICENSES Any person purchasing more than one of the following licenses, as described in this subsection, for the same vessel, shall pay a fee equal to that for a single license for the same vessel.	
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden reduction sector	$249.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden reduction sector	$996.00
On each boat or vessel under 70 gross tons fishing for the purse seine menhaden bait sector	$249.00
On each vessel 70 gross tons or over fishing for the purse seine menhaden bait sector	$996.00
11. COMMERCIAL GEAR FOR RECREATIONAL USE	
Up to five crab pots	$36.00
Crab trotline (300 feet maximum)	$10.00
One crab trap or crab pound	$6.00
One gill net up to 300 feet in length	$9.00
Fish dip net	$7.00

Fish cast net	$10.00
Up to two eel pots	$10.00
12. SALTWATER RECREATIONAL FISHING LICENSE	
Individual, resident	$17.50
Individual, nonresident	$25.00
Temporary 10-Day, resident	$10.00
Temporary 10-Day, nonresident	$10.00
Recreational boat, resident	$48.00
Recreational boat, nonresident, provided a nonresident may not purchase a recreational boat license unless his boat is registered in Virginia	$76.00
Head Boat/Charter Boat, resident, six or less passengers	$190.00
Head Boat/Charter Boat, nonresident, six or less passengers	$380.00
Head Boat/Charter Boat, resident, more than six passengers, plus $5.00 per person, over six persons	$190.00
Head Boat/Charter Boat, nonresident, more than six passengers, plus $5.00 per person, over six persons	$380.00
Rental Boat, resident, per boat, with maximum fee of $703	$14.00
Rental Boat, nonresident, per boat, with maximum fee of $1270	$18.00
Commercial Fishing Pier (Optional)	$632.00
Disabled Resident Lifetime Saltwater License	$10.00
Disabled Nonresident Lifetime Saltwater License	$10.00
Reissuance of Saltwater Recreational Boat License	$5.00
13. COMBINED SPORTFISHING LICENSE This license is to fish in all inland waters and tidal waters of the Commonwealth during open season.	
Residents	$39.50
Nonresidents	$71.00
14. COMBINED SPORTFISHING TRIP LICENSE This license is to fish in all inland waters and tidal waters of the Commonwealth during open season for five consecutive days.	
Residents	$24.00
Nonresidents	$31.00
15. TIDAL BOAT SPORTFISHING LICENSE	
Residents	$126.00
Nonresidents	$201.00
16. LIFETIME SALTWATER RECREATIONAL FISHING LICENSES	
Individual Resident Lifetime License	$276.00
Individual Nonresident Lifetime License	$500.00
Individual Resident Lifetime License age 45 - 50	$132.00
Individual Nonresident Lifetime License age 45 - 50	$240.00
Individual Resident Lifetime License age 51 - 55	$99.00
Individual Nonresident Lifetime License 51 - 55	$180.00
Individual Resident Lifetime License age 56 - 60	$66.00
Individual Nonresident Lifetime License age 56 - 60	$120.00
Individual Resident Lifetime License age 61 - 64	$35.00
Individual Nonresident Lifetime License age 61 - 64	$60.00
Individual Resident Lifetime License age 65 and older	$5.00

VA.R. Doc. No. R15-4424; Filed June 24, 2015, 11:25 a.m.

Final Regulation

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.

Title of Regulation: **4VAC20-1270. Pertaining to Atlantic Menhaden (amending 4VAC20-1270-10, 4VAC20-1270-30, 4VAC20-1270-50).**

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

Effective Date: July 1, 2015.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248 or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments (i) increase the nonpurse seine menhaden bait sector quota for all categories as well as the total allowable landings for menhaden and (ii) establish that an overage in any year shall be deducted from the subsequent year from the sector of the menhaden fishery that exceeded the allocation specified in 4VAC20-1270-30.

4VAC20-1270-10. Purpose.

The purpose of this chapter is to comply with the Interstate Fishery Management Plan for Atlantic menhaden~~, including the mandated 20% reduction in total allowable commercial landings of Atlantic menhaden from the average of the 2009 through 2011 landings~~.

4VAC20-1270-30. Total allowable landings for menhaden; allocation, accountability, and overages.

A. In accordance with Section 28.2-400.2 of the Code of Virginia ~~establishes~~ the total allowable commercial landings for menhaden in 2015 and 2016 in metric tons shall be equivalent to ~~318,067,167~~ 349,873,884 pounds, and that total amount of allowable landings shall be allocated as quotas among three sectors of the menhaden fishery, as described below, pursuant to § 28.2-400.3 of the Code of Virginia. The purse seine menhaden reduction sector is allocated a quota of ~~286,396,768~~ 315,036,445 pounds of allowable menhaden landings; the purse seine menhaden bait sector a ~~26,648,870~~ 29,313,757 pound quota of allowable menhaden landings; and the nonpurse seine menhaden bait sector a ~~5,021,529~~ 5,523,682 pound quota of allowable menhaden landings.

~~B. Any menhaden landings on and after January 1, 2013, count towards that particular sector's 2013 commercial quota.~~

~~C. Any overages of a sector's commercial quota shall be deducted from the following year's quota for that sector.~~ B. If the total allowable landings specified in subsection A of this section are exceeded in any year, the total allowable landings for the subsequent year will be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in subsection A of this section.

4VAC20-1270-50. Nonpurse seine menhaden bait sector quota; allocation and bycatch provisions.

A. The commercial nonpurse seine bait sector's allocation shall be by gear type as follows:

1. Cast net:	~~1,779~~ 2,123 pounds.
2. Dredge:	~~2,829~~ 3,376 pounds.
3. Fyke net:	~~1,950~~ 2,326 pounds.
4. Gill net:	~~1,402,368~~ 1,673,219 pounds.
5. Hook and line:	~~216~~ 258 pounds.
6. Pot:	~~1,903~~ 2,270 pounds.
7. Pound net:	~~3,145,673~~ 3,753,222 pounds.
8. Seine:	~~18,534~~ 22,113 pounds.
9. Trawl:	~~54,254~~ 64,732 pounds.
10. Trot line:	~~36~~ 43 pounds.

B. Pursuant to § 28.2-400.4 of the Code of Virginia, once the commissioner announces the date of closure for the nonpurse seine bait fishery, any person licensed in the nonpurse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per day.

VA.R. Doc. No. R15-4421; Filed June 24, 2015, 11:15 a.m.

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TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Final Regulation

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

Title of Regulation: **6VAC20-250. Regulations Relating to Property and Surety Bail Bondsmen (amending 6VAC20-250-30, 6VAC20-250-230, 6VAC20-250-250).**

Statutory Authority: §§ 9.1-102 and 9.1-185.2 of the Code of Virginia.

Effective Date: August 12, 2015.

Agency Contact: Lisa McGee, Regulatory Manager, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-2419, FAX (804) 786-6344, or email lisa.mcgee@dcjs.virginia.gov.

Summary:

The proposed amendments conform bail bondsmen regulations to statutory changes as follows:

1. Pursuant to Chapter 600 of the 2015 Acts of the Assembly, (i) require a bail bondsman to report any felony arrest to the Department of Criminal Justice Services within 10 calendar days of the arrest; (ii) reduce from 30 to 10 calendar days the time within which a bail bondsman must report changes to a residence or business address, a

disciplinary action, or an arrest or criminal conviction; and (iii) prohibit any bail bondsman who has been arrested for a felony from issuing any new bonds pending the outcome of an investigation by the department.

2. Pursuant to Chapter 84 of the 2014 Acts of Assembly, replace the acronym "GED" with "passed a high school equivalency examination approved by the Board of Education," which affects the eligibility requirements for bail bondsmen.

3. Pursuant to Chapter 623 of the 2011 Acts of Assembly, prohibit (i) a bail bondsman from charging a bail bond premium--which is added as a defined term--less than 10% of or more than 15% of the amount of bond and (ii) a bail bondsman from loaning money with interest for the purpose of helping another obtain a bond.

Part III
Licensing Procedures and Requirements

6VAC20-250-30. Bail bondsman eligibility.

A. Persons required to be licensed as a bail bondsman pursuant to ~~§ 9.1-102.47~~ subdivision 47 of § 9.1-102 of the Code of Virginia, shall meet all licensure requirements in this section. Persons who carry or have access to a firearm while on duty must have a valid license with a firearm endorsement as described under 6VAC20-250-80. If carrying a handgun concealed, the person must also have (i) a valid concealed handgun permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia and (ii) the written permission of his employer ~~pursuant to § 18.2-308 of the Code of Virginia~~.

B. Each person applying for a bail bondsman license shall meet the minimum requirements for eligibility as follows:

1. Be a minimum of 18 years of age;

2. Be a United States citizen or legal resident alien of the United States; and

3. Have received a high school diploma or ~~GED~~ passed a high school equivalency examination approved by the Board of Education.

4. Have successfully completed all initial training requirements, pursuant to the compulsory minimum training standards in Part IV (6VAC20-250-130 et seq.) of this chapter.

5. Have successfully completed the bail bondsman exam required by the board at a certified or licensed private security services training school with a minimum passing grade of 70%.

C. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;

2. Employees of a local or regional jail;

3. Employees of a sheriff's office;

4. Employees of a state or local police department;

5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia;

6. Employees of an office of an attorney for the Commonwealth;

7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; and

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 of this subsection.

D. The exclusions in subsection C of this section shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

6VAC20-250-230. Reporting requirements.

A. Each licensed bail bondsman shall report within ~~30~~ 10 calendar days to the department any change in his residence, name, business name or business address~~,~~ and ensure that the department has the names and all fictitious names of all companies under which he carries out his bail bonding business.

B. Each licensed bail bondsman arrested for a felony shall submit a copy of the warrant of arrest within seven days to the department.

C. Each licensed bail bondsman arrested for or convicted of a felony shall report within ~~30~~ 10 calendar days to the department the facts and circumstances regarding the criminal arrest or conviction.

D. Each licensed bail bondsman shall report to the department, within ~~30~~ 10 calendar days of the final disposition, of the matter any administrative action taken against him by another governmental agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. Each licensed bail bondsman shall report to the department within 24 hours any event in which he discharges a firearm during the course of his duties.

F. Each licensed property bail bondsman shall submit to the department, on a prescribed form, not later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

G. Each licensed property bail bondsman shall report to the department any change in the number of agents in his employ within seven days of such change and concurrently provide proof of collateral of $200,000 for each new agent, in

accordance with subsection C of § 9.1-185.5 of the Code of Virginia.

H. Each licensed agent bail bondsman shall report to the department termination of his employment within seven days of such termination.

I. Each licensed property bail bondsman shall report to the department within five business days any change in legal ownership or if any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is deemed to begin as soon as the licensed property bail bondsman learns of any change in legal ownership or of the new lien, encumbrance, or deed of trust, or should have reasonably known of the change in legal ownership or that such a lien, encumbrance, or deed of trust had been recorded.

J. Each licensed surety bail bondsman shall report to the department within 30 days any change in his employment or agency status with a licensed insurance company. If the surety bail bondsman receives a new qualifying power of attorney from an insurance company, he shall forward a copy thereof within 30 days to the department, in accordance with subdivision D 2 of § 9.1-185.5 of the Code of Virginia.

6VAC20-250-250. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and persons contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license. Upon notification from the State Corporation Commission of a license suspension, the department shall immediately suspend a surety bondsman's license, pending the results of an investigation.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.

3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.

4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed $50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of board regulations or the laws of the Commonwealth.

6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.

7. Fail to cooperate with any investigation by the department.

8. Fail to comply with any subpoena issued by the department.

9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the department.

10. Provide bail for any person if he is also an attorney representing that person.

11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain his name, license number and contact information.

D. A surety bail bondsman shall in addition ensure that each recognizance for which he signs contains the contact information for both the surety agent and the registered agent of the issuing company.

E. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs and must be disclosed in writing. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

F. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

G. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

H. A surety bail bondsman shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

I. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the department.

J. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance agents.

K. A licensed bail bondsman shall disclose in writing to the indemnitor if the bail bondsman has the knowledge that the bailee is being held in multiple jurisdictions.

L. A licensed bail bondsman shall not violate any provision specified in protective orders served on a potential bailee pursuant to § 16.1-253.1 of the Code of Virginia.

M. A licensed bail bondsman shall not charge a bail bond premium less than 10% or more than 15% of the amount of the bond. A licensed bail bondsman shall not loan money with interest for the purpose of helping another obtain a bail bond.

For the purpose of this subsection, "bail bond premium" means the amount of money paid to a licensed bail bondsman for the execution of a bail bond.

N. A licensed bail bondsman who has been arrested for a felony offense shall not issue any new bonds pending the outcome of the investigation by the department.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form with a hyperlink to access it. The form is 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 (6VAC20-250)

Property Bail Bondsman - Monthly Outstanding Bond Report (5/14)

VA.R. Doc. No. R15-4374; Filed June 23, 2015, 12:48 p.m.

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TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with (i) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved, and (ii) § 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.

Title of Regulation: **9VAC5-50. New and Modified Stationary Sources (Rev. A15) (amending 9VAC5-50-400, 9VAC5-50-410).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 111, 123, 129, 171, 172, and 182 of the Clean Air Act; 40 CFR Parts 51 and 60.

Effective Date: August 12, 2015.

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

Summary:

Amendments to §§ 10.1-1300 and 10.1-1307 of the Code of Virginia enacted by Chapter 471 of the 2015 Acts of Assembly prohibit the State Air Pollution Control Board from adopting regulations that limit emissions from certain smaller wood heaters and from enforcing any federal regulation limiting emissions from wood heaters that was adopted after May 1, 2014. Therefore, the amendments to the regulation indicate that implementation authority for Subparts AAA and QQQQ of 40 CFR Part 60 is retained by the federal Environmental Protection Agency to conform to state law. In addition, the amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2015.

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 ~~(2014)~~ (2015) in effect July 1, ~~2014~~ 2015. 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 Steam Generators.

40 CFR 60.40 through 40 CFR 60.46

(fossil fuel-fired steam generating units of more than 250 million Btu per hour heat input rate, and fossil fuel-fired and 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.

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), 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)

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 60.66

(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 Ga - Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011.

40 CFR 60.70a through 40 CFR 60.77a

(nitric acid production units producing weak nitric acid by either the pressure or atmospheric pressure process)

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 Ja - Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced after May 14, 2007.

40 CFR 60.100a through 40 CFR 60.109a

(fluid catalytic cracking units, fluid coking units, delayed coking units, fuel gas combustion devices, including flares and process heaters, and sulfur recovery plants)

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 BBa - Kraft Pulp Mill Affected Sources for which Construction, Reconstruction, or Modification Commenced after May 23, 2013.

40 CFR 60.280a through 40 CFR 60.288a

(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

(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 four 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 caprolactam 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)~~

(NOTE: In accordance with Chapter 471 of the 2015 Acts of Assembly, authority to enforce the above standard is being retained by EPA and the standard is not incorporated by reference into these regulations. A state permit may be required of certain facilities if the provisions of 9VAC5-50 and 9VAC5-80 apply. Owners should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.)

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 for which Construction, Reconstruction, or Modification Commenced after January 20, 1984, and on or before August 23, 2011.

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 - Sulfur Dioxide Emissions from Onshore Natural Gas Processing for which Construction, Reconstruction, or Modification Commenced after January 20, 1984, and on or before August 23, 2011.

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 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 Resource Conservation and Recovery Act (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~~ 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~~ the standard is not incorporated by reference into these regulations for any source that is not (i) a major source as defined in 9VAC5-80-60 and subject to Article 1 (9VAC5-80-50 et seq., Federal Operating Permits for Stationary Sources) of Part II of 9VAC5-80 (Permits for Stationary Sources) or (ii) an affected source as defined in 9VAC5-80-370 and subject to Article 3 (9VAC5-80-360 et seq., Federal Operating Permits for Acid Rain Sources) of Part II of 9VAC5-80)

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~~ the standard is not incorporated by reference into these regulations for any source that is not (i) a major source as defined in 9VAC5-80-60 and subject to Article 1 (9VAC5-80-50 et seq., Federal Operating Permits for Stationary Sources) of Part II of 9VAC5-80 (Permits for Stationary Sources) or (ii) an affected source as defined in 9VAC5-80-370 and subject to Article 3 (9VAC5-80-360 et seq., Federal Operating Permits for Acid Rain Sources) of Part II of 9VAC5-80)

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)

Subpart MMMM - Reserved.

Subpart NNNN - Reserved.

Subpart OOOO - Crude Oil and Natural Gas Production, Transmission and Distribution.

40 CFR 60.5360 through 40 CFR 60.5430

(facilities that operate gas wells, centrifugal compressors, reciprocating compressors, pneumatic controllers, and storage vessels)

Subpart PPPP - Reserved.

Subpart QQQQ - New Residential Hydronic Heaters and Forced-Air Furnaces

40 CFR 60.5472 through 40 CFR 60.5483

(NOTE: In accordance with Chapter 471 of the 2015 Acts of Assembly, authority to enforce the above standard is being retained by EPA and the standard is not incorporated by reference into these regulations. A state permit may be required of certain facilities if the provisions of 9VAC5-50 and 9VAC5-80 apply. Owners should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.)

Subpart RRRR - Reserved.

Subpart SSSS - Reserved.

Subpart TTTT - Reserved.

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.

VA.R. Doc. No. R15-4353; Filed June 23, 2015, 8:17 a.m.

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exclusion from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. 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.

Title of Regulation: **9VAC5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (Rev. MP) (amending 9VAC5-91-20, 9VAC5-91-30).**

Statutory Authority: § 46.2-1180 of the Code of Virginia; § 182 of the Clean Air Act; 40 CFR Part 51, Subpart S.

Effective Date: August 12, 2015.

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

Summary:

The amendments (i) exempt autocycles that have not been emissions certified with an on-board diagnostic system by the U.S. Environmental Protection Agency (EPA) from the motor vehicle inspections program as required by Chapter 95 of the 2015 Acts of Assembly and (ii) increase the length of a valid enhanced emissions inspection to four years for vehicles titled for the first time, in accordance with Chapter 729 of the 2006 Acts of Assembly, which became effective in April 2015 upon approval of the state implementation plan for certain areas.

9VAC5-91-20. Terms defined.

"Aborted test" means an emissions inspection procedure that has been initiated by the inspector but stopped and not completed due to inspector error or a vehicular problem that prevents completion of the test. Aborted tests are not tests that cannot be completed due to a "failed/invalid" result caused by an exhaust dilution problem or an engine condition that prevents the inspection from being completed.

"Acceleration Simulation Mode (ASM) 50-15 equipment" means dynamometer-based emissions test equipment used to perform an enhanced emissions test in one or more, discreet, simulated road speed and engine load modes.

"Acceleration Simulation Mode (ASM) 25-25 standards" means the standards utilized for one of the discreet modes of the ASM test of the enhanced emission inspection program.

"Access code" means the security phrase or number which allows authorized station personnel, the department, and analyzer service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department. Depending on the assigned function, the access code is a personal password, a state password or a service password. Access code is not an identification number, but is used as an authenticator along with the identification number where such number is needed to perform specific tasks.

"Actual gross weight" means the gross vehicle weight rating (GVWR).

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

"Affected motor vehicle" means any motor vehicle or replica vehicle which:

1. Was manufactured or designated by the manufacturer as a model year less than 25 calendar years prior to January 1 of the present calendar year according to the formula, the current calendar year minus 24, except those identified by remote sensing as specified in subdivision 5 of this definition;

2. Is designed for the transportation of persons or property;

3. Is powered by an internal combustion engine;

4. For the Northern Virginia Emissions Inspection Program, has an actual gross weight of 10,000 pounds or less; and

5. For vehicles subject to the remote sensing requirements of 9VAC5-91-180, was designated by the manufacturer as model year 1968 or newer.

The term "affected motor vehicle" does not mean any:

1. Vehicle powered by a clean special fuel as defined in § 46.2-749.3 of the Code of Virginia, provided the federal Clean Air Act permits such exemptions for vehicles powered by clean special fuels;

2. Motorcycle or autocycle, unless such autocycle has been emissions certified with an on-board diagnostic system by the United States Environmental Protection Agency;

3. Vehicle that at the time of its manufacture was not designed to meet emissions standards set or approved by the federal government;

4. Any antique motor vehicle as defined in § 46.2-100 of the Code of Virginia and licensed pursuant to § 46.2-730 of the Code of Virginia;

5. Firefighting equipment, rescue vehicle, or ambulance;

6. Vehicle for which no testing standards have been adopted by the board;

7. Tactical military vehicle; ~~or~~

8. Qualified hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon, or 48 miles per gallon for model years 2008 or 2009, during city fuel economy tests unless identified by the remote sensing requirements of 9VAC5-91-180 as violating the on-road high emitter emissions standards for on-road testing; or

9. Vehicle manufactured for the current model year or any of the three immediately preceding model years unless identified by the remote sensing requirements of 9VAC5-91-180 as violating the emissions standards for on-road testing.

"Air intake systems" means those systems that allow for the induction of ambient air (to include preheated air) into the engine combustion chamber for the purpose of mixing with a fuel for combustion.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Air system" or "air injection system" means a system for providing supplementary air to promote further oxidation of hydrocarbons and carbon monoxide gases and to assist catalytic reaction.

"Alternative fuel" means an internal combustion engine fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% volume of gasoline.

"Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method, but that has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Authorized personnel" means department personnel, an individual designated by analyzer system manufacturer, station owner, licensed emissions inspector, program coordinator, station manager or other person as designated by the station manager.

"Basic engine systems" means those parts or assemblies which provide for the efficient conversion of a compressed air and fuel charge into useful power to include but not be limited to valve train mechanisms, cylinder head to block integrity, piston-ring-cylinder sealing integrity and post-combustion emissions control device integrity.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means establishing or verifying the response curve of a measurement device using several different measurements having precisely known quantities.

"Calibration gases" means gases of precisely known concentrations that are used as references for establishing or verifying the response curve of a measurement device.

"Catalytic converter" means a post combustion device that oxidizes hydrocarbons, carbon monoxide gases, and may also reduce oxides of nitrogen.

"Certificate of emissions inspection" means a document, device, or symbol, whether recorded in written or electronic form, as prescribed by the director and issued pursuant to this chapter, which indicates that (i) an affected motor vehicle has satisfactorily complied with the emissions standards and passed the emissions inspection provided for in this chapter; (ii) the requirement of compliance with the emissions standards has been temporarily waived; or (iii) the affected motor vehicle has failed the emissions inspection.

"Certified emissions repair facility" means a facility, or portion of a facility, that has obtained a certification in accordance with Part VII (9VAC5-91-500 et seq.) to perform emissions related repairs on motor vehicles.

"Certified emissions repair technician" means a person who has obtained a certification in accordance with Part VIII (9VAC5-91-550 et seq.) to perform emissions related repairs on motor vehicles.

"Certified enhanced analyzer system" or "analyzer system" means the complete system that samples and reads concentrations of hydrocarbon, carbon dioxide, nitric oxides and carbon monoxide gases or interrogates the vehicle OBD system or both, and that is approved by the department for use in the Enhanced Emissions Inspection Program in accordance with Part X (9VAC5-91-640 et seq.). The analyzer system includes the exhaust gas handling system, the exhaust gas analyzer, associated automation hardware and software, data media, the analyzer system cabinet, dynamometer control devices, vehicle identification equipment, printer, and calibration gases. The analyzer

system does not include the dynamometer and associated cooling and exhaust fans that are supplied by the inspection station.

"Certified thermometer" means a laboratory grade ambient temperature-measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least 1°F with increments of 1°, with protective shielding.

"Chargeable inspection" means a completed inspection on an affected motor vehicle, for which the station owner is entitled to collect an inspection fee. No fee shall be paid for (i) inspections for which a certificate of emissions inspection has not been issued, (ii) inspections that are conducted by the department for referee purposes, (iii) inspections which were ordered due to on-road test failures but which result in an emissions inspection "pass" at an inspection station, or (iv) the first reinspection done at the same station that performed the initial inspection within 14 days. An inspection ordered by the department due to an on-road test failure that results in a confirmation test failure at an emissions inspection station is a chargeable inspection.

"Clean screen vehicle" means a vehicle that has been identified by the on-road inspector as having met the criteria in 9VAC5-91-185 A or B and is eligible to participate in the on-road clean screen program.

"Clean screen vehicle notification" means a document, device, or symbol, whether recorded in written or electronic form, as prescribed by the director and issued pursuant to this chapter, that (i) indicates that an affected motor vehicle has satisfactorily complied with the clean screen vehicle emissions standards for on-road testing, and (ii) may be used by the motor vehicle owner to voluntarily comply with the vehicle registration requirements of § 46.2-1183 of the Code of Virginia. The notification shall also indicate that the motor vehicle owner may obtain an emissions inspection from an emissions inspection station.

"Clean screen vehicle standard" means any provision of 9VAC5-91-185 that prescribes an emission limitation, or other criteria used to select clean screen vehicles.

"Confirmation test" means an emissions inspection required due to a determination that the vehicle exceeds the on-road high emitter emissions standards prescribed in 9VAC5-91-180 B. The confirmation emissions inspection procedure may include an exhaust test (ASM or TSI), OBD system test or both.

"Consent order" means a mutual agreement between the department and any owner, operator, emissions inspector, or emissions repair technician that such owner or other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with this chapter. A consent order may include agreed upon civil charges. Such orders may be issued without a formal hearing.

"Curb idle" means vehicle operation whereby the transmission is disengaged and the engine is operated with the throttle in the closed or idle stop position with the resultant engine speed between 400 and 1,250 revolutions per minute (rpm), or at another idle speed if so specified by the manufacturer.

"Data handling system" means all the computer hardware, software and peripheral equipment used to conduct emissions inspections and manage the enhanced emissions inspection program.

"Data media" means the media contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Emissions control equipment" means any part, assembly or equipment originally installed by the manufacturer in or on a motor vehicle for the sole or primary purpose of reducing emissions.

"Emissions control systems" means any system consisting of parts, assemblies or equipment originally installed by the manufacturer in or on a motor vehicle for the primary purpose of reducing emissions.

"Emissions inspection" means an emissions inspection of a motor vehicle performed by an emissions inspector employed by or working at an emissions inspection station or fleet emissions inspection station, using the tests, procedures, and provisions set forth in this chapter.

"Emissions inspection station" means a facility or portion of a facility that has obtained an emissions inspection station permit from the director authorizing the facility to perform emissions inspections in accordance with the provisions of this chapter.

"Emissions inspector" means, except for an on-road emissions inspector, a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law and is qualified in accordance with this chapter.

"Emissions standard" means any provision of Part III (9VAC5-91-160 et seq.) or Part XIV (9VAC5-91-790 et seq.) that prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Empty weight ~~(EW)~~" or "EW" means that weight stated as the EW on a Virginia motor vehicle registration or derived from the motor vehicle title or manufacturer's certificate of origin. The EW may be used to determine emissions inspection standards.

"Enhanced emissions inspection program" means a motor vehicle emissions inspection system established by this

chapter that designates, as the only authorized testing equipment for emissions inspection stations, (i) the use of the ASM 50-15 (acceleration simulation mode or method) together with an OBD-II (on-board diagnostic system) with wireless capability, (ii) the use of the ASM 50-15 together with the use of a dynamometer, and (iii) two-speed tailpipe testing equipment. Possession and availability of a dynamometer shall be required for enhanced emissions inspection stations. Only those computer software programs and emissions testing procedures necessary to comply with applicable provisions of Title I of the federal Clean Air Act shall be included. Such testing equipment shall be approvable for motor vehicle manufacturers' warranty repairs. An enhanced emissions inspection program shall include remote sensing and an on-road clean screen program as provided in this chapter.

"EPA" means the United States Environmental Protection Agency.

"Equivalent test weight ~~(ETW),~~" "ETW," or "emission test weight" means the weight of a motor vehicle as automatically determined by the emissions analyzer system based on vehicle make, model, body, style, model year, engine size, permanently installed equipment, and other manufacturer and aftermarket supplied information, and used for the purpose of assigning dynamometer resistance and exhaust emissions standards for the conduct of an exhaust emissions inspection.

"Exhaust gas analyzer" or "gas analyzer" means an exhaust gas handling system that is capable of measuring the concentrations of certain air pollutants in the exhaust gas from a motor vehicle.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means Chapter 85 (§ 7401 et seq.) of Title 42 of the United States Code.

"Fleet" means 20 or more motor vehicles that are owned, operated, leased or rented for use by a common owner.

"Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

"Formal hearing" means a board or department process that provides for the right of private parties to submit factual proofs as provided in § 2.2-4020 of the Administrative Process Act in connection with case decisions. Formal hearings do not include the factual inquiries of an informal nature provided in § 2.2-4019 of the Administrative Process Act.

"Fuel control systems" means those mechanical, electro-mechanical, galvanic or electronic parts or assemblies which regulate the air-to-fuel ratio in an engine for the purpose of providing a combustible charge.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of gases.

"Gas span check" means a procedure using known concentrations of gases to verify the gas span adjustment of a gas analyzer.

"Gross vehicle weight rating ~~(GVWR)~~" or "GVWR" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and is (i) expressed on a permanent identification label affixed to the motor vehicle; (ii) stated on the manufacturer's certificate of origin; or (iii) coded in the vehicle identification number. If the GVWR can be determined it shall be one element used to determine emissions inspection standards and test type. If the GVWR is unavailable, the department may make a determination based on the best available evidence including manufacturer reference, information coded in the vehicle identification number, or other available sources of information from which to make the determination.

"Heavy duty gasoline vehicle ~~(HDGV)~~" or "HDGV" means a heavy duty vehicle using gasoline as its fuel.

"Heavy duty vehicle ~~(HDV)~~" or "HDV" means any affected motor vehicle (i) which is rated at more than 8,500 pounds GVWR or (ii) which has a loaded vehicle weight or GVWR of more than 6,000 pounds and has a basic frontal area in excess of 45 square feet.

"High emitter value" means the values in Table III-B of 9VAC5-91-180 that are used to determine vehicles in violation of the on-road high emitter emissions standard.

"Identification number" means the number assigned by the department to uniquely identify department personnel, an emissions inspection station, a certified emissions repair facility, a licensed emissions inspector, a certified emissions repair technician or other authorized personnel as necessary for specific tasks.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the manufacturer as curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Ignition systems" means those parts or assemblies that are designed to cause and time the ignition of a compressed air and fuel charge.

"Implementation plan" means the plan, including any revision thereof, that has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act, or promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act, or promulgated or approved by the administrator pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and that implements the relevant requirements of the federal Clean Air Act.

"Informal fact finding" means an informal conference or consultation proceeding used to ascertain the fact basis for

case decisions as provided in § 2.2-4019 of the Administrative Process Act.

"Initial inspection" means the first complete emissions inspection of a motor vehicle conducted in accordance with the biennial inspection requirement and for which a valid vehicle emissions inspection report was issued. Any test following the initial inspection is a retest or reinspection.

"Inspection area" means in reference to an emissions inspection station, (i) the area that is occupied by the certified analyzer system and the vehicle being inspected or (ii) for only an OBD II test, the area within wireless range that is on the property on which the inspection station is located.

"Inspection fee" means the amount of money that (i) the emissions inspection station may collect from the motor vehicle owner for each chargeable inspection or (ii) an on-road emissions inspector may collect from the motor vehicle owner in response to a clean screen vehicle notification.

"Light duty gasoline vehicle ~~(LDGV)~~" or "LDGV" means a light duty vehicle using gasoline as its fuel.

"Light duty gasoline truck ~~(LDGT1)~~" or "LDGT1" means a light duty truck 1 using gasoline as its fuel.

"Light duty gasoline truck ~~(LDGT2)~~" or "LDGT2" means a light duty truck 2 using gasoline as its fuel.

"Light duty truck ~~(LDT)~~" or "LDT" means any affected motor vehicle which (i) has a loaded vehicle weight or GVWR of 6,000 pounds or less and meets any one of the criteria below; or (ii) is rated at more than 6,000 pounds GVWR but less than 8,500 pounds GVWR and has a basic vehicle frontal area of 45 square feet or less; and meets one of the following criteria:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.

2. Designed primarily for transportation of persons and has a capacity of more than 12 persons.

3. Equipped with special features enabling off-street or off-highway operation and use.

"Light duty truck 1 ~~(LDT1)~~" or "LDT1" means any light duty truck rated at 6,000 pounds GVWR or less. LDT1 is a subset of light duty trucks.

"Light duty truck 2 ~~(LDT2)~~" or "LDT2" means any light duty truck rated at greater than 6,000 pounds GVWR. LDT2 is a subset of light duty trucks.

"Light duty vehicle ~~(LDV)~~" or "LDV" means an affected motor vehicle that is a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight ~~(LVW),~~" "LVW," or "curb weight" means the weight of a vehicle and its standard equipment; ~~i.e.~~ that is, the empty weight as recorded on the vehicle's registration or the base shipping weight as recorded in the vehicle identification number, whichever is greater; plus the weight of any permanent attachments, the weight of a nominally filled fuel tank, plus 300 pounds.

"Locality" means a city, town, or county created by or pursuant to state law.

"Mobile fleet emissions inspection station" means a facility or entity that provides emissions inspection equipment or services to a fleet emissions inspection station on a temporary basis. Such equipment is not permanently installed at the fleet facility but is temporarily located at the fleet facility for the sole purpose of testing vehicles owned, operated, leased or rented for use by a common owner.

"Model year" means, except as may be otherwise defined in this chapter, the motor vehicle manufacturer's annual production period which includes the time period from January 1 of the calendar year prior to the stated model year to December 31 of the calendar year of the stated model year; provided that, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year of manufacture. For the purpose of this definition, model year is applied to the vehicle chassis, irrespective of the year of manufacture of the vehicle engine.

"Monitors" means those computer programs in the on-board vehicle computer that evaluate the various emissions components and systems to determine status of such components and systems.

"Motor vehicle" means any motor vehicle as defined in § 46.2-100 of the Code of Virginia as a motor vehicle and that:

1. Is designed for the transportation of persons or property; and

2. Is powered by an internal combustion engine.

"Motor vehicle dealer" means a person who is licensed by the Department of Motor Vehicles in accordance with §§ 46.2-1500 and 46.2-1508 of the Code of Virginia.

"Motor vehicle emissions" means any emissions related information that can be captured through (i) a basic test and repair inspection, (ii) enhanced emissions inspection, or (iii) on-road testing.

"Motor vehicle inspection report" means a printed certificate of emissions inspection that is a report of the results of an emissions inspection. It indicates whether the motor vehicle has (i) passed, (ii) failed, or (iii) obtained a temporary emissions inspection waiver. It may also indicate whether the emissions inspection could not be completed due to an exhaust dilution or an engine condition that prevents the inspection from being completed. The report shall accurately identify the motor vehicle and shall include inspection results, recall information provided by the department, warranty and repair information, and a unique identification number.

"Motor vehicle owner" means any person who owns, leases, operates, or controls a motor vehicle or fleet of motor vehicles.

"Nonconforming vehicle" means a vehicle not manufactured for sale in the United States to conform to emissions standards established by the federal government.

"Normal business hours" for emissions inspection stations, means a daily eight-hour period Monday through Friday, between the hours of 8 a.m. and 6 p.m., with the exception of national holidays, state holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of this chapter. Nothing in this chapter shall prevent stations from performing inspections at other times in addition to the "normal business hours." Emissions inspection stations may, with the approval of the department, substitute a combined total of eight hours, between 8 a.m. and 6 p.m., over a weekend period for one weekday as their "normal business hours" for conducting emission inspections. Emissions inspection stations shall post inspection hours.

"Northern Virginia emissions inspection program" means the emissions inspection program required by this chapter in the Northern Virginia program area.

"Northern Virginia program area" or "program area" means the territorial area encompassed by the boundaries of the following localities: the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

"On-board diagnostic system~~ (OBD system)~~" or "OBD system" means the computerized emissions control diagnostic system installed on model year 1996 and newer affected motor vehicles.

"On-board diagnostic system~~ (OBD test)~~" or "OBD test" means an evaluation of the OBD system pursuant to either 40 CFR 86.094-17 (2009 CFR) or 40 CFR 86.099-17 as applicable, according to procedures specified in 40 CFR 85.2222 and this chapter.

"On-board diagnostic vehicle~~ (OBD vehicle)~~" or "OBD vehicle" means a model year 1996 and newer model affected motor vehicle equipped with an on-board diagnostic system and meeting the requirements of 40 CFR 85.2231.

"On-road clean screen program" means a program that allows a motor vehicle owner to voluntarily certify compliance with emissions standards by means of on-road remote sensing.

"On-road emissions inspector" means the entity or entities authorized by the Department of Environmental Quality to perform on-road testing, including on-road testing in accordance with the on-road clean screen program.

"On-road emissions measurement" means data obtained through on-road testing.

"On-road high emitter emissions standard" means any provision of 9VAC5-91-180 that prescribes an emission limitation, or other emission control requirements for motor vehicle emissions. The on-road high emitter emissions standard shall be determined by multiplying the high emitter value in Table III-B of 9VAC5-91-180 with the appropriate ASM 25-25 standard in 9VAC5-91-810 or the TSI standard in Table III-A of 9VAC5-91-160.

"On-road testing" means tests of motor vehicle emissions or emissions control devices by means of roadside pullovers or remote sensing devices.

"Operated primarily" means motor vehicle operation that constitutes routine operation into or within the program area as evidenced by observation using remote sensing equipment at least three times in a 60-day period with no less than 30 days between the first and last observation. The director may increase the number of observations required for compliance determination if, in his discretion, based on program experience, such an increase would not significantly adversely impact the objectives of this chapter. The term "operated primarily" shall be used to identify motor vehicle operation that is subject to the exhaust emission standards for on-road testing through remote sensing set forth in 9VAC5-91-180. The term "operated primarily" shall not be used to identify motor vehicle operation that will subject the vehicle to the compliance provisions set forth in 9VAC5-91-160 and 9VAC5-91-170 for biennial emissions inspections.

"Order" means any decision or directive of the board or the director, including orders, consent orders, and orders of all types rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of this chapter. Unless specified otherwise in this chapter, orders shall only be issued after the appropriate administrative proceeding.

"Owner" means any person who owns, leases, operates, controls or supervises a facility or motor vehicle.

"Party" means any person who actively participates in the administrative proceeding or offers comments through the public participation process and is named in the administrative record. The term "party" also means the department.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Program coordinator" means any person or corporation that has entered into a contract with the director to provide services in accordance with Part X (9VAC5-91-640 et seq.) and other services not to include remote sensing.

"Qualified hybrid motor vehicle" means a motor vehicle that (i) meets or exceeds all applicable regulatory requirements, (ii) meets or exceeds the applicable federal motor vehicle emissions standards for gasoline-powered passenger cars, and (iii) can draw propulsion energy both from gasoline or diesel fuel and a rechargeable energy storage system.

"Reconstructed vehicle" means every vehicle of a type required to be registered under Title 46.2 (§ 46.2-100 et seq.) of the Code of Virginia, materially altered from its original

construction by the removal, addition or substitution of new or used essential parts. Such vehicles, at the discretion of the Department of Motor Vehicles, shall retain their original vehicle identification number, line-make, and model year.

"Referee station" or "referee facility" means those facilities operated or used by the department to (i) determine program effectiveness, (ii) resolve emissions inspection conflicts between motor vehicle owners and emissions inspection stations, and (iii) provide such other technical support and information, as appropriate, to emissions inspection stations and motor vehicle owners.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A of 40 CFR Part 60.

"Reinspection" or "retest" means a type of inspection selected by the department or the emissions inspector when a request for an inspection is due to a previous failure. Any inspection that occurs 120 days or less following the most recent chargeable inspection is a retest.

"Rejected" or "rejected from testing" means that the vehicle cannot be inspected due to conditions in accordance with 9VAC5-91-420 C or 9VAC5-91-420 G 3.

"Remote sensing" means the measurement of motor vehicle emissions through electronic or light-sensing equipment from a remote location such as the roadside. Remote sensing equipment may include devices to detect and record the vehicle's registration or other identification numbers.

"Replica vehicle" means every vehicle of a type required to be registered under Title 46.2 (§ 46.2-100 et seq.) of the Code of Virginia not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600 of the Code of Virginia, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle. Any vehicle registered as a replica vehicle shall meet emission requirements as established for the model year of which the vehicle is a replica.

"Sensitive mission vehicle" means any vehicle which, for law enforcement or national security reasons, cannot be tested in the public inspection system and must not be identified through the fleet testing system. For such vehicles, an autonomous fleet testing system may be established by agreement between the controlling agency and the director.

"Span gas" means gases of known concentration used as references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as defined in this section.

"Specific engine family" means a group of motor vehicles with the same vehicle type, make, year, and engine size.

"Standardized instruments" or "standardizing instruments" means laboratory instruments calibrated with precision gases traceable to the National Institute of Standards and Technology and accepted by the department as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"Tactical military vehicle" means any motor vehicle designed to military specifications or a commercially designed motor vehicle modified to military specifications to meet direct transportation support of combat, tactical, or military relief operations, or training of personnel for such operations.

"Tampering" means to alter, remove or otherwise disable or reduce the effectiveness of emissions control equipment on a motor vehicle.

"Test" means an emissions inspection of a vehicle, or any portion thereof, performed by an emissions inspector at an emissions inspection station, using the procedures and provisions set forth in this chapter.

"Test and repair" means motor vehicle emissions inspection stations that perform emissions inspections and may also perform vehicle repairs. No provision of this chapter shall bar emissions inspection stations from also performing vehicle repairs.

"Thermostatic air cleaner" means a system that supplies temperature-regulated air to the air intake system during engine operation.

"Two-speed idle test ~~(TSI)~~" or TSI" means a vehicle exhaust emissions test, performed in accordance with section (II) of 40 CFR Part 51, Appendix B to Subpart S, which measures the concentrations of pollutants in the exhaust gases of an engine (i) while the motor vehicle transmission is not propelling the vehicle and (ii) while the engine is operated at both curb idle and at a nominal engine speed of 2,500 rpm.

"Vehicle emissions index" means the ranking of probable emissions inspection failure-rates of affected motor vehicles. Values within the index are determined by calculating a percentile of the historical emissions inspection failure-rates of a specific engine family, and comparing that to the historical emissions inspection failure-rates of all engine families in a specific model year group. Motor vehicles with the highest percentage of failure rates have the highest ranking on the index. Failure rates are based on the two most recent calendar years of emissions inspection test data from the Virginia Motor Vehicle Emissions Control Program.

"Vehicle specific power ~~(VSP)~~" or "VSP" means an indicator expressed as a function of vehicle speed, acceleration, drag coefficient, tire rolling resistance and roadway grade that is used to characterize the load a vehicle is operating under at the time and place a vehicle is measured by remote sensing equipment. It is calculated using the following formula:

VSP = 4.39 x Sine (Site Grade in Degrees/57.3) x Speed + K1

x Speed x Acceleration + K2 x Speed + K3 x Speed^3.

Where:

VSP = vehicle specific power indicator;

Sine = the trigonometric function that for an acute angle is the ratio between the side opposite the angle when it is considered part of a right triangle and the hypotenuse;

Site Grade in Degrees = slope of road where remote sensing measurement is taken;

K1, K2 and K3 = empirically determined coefficients specific to the weight class of the vehicle;

Speed = rate of motion in miles per hour of vehicle at the time remote sensing measurement is taken; and

Acceleration = change in speed in miles per hour per second.

For light duty vehicles the values for K1, K2 and K3 are respectively 0.22, 0.0954 and 0.0000272. Based on EPA guidance, the department may develop different values for K1, K2 and K3 that are applicable to heavy duty vehicles or to specific classes of light duty vehicles.

"Virginia Motor Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Virginia Motor Vehicle Emissions Control Law" means Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

"Visible smoke" means any air pollutant, other than visible water droplets, consisting of black, gray, blue or blue-black airborne particulate matter emanating from the exhaust system or crankcase. Visible smoke does not mean steam.

Part II
General Provisions

9VAC5-91-30. Applicability and authority of the department.

A. The provisions of this chapter, unless specified otherwise, apply to the following:

1. Any owner of an affected motor vehicle, including new motor vehicles, specified in subsection B of this section. References made to responsibilities or requirements applicable to an affected motor vehicle shall mean that the owner shall be responsible for compliance with all applicable provisions of this chapter.

2. Any owner of an emissions inspection station or fleet emissions inspection station under the auspices of the enhanced emissions inspection program. References made to responsibilities or requirements of emissions inspection stations or fleet emissions inspection stations shall mean that the owner, permittee or certificate holder, as appropriate, shall be responsible for compliance with all applicable provisions of this chapter.

3. Any person who conducts an emissions inspection under the auspices of the enhanced emissions inspection program.

4. Any owner of an emissions repair facility performing emissions repairs on motor vehicles affected by this chapter. References made to responsibilities or requirements of certified emissions repair facilities shall mean that the owner, permittee or certificate holder, as appropriate, shall be responsible for compliance with all applicable provisions of this chapter.

5. Any emissions repair technician performing emissions repairs on motor vehicles affected by this chapter.

6. Any on-road emissions inspector conducting on-road testing.

7. Any person or corporation that has entered into a contract with the director to provide services in accordance with this chapter.

B. The provisions of this chapter, unless specified otherwise, apply to the following affected motor vehicles:

1. Any affected motor vehicle, including new motor vehicles, registered by the Virginia Department of Motor Vehicles and garaged within the Northern Virginia program area.

2. Any affected motor vehicle, including new motor vehicles, registered by the Virginia Department of Motor Vehicles and garaged outside of the Northern Virginia program area but operated primarily in the Northern Virginia program area.

3. Any affected motor vehicle, including new motor vehicles not registered by the Department of Motor Vehicles but operated primarily in the Northern Virginia program area.

4. Any affected motor vehicle, including new motor vehicles owned or operated as part of a fleet located outside the Northern Virginia program area but operated primarily in the Northern Virginia program area.

C. As provided in the Virginia Motor Vehicle Emissions Control Law, affected motor vehicles shall be submitted for biennial emissions inspections and shall be in compliance with this chapter.

1. Motor vehicles having obtained a valid enhanced emissions inspection pass from another program area or another state within the most recent 12 months may be determined by the director to be in compliance with the

enhanced emissions inspection required by this chapter for initial registration in Virginia. The valid period for such emissions inspection shall be one year. The proof of emissions inspection results from an enhanced emissions inspection program shall be presented to the Department of Motor Vehicles in such cases. The vehicle and proof of compliance may be presented to the department for verification purposes in order to resolve questions or disputes. Such vehicles are subject to all other provisions of this chapter.

2. The director may temporarily defer the emissions inspection requirement for motor vehicles registered in but temporarily located outside the program area at the time of such requirement based on information including, but not limited to, the location of the vehicle, the reason for and length of its temporary location, and demonstration that it is not practical or reasonable to return the vehicle to the program area for inspection. All such information shall be provided by the owner and is subject to verification by the department.

3. Clean screen vehicles may be determined by the director to be in compliance with the enhanced emissions inspection required by this chapter.

D. Motor vehicles being titled for the first time shall be considered to have an enhanced emissions inspection valid for ~~two~~ four years from the month of the first titling unless identified by the remote sensing program as violating the emissions standards for that program. A vehicle manufactured for the current model year or any of the three immediately preceding model years shall be considered to have a valid emissions inspection unless identified by the remote sensing program as violating the emissions standards established for that program. Such vehicles are not exempt from the emissions inspection program and are subject to all other provisions of this chapter.

E. Pursuant to § 46.2-1180 B of the Motor Vehicle Emissions Control Law, motor vehicles of the current model year and the four immediately preceding model years, held for resale in a licensed motor vehicle dealer's inventory, may be registered for one year upon sale without obtaining an emissions inspection in accordance with conditions enumerated below.

1. The vehicle must be registered in the program area.

2. The vehicle has not failed nor received a waiver during its most recent emissions inspection.

3. The vehicle has not previously been registered under the provisions of this subsection.

4. The motor vehicle dealer guarantees in writing to the customer and to the department that the emissions equipment on the motor vehicle is operating in compliance with the warranty of the manufacturer or distributor, or both if applicable, at the time of sale.

a. The document supplied must describe the method by which this compliance was determined and provide a copy of any emissions readings obtained from the vehicle for the purpose of making this showing.

b. The document must state in prominent or bold print that the certification in no way warrants or guarantees that the vehicle complied with the emission standards used in the Virginia enhanced emissions inspection program, or similar language approved by the department and that the customer has a right to request an emissions inspection, which may be at the expense of the customer, in lieu of the one year emissions validation period authorized by this subsection.

5. A written request, including the documentation cited above, must be presented to the department not more than 30 days prior to the date of sale so that the department can record such temporary emissions validation period and furnish it to the Department of Motor Vehicles.

6. Such temporary validation period shall not be granted more than once for any motor vehicle.

7. For the purposes of this subsection, any used motor vehicle will be considered to be one model year old on the first day of October of the next calendar year after the model year described on the vehicle title or registration, and shall increase in age by one year on the first day of each October thereafter.

F. Owners or operators of fleets, including fleets of government vehicles and sensitive mission vehicles, shall provide a report to the department annually containing information regarding vehicles operated in the program area sufficient to determine compliance with this chapter. The report shall contain information deemed necessary by the department to determine compliance. Such information shall include, but not be limited to, (i) number of vehicles, (ii) compliance method, and (iii) results of any inspections. Reports shall be in a format and according to a schedule acceptable to the department.

G. Manufacturers and distributors of emissions testing equipment are prohibited from directly or indirectly owning or operating any emissions testing facility or having any direct or indirect financial interest in any such facility other than the leasing of or providing financing for equipment related to emissions testing.

H. The provisions of this chapter, unless specified otherwise, apply only to those pollutants for which emission standards are set forth in Part III (9VAC5-91-160 et seq.) and Part XIV (9VAC5-91-790 et seq.).

I. Applicants for inspection station permits and emissions repair facility certificates shall have a Virginia business license and the application shall only be for a facility in Virginia.

J. By the adoption of this chapter, the board confers upon the department the administrative, enforcement and decision making authority enumerated herein.

VA.R. Doc. No. R15-4395; Filed June 23, 2015, 8:11 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Proposed Regulation

Title of Regulation: **12VAC5-90. Regulations for Disease Reporting and Control (amending 12VAC5-90-10, 12VAC5-90-80, 12VAC5-90-90, 12VAC5-90-100, 12VAC5-90-110, 12VAC5-90-280; repealing 12VAC5-90-50, 12VAC5-90-290 through 12VAC5-90-360).**

Statutory Authority: § 32.1-35 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 11, 2015.

Agency Contact: Diane Woolard, Ph.D., Director, Division of Surveillance and Investigation, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8124, or email diane.woolard@vdh.virginia.gov.

Basis: Section 32.1-35 directs the State Board of Health to promulgate regulations specifying which diseases occurring in the Commonwealth are to be reportable and the method by which they are to be reported. Further, § 32.1-42 of the Code of Virginia authorizes the board to promulgate regulations and orders to prevent a potential emergency caused by a disease dangerous to public health. The board is empowered to adopt such regulations as are necessary to carry out provisions of laws of the Commonwealth administered by the State Health Commissioner by § 32.1-12 of the Code of Virginia.

Purpose: The amendments are necessary in order to ensure that the regulations comply with changes in the Code of Virginia and recommendations of national public health organizations. The proposed changes improve the ability of the Virginia Department of Health to conduct surveillance and implement disease control for conditions of public health concern, including outbreaks and emergencies that could be caused by naturally occurring disease or acts of bioterrorism. The changes will position the agency to better detect and respond to these illnesses to protect the health of the public.

Substance: The proposed amendments (i) update definitions to align them with current usage; (ii) update the reportable disease list to reflect current national recommendations and language; (iii) update the list of conditions reportable by laboratory directors to reflect current laboratory technology and public health standards; (iv) increase the information reported by laboratory directors for Campylobacter infection, hepatitis B, and human immunodeficiency virus (HIV) testing, especially for children, and increase the specimens to be submitted to the Division of Consolidated Laboratory Services (DCLS) of the Virginia Department of General Services for advanced laboratory testing; (v) update language to ensure consistency between sections; (vi) clarify the agency's role in interstate and national notifications; (vii) clarify the level of information that may be shared with the agency by schools and other facilities; (viii) renumber sections for internal consistency within the regulations; and (ix) update reporting of dangerous microbes and pathogens sections to reflect federal code section numbering changes and other requirements.

Issues: The primary advantage to the agency is that the proposed amendments will improve the ability of the Virginia Department of Health (VDH) to detect and control diseases of public health importance. Most of the changes being proposed are updates to terminology to reflect current usage or to clarify requirements. Some formatting changes have also been proposed.

The impact on businesses primarily affects laboratories conducting business in the Commonwealth. The addition of laboratory testing methods to the list of conditions that laboratory directors must report reflects advances in laboratory science, but would mean that laboratories conducting business in Virginia will have to report additional positive laboratory findings to VDH. To reflect current Centers for Disease Control and Prevention recommendations, the reportable blood lead level is changed from 10 to 5 µg/dL for children and from 25 to 10 µg/dL for adults. Many of the proposed changes are already being reported by laboratories that offer those testing options. The proposed amendments would require laboratory directors to provide additional information on antimicrobial susceptibility for gonorrhea, to provide details of hepatitis test results, and to submit remnant HIV diagnostic serum to DCSL for HIV recency testing and HIV genetic sequence data from HIV drug resistance tests. Laboratory directors would also report all hepatitis B test results for children younger than two years of age and HIV test results for children younger than four years of age.

The primary advantage to the public is that VDH will be increasingly aware of conditions of public health concern so that staff can take action to reduce the risk of preventable acute diseases. No disadvantages to the public are known.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Regulations for Disease Reporting and Control provide information about the process and procedures for reporting diseases to the Virginia Department of Health (VDH), including what diseases must be reported, who must report them and other details related to public health reporting and disease control. The Virginia Board of Health proposes to: 1)

add two diseases and subtract one from the reportable disease list, 2) add three conditions to the list of conditions for which specimens must be shipped to the Department of General Services Division of Consolidated Laboratory Services (DCLS), and make numerous other changes for clarity and to reflect current practice.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. The specific changes being proposed are necessary to ensure the regulations comply with recent changes in the practice of public health pertaining to the reporting of diseases in humans that are potentially transmitted from environmental sources (e.g., babesiosis and leptospirosis) as well as to update the list of laboratory tests that can be used to identify reportable disease findings and of specimens needing further testing to reflect advances in laboratory technology. Further amendments are necessary to clarify definitions and ensure consistency of the regulatory language, such as to standardize the reporting requirements for those who are required to report. Minor changes are also proposed to the section on the reporting of dangerous microbes to align the regulatory requirements with federal requirements. The benefits of the proposed amendments stem from the improvement in information on which actions can be taken to minimize the spread of disease in Virginia.

The Board proposes to add babesiosis and leptospirosis and remove monkeypox from the reportable disease list. According to VDH, babesiosis and leptospirosis are quite rare and monkeypox has never been found in the Commonwealth. Thus this proposed change will in net likely cause a very small increase in laboratory staff time spent on reporting

Another proposed change will newly require the shipping of specimens to DCLS if positive tests are found for: 1) HIV, 2) Vibrio infection, or 3) when a clinical specimen yields evidence indicating the presence of a select agent or toxin as defined by federal regulations in 42 CFR Part 73. VDH estimates that approximately 2,400 positive HIV lab tests are confirmed each year in Virginia. Annually there are about 30 Vibrio infections and fewer than ten for select agents in the Commonwealth.

Private and Public labs that do HIV testing currently ship remnant sample (that is, serum that is remaining after they have finished their testing) to the federal Centers for Disease Control and Prevention (CDC)-designated lab voluntarily and at zero cost to the shipping lab. The samples are tested to determine recency of the HIV infection; thus this lab is referred to as the recency lab. One state lab (NY) does all of the testing for the country and works with the labs that do confirmatory testing for HIV to provide for them to ship their remnant samples to the recency lab using CDC funds. CDC has supported this program since 2004. As long as CDC funds continue to be available, this proposed amendment would not have any costs to laboratories in Virginia.

There is currently no federal funding to pay for the shipping of the Vibrio and select agent specimens. Statewide there will likely be fewer than 40 times per annum where such a specimen would need to be shipped.[1] Also, if labs are already shipping other specimens to DCLS at the same, the lab could potentially just add the specimen in question to the package and not incur additional costs. Nevertheless, there will likely be occasions where a shipment must be made due to the detection of Vibrio or a select agent.

Businesses and Entities Affected. VDH estimates that up to 100 laboratories may be affected by the changes proposed in laboratory reporting requirements; however, not all will offer the types of testing that must be reported. These laboratories are already reporting disease information to the health department, and the additions should have minimal impact. Some of the affected laboratories, including those in hospitals, would meet the definition of a small business.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments will not likely affect employment.

Effects on the Use and Value of Private Property. The proposal to add Vibrio infection and the presence of a select agent or toxin[2] to the list of conditions for which specimens must be shipped to DCLS will create some occasions where private laboratories must expend additional dollars on shipping.

Small Businesses: Costs and Other Effects. The proposal to add Vibrio infection and the presence of a select agent or toxin[3] to the list of conditions for which specimens must be shipped to DCLS will create some occasions where small private laboratories must expend additional dollars on shipping.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Short of providing a subsidy or other outside reimbursement, there is no clear alternative method that would reduce the additional shipping costs for some small laboratories while still accomplishing the policy goal of improved information on which actions can be taken to minimize the spread of disease in Virginia.

Real Estate Development Costs. The proposed amendments do not affect real estate development costs.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, a determination of the public benefit, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs

to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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[1]As mentioned, VDH estimates that there are about 30 Vibrio infections and fewer than ten for select agents annually in the Commonwealth

[2]As defined by federal regulations in 42 CFR Part 73.

[3]Ibid.

Agency's Response to Economic Impact Analysis: The Virginia Department of Health concurs with the results of the analysis performed by the Department of Planning and Budget, specifically, the benefits likely exceed the costs for all proposed changes**.**

Summary:

The proposed amendments (i) add babesiosis and leptospirosis to and remove monkeypox from the reportable disease list; (ii) require the shipping of specimens to the Department of General Services' Division of Consolidated Laboratory Services if positive tests are found for HIV or Vibrio infection, or when a clinical specimen yields evidence indicating the presence of a select agent or toxin as defined in 42 CFR Part 73; and (iii) make numerous changes for clarity and to reflect current practice.

Part I
Definitions

12VAC5-90-10. Definitions.

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

"Acute care hospital" means a hospital as defined in § 32.1-123 of the Code of Virginia that provides medical treatment for patients having an acute illness or injury or recovering from surgery.

"Adult intensive care unit" means a nursing care area that provides intensive observation, diagnosis, and therapeutic procedures for persons 18 years of age or more who are critically ill. Such units may also provide intensive care to pediatric patients. An intensive care unit excludes nursing areas that provide step-down, intermediate care, or telemetry only.

"Affected area" means any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with, or who are reasonably suspected to have been exposed to or infected with, a communicable disease of public health threat. "Affected area" shall include, but not be limited to, cities, counties, towns, and subsections of such areas, public and private property, buildings, and other structures.

"Arboviral infection" means a viral illness that is transmitted by a mosquito, tick, or other arthropod. This includes, but is not limited to, chikungunya, dengue, eastern equine encephalitis (EEE), LaCrosse encephalitis (LAC), St. Louis encephalitis (SLE), and West Nile virus (WNV) infection.

"Board" means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

"CDC" means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

"Central line-associated bloodstream infection" means a primary bloodstream infection identified by laboratory tests, with or without clinical signs or symptoms, in a patient with a central line device, and meeting the current ~~Centers for Disease Control and Prevention (CDC)~~ CDC surveillance definition for laboratory-confirmed primary bloodstream infection.

"Central line device" means a vascular infusion device that terminates at or close to the heart or in one of the ~~greater~~ great vessels. The following are considered great vessels for the purpose of reporting central line infections and counting central line days: aorta, pulmonary artery, superior vena cava, inferior vena cava, brachiocephalic veins, internal jugular veins, subclavian veins, external iliac veins, and common femoral veins.

"Child care center" means a child day center, child day program, family day home, family day system, or registered family day home as defined by § 63.2-100 of the Code of Virginia, or a similar place providing day care of children by such other name as may be applied.

"Clinic" means any facility, freestanding or associated with a hospital, that provides preventive, diagnostic, therapeutic, rehabilitative, or palliative care or services to outpatients.

"Commissioner" means the State Health Commissioner or his duly designated officer or agent, unless stated in a provision of these regulations that it applies to the State Health Commissioner in his sole discretion.

"Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted,

directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

"Communicable disease of public health significance" means an illness caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another. This includes but is not limited to infections caused by human immunodeficiency viruses, bloodborne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with these regulations, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or the tubercle bacilli, unless used as a bioterrorism weapon.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this regulation.

"Condition" means any adverse health event, such as a disease, an infection, a syndrome, or as indicated by a procedure (including but not limited to the results of a physical exam, laboratory test, or imaging interpretation) suggesting that an exposure of public health importance has occurred.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

"Contact services" means a broad array of services that are offered to persons with infectious diseases and their contacts. Contact services include contact tracing, providing information about current infections, developing risk reduction plans to reduce the chances of future infections, and connecting to appropriate medical care and other services.

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy hazardous substances or organisms from a person, surface, or item to the point that such substances or organisms are no longer capable of causing adverse health effects and the surface or item is rendered safe for handling, use, or disposal.

"Department" means the State Department of Health.

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

~~"Ehrlichiosis/anaplasmosis"~~ "Ehrlichiosis/Anaplasmosis" means human infections caused by Ehrlichia chaffeensis (formerly included in the category "human monocytic ehrlichiosis" or "HME"), Ehrlichia ewingii or Anaplasma phagocytophilum (formerly included in the category "human granulocytic ehrlichiosis" or "HGE").

"Epidemic" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

"Essential needs" means basic human needs for sustenance including but not limited to food, water, and health care~~,~~ (e.g., medications, therapies, testing, and durable medical equipment).

"Exceptional circumstances" means the presence, as determined by the commissioner in his sole discretion, of one or more factors that may affect the ability of the department to effectively control a communicable disease of public health threat. Factors to be considered include but are not limited to: (i) characteristics or suspected characteristics of the disease-causing organism or suspected disease-causing organism such as virulence, routes of transmission, minimum infectious dose, rapidity of disease spread, the potential for extensive disease spread, and the existence and availability of demonstrated effective treatment; (ii) known or suspected risk factors for infection; (iii) the potential magnitude of the effect of the disease on the health and welfare of the public; and (iv) the extent of voluntary compliance with public health recommendations. The determination of exceptional circumstances by the commissioner may take into account the experience or results of investigation in Virginia, another state, or another country.

"Foodborne outbreak" means two or more cases of a similar illness acquired through the consumption of food contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxication, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, Clostridium perfringens food poisoning, hepatitis A, and Shiga toxin-producing Escherichia coli ~~O157:H7~~ infection.

"Healthcare-associated infection" (also known as nosocomial infection) means a localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent or agents or its toxin or toxins that (i)

occurs in a patient in a ~~healthcare~~ health care setting (e.g., a hospital or outpatient clinic), (ii) was not found to be present or incubating at the time of admission unless the infection was related to a previous admission to the same setting, and (iii) if the setting is a hospital, meets the criteria for a specific infection site as defined by CDC.

"Hepatitis C, acute" means the following clinical characteristics are met: (i) discrete onset of symptoms indicative of viral hepatitis and (ii) jaundice or elevated serum aminotransferase levels and the following laboratory criteria are met: (a) serum alanine aminotransferase levels (ALT) greater than 400 IU/L; (b) IgM anti-HAV negative (if done); (c) IgM anti-HBc negative (if done); and (d) hepatitis C virus antibody (anti-HCV) screening test positive with a signal-to-cutoff ratio predictive of a true positive as determined for the particular assay as defined by CDC, HCV antibody positive by immunoblot (RIBA), or HCV RNA positive by nucleic acid test.

"Hepatitis C, chronic" means that the laboratory criteria specified in clauses (b), (c) and (d) listed above for an acute case are met but clinical signs or symptoms of acute viral hepatitis are not present and serum alanine aminotransferase (ALT) levels do not exceed 400 IU/L. This category will include cases that may be acutely infected but not symptomatic.

"Immunization" means a procedure that increases the protective response of an individual's immune system to specified pathogens.

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow specimen examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

"Individual" means a person or companion animal. When the context requires it, "person or persons" shall be deemed to include any individual.

"Infection" means the entry and multiplication or persistence of a disease-causing organism (prion, virus, bacteria, fungus, parasite, or ectoparasite) in the body of an individual. An infection may be inapparent (i.e., without recognizable signs or symptoms but identifiable by laboratory means) or manifest (clinically apparent).

"Influenza A, novel virus" means infection of a human with an influenza A virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9 subtypes or influenza H1 and H3 subtypes originating from a nonhuman species.

"Invasive" means the organism is affecting a normally sterile site, including but not limited to blood or cerebrospinal fluid.

"Investigation" means an inquiry into the incidence, prevalence, extent, source, mode of transmission, causation of, and other information pertinent to a disease occurrence.

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with, or are reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, complete" means the full-time confinement or restriction of movement of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease. Modified isolation is designed to meet particular situations and includes but is not limited to the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Isolation, protective" means the physical separation of a susceptible individual or individuals not infected with, or not reasonably suspected to be infected with, a communicable disease from an environment where transmission is occurring, or is reasonably suspected to be occurring, in order to prevent the individual or individuals from acquiring the communicable disease.

"Laboratory" as used herein means a clinical laboratory that examines materials derived from the human body for the purpose of providing information on the diagnosis, prevention, or treatment of disease.

"Laboratory director" means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

"Law-enforcement agency" means any sheriff's office, police department, adult or youth correctional officer, or other agency or department that employs persons who have law-enforcement authority that is under the direction and control of the Commonwealth or any local governing body. "Law-enforcement agency" shall include, by order of the Governor, the Virginia National Guard.

"Lead, elevated blood levels" means a confirmed blood level greater than or equal to ~~10 micrograms of lead per deciliter (µg/dL) of whole blood in a child or children 15 years of age and younger, a venous blood lead level greater than or equal to 25 µg/dL in a person older than 15 years of age, or such lower blood lead level as may be recommended for individual intervention by the department or the Centers for Disease~~

~~Control and Prevention~~ the reference value established by the CDC. In 2012, the reference value was 5 µg/dL in children and 10 µg/dL for persons older than 15 years of age.

"Least restrictive" means the minimal limitation of the freedom of movement and communication of an individual while under an order of isolation or an order of quarantine that also effectively protects unexposed and susceptible individuals from disease transmission.

"Medical care facility" means any hospital or nursing home licensed in the Commonwealth, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia.

"Midwife" means any person who is licensed as a nurse midwife by the Virginia Boards of Nursing and Medicine or who is licensed by the Board of Medicine as a certified professional midwife.

"National Healthcare Safety Network ~~(NHSN)"~~ or "NHSN" means a surveillance system created by the CDC for accumulating, exchanging, and integrating relevant information on infectious adverse events associated with ~~healthcare~~ health care delivery.

"Nucleic acid detection" means laboratory testing of a clinical specimen to determine the presence of deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) specific for an infectious agent using any method, including hybridization, sequencing, or amplification such as polymerase chain reaction.

"Nurse" means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia Board of Nursing.

"Occupational outbreak" means a cluster of illness or disease that is indicative of a work-related exposure. Such conditions include but are not limited to silicosis, asbestosis, byssinosis, pneumoconiosis, and tuberculosis.

"Outbreak" means the occurrence of more cases of a disease than expected.

"Period of communicability" means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

"Physician" means any person licensed to practice medicine or osteopathy by the Virginia Board of Medicine.

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area or who are known to have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease and who do not yet show signs or symptoms of infection with the communicable disease in order to prevent or limit the transmission of the communicable disease of public health threat to unexposed and uninfected individuals.

"Quarantine, complete" means the full-time confinement or restriction of movement of an individual or individuals who do not have signs or symptoms of infection but may have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease of public health threat in order to prevent the transmission of the communicable disease of public health threat to uninfected individuals.

"Quarantine, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals who do not have signs or symptoms of the infection but have been exposed to, or are reasonably suspected to have been exposed to, a communicable disease of public health threat. Modified quarantine may be designed to meet particular situations and includes but is not limited to limiting movement to the home, work, ~~and/or~~ or one or more other locations, the prohibition or restriction from using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Reportable disease" means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment, as determined by the board.

"SARS" means severe acute respiratory syndrome (SARS)-associated coronavirus (SARS-CoV) disease, Middle East respiratory syndrome (MERS)-associated coronavirus (MERS-CoV) disease, or another coronavirus causing a severe acute illness.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth; (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; (iii) any private or parochial nursery school or preschool, or any private or parochial child care center licensed by the Commonwealth; and (iv) any preschool handicap classes or Head Start classes.

"Serology" means the testing of blood, serum, or other body fluids for the presence of antibodies or other markers of an infection or disease process.

"Surveillance" means the ongoing systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice. A surveillance system includes the functional capacity for data analysis as well as the timely dissemination of these data to persons who can undertake effective prevention and control activities.

"Susceptible individual" means a person or animal who is vulnerable to or potentially able to contract a disease or condition. Factors that affect an individual's susceptibility include but are not limited to physical characteristics, genetics, previous or chronic exposures, chronic conditions or infections, immunization history, or use of medications.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

"Tubercle bacilli" means disease-causing organisms belonging to the Mycobacterium tuberculosis complex and includes Mycobacterium tuberculosis, Mycobacterium bovis, and Mycobacterium africanum or other members as may be established by the commissioner.

"Tuberculin skin test (TST)" means a test for demonstrating infection with tubercle bacilli, performed according to the Mantoux method, in which 0.1 ml of 5 TU strength tuberculin purified protein derivative (PPD) is injected intradermally on the volar surface of the arm. Any reaction is observed 48-72 hours after placement and palpable induration is measured across the diameter transverse to the long axis of the arm. The measurement of the indurated area is recorded in millimeters and the significance of the measured induration is based on existing national and department guidelines.

"Tuberculosis" means a disease caused by tubercle bacilli.

"Tuberculosis, active disease" (also "active tuberculosis disease" and "active TB disease"), as defined by § 32.1-49.1 of the Code of Virginia, means a disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or nucleic acid amplification, including preliminary identification by rapid methodologies; (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear, and where sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in Virginia; or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing, or suspected of containing, tubercle bacilli is unobtainable.

"Tuberculosis infection in children age ~~less than 4~~ <u>≤4</u> years" means a significant reaction resulting from a tuberculin skin test (TST) or other approved test for latent infection without clinical or radiographic evidence of active tuberculosis disease, in children from birth up to their fourth birthday.

"Vaccinia, disease or adverse event" means vaccinia infection or serious or unexpected events in persons who received the smallpox vaccine or their contacts, including but not limited to bacterial infections, eczema vaccinatum, erythema multiforme, generalized vaccinia, progressive vaccinia, inadvertent inoculation, post-vaccinial encephalopathy or encephalomyelitis, ocular vaccinia, and fetal vaccinia.

"Waterborne outbreak" means two or more cases of a similar illness acquired through the ingestion of or other exposure to water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to giardiasis, viral gastroenteritis, cryptosporidiosis, hepatitis A, cholera, and shigellosis. A single case of laboratory-confirmed primary amebic meningoencephalitis or of waterborne chemical poisoning is considered an outbreak.

12VAC5-90-50. ~~Applicability.~~ (Repealed.)

~~A. This chapter has general application throughout the Commonwealth.~~

~~B. The provisions of the Virginia Administrative Process Act, which is codified as Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia shall govern the adoption, amendment, modification, and revision of this chapter, and the conduct of all proceedings and appeals hereunder. All hearings on such regulations shall be conducted in accordance with § 2.2-4007.01 of the Code of Virginia.~~

Part III
Reporting of Disease

12VAC5-90-80. ~~Reportable disease list~~ <u>Lists of diseases that shall be reported</u>.

A. <u>Reportable disease list.</u> The board declares suspected or confirmed cases of the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12VAC5-90-90. Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Acquired immunodeficiency syndrome (AIDS)

Amebiasis

*Anthrax

Arboviral infections (e.g., dengue, EEE, LAC, SLE, WNV)

<u>Babesiosis</u>

*Botulism

*Brucellosis

Campylobacteriosis

Chancroid

Chickenpox (Varicella)

Chlamydia trachomatis infection

*Cholera

Creutzfeldt-Jakob disease if <55 years of age

Cryptosporidiosis

Cyclosporiasis

*Diphtheria

*Disease caused by an agent that may have been used as a weapon

Ehrlichiosis/Anaplasmosis

Escherichia coli infection, Shiga toxin-producing

Giardiasis

Gonorrhea

Granuloma inguinale

*Haemophilus influenzae infection, invasive

Hantavirus pulmonary syndrome

Hemolytic uremic syndrome (HUS)

*Hepatitis A

Hepatitis B (acute and chronic)

Hepatitis C (acute and chronic)

Hepatitis, other acute viral

Human immunodeficiency virus (HIV) infection

Influenza

*Influenza-associated deaths in children <18 years of age

Lead, elevated blood levels

Legionellosis

Leprosy ~~(Hansen~~ (Hansen's disease)

Leptospirosis

Listeriosis

Lyme disease

Lymphogranuloma venereum

Malaria

*Measles (Rubeola)

*Meningococcal disease

~~*Monkeypox~~

Mumps

Ophthalmia neonatorum

*Outbreaks, all (including but not limited to foodborne, ~~healthcare-associated~~ health care-associated, occupational, toxic substance-related, and waterborne)

*Pertussis

*Plague

*Poliovirus infection, including poliomyelitis

*Psittacosis

*Q fever

*Rabies, human and animal

Rabies treatment, post-exposure

*Rubella, including congenital rubella syndrome

Salmonellosis

*Severe acute respiratory syndrome (SARS), including any coronavirus causing a severe acute illness

Shigellosis

*Smallpox (Variola)

Spotted fever rickettsiosis

Staphylococcus aureus infection, vancomycin-intermediate or vancomycin-resistant

Streptococcal disease, Group A, invasive or toxic shock

Streptococcus pneumoniae infection, invasive, in children <5 years of age

Syphilis (report *primary and *secondary syphilis by rapid means)

Tetanus

Toxic substance-related illness

Trichinosis (Trichinellosis)

*Tuberculosis, active disease

Tuberculosis infection in children <4 years of age

*Tularemia

*Typhoid/Paratyphoid fever

*Unusual occurrence of disease of public health concern

*Vaccinia, disease or adverse event

*Vibrio infection

*Viral hemorrhagic fever

*Yellow fever

Yersiniosis

B. Conditions reportable by directors of laboratories.

Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Amebiasis - by microscopic examination, culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Anthrax - by culture, antigen detection or nucleic acid detection

Arboviral infection - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Babesiosis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Botulism - by culture, nucleic acid detection, or identification of ~~toxin~~ neurotoxin in a clinical specimen

*Brucellosis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Campylobacteriosis - by culture, antigen detection, or nucleic acid detection. Submit all culture results (positive

or negative) associated with a positive antigen detection test.

Chancroid - by culture, antigen detection, or nucleic acid detection

Chickenpox ~~(varicella)~~ (Varicella) - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Chlamydia trachomatis infection - by culture, antigen detection, nucleic acid detection or, for lymphogranuloma venereum, serologic results consistent with recent infection

*Cholera - by culture or serologic results consistent with recent infection

Creutzfeldt-Jakob disease if <55 years of age by histopathology in patients under the age of 55 years

Cryptosporidiosis - by microscopic examination, antigen detection, or nucleic acid detection

Cyclosporiasis - by microscopic examination or nucleic acid detection

*Diphtheria - by culture or histopathology

Ehrlichiosis/Anaplasmosis - by culture, nucleic acid detection, or serologic results consistent with recent infection

Escherichia coli infection, Shiga toxin-producing - by culture ~~of E. coli O157 or other Shiga toxin-producing E. coli~~, Shiga toxin detection (e.g., by EIA), or nucleic acid detection

Giardiasis - by microscopic examination ~~or,~~ antigen detection, or nucleic acid detection

Gonorrhea - by microscopic examination of a urethral smear specimen (males only), culture, antigen detection, or nucleic acid detection. Include available antimicrobial susceptibility findings in report.

*Haemophilus influenzae infection, invasive - by culture, antigen detection, or nucleic acid detection from a normally sterile site

Hantavirus pulmonary syndrome - by antigen detection (immunohistochemistry), nucleic acid detection, or serologic results consistent with recent infection

*Hepatitis A - by detection of IgM antibodies

Hepatitis B (acute and chronic) - by detection of HBsAg, HBeAg, or IgM antibodies or nucleic acid detection. For any reportable hepatitis finding, submit all available results from the hepatitis panel. Submit all findings for hepatitis B testing in children younger than two years of age.

Hepatitis C (acute and chronic) - by hepatitis C virus antibody (anti-HCV) screening test positive with a signal-to-cutoff ratio predictive of a true positive as determined for the particular assay as defined by CDC, HCV antibody positive by immunoblot (RIBA), or HCV RNA positive by nucleic acid test. For all hepatitis C patients, also report available results of serum alanine aminotransferase (ALT), anti-HAV IgM, anti-HBc IgM, and HBsAg. For any reportable hepatitis finding, submit all available results from the hepatitis panel.

Hepatitis, other acute viral – any finding indicative of acute infection with hepatitis D, E, or other cause of viral hepatitis. For any reportable hepatitis finding, submit all available results from the hepatitis panel.

Human immunodeficiency virus (HIV) infection - by culture, antigen detection, nucleic acid detection, or detection of antibody ~~confirmed with a supplemental test~~. For HIV-infected patients, report all results of CD4 and HIV viral load tests and all HIV genetic sequence data associated with HIV drug resistance tests. For children from birth to three years of age, report all tests regardless of the test findings (e.g., negative or positive).

Influenza - by culture, antigen detection by direct fluorescent antibody (DFA), or nucleic acid detection

Lead, elevated blood levels - by blood lead level greater than or equal to ~~10 µg/dL in children ages 0-15 years, or greater than or equal to 25 µg/dL in persons older than 15 years of age~~ the reference value established by CDC. The reference value established in 2012 was 5 µg/dL in children and 10 µg/dL in persons older than 15 years of age.

Legionellosis - by culture, antigen detection (including urinary antigen), nucleic acid detection, or serologic results consistent with recent infection

Leptospirosis - by culture, microscopic examination by dark field microscopy, nucleic acid detection, or serologic results consistent with recent infection

Listeriosis - by culture

Lyme disease - by culture, antigen detection, or detection of antibody confirmed with a supplemental test

Malaria - by microscopic examination, antigen detection, or nucleic acid detection

*Measles ~~(rubeola)~~ (Rubeola) - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Meningococcal disease - by culture or antigen detection from a normally sterile site

~~*Monkeypox - by culture or nucleic acid detection~~

Mumps - by culture, nucleic acid detection, or serologic results consistent with recent infection

*Mycobacterial diseases - (See 12VAC5-90-225 B) Report any of the following:

1. Acid fast bacilli by microscopic examination;
2. Mycobacterial identification - preliminary and final identification by culture or nucleic acid detection;
3. Drug susceptibility test results for M. tuberculosis.

*Pertussis - by culture, antigen detection, or nucleic acid detection

*Plague - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Poliovirus infection - by culture

*Psittacosis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Q fever - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Rabies, human and animal - by culture, antigen detection by direct fluorescent antibody test, nucleic acid detection, or, for humans only, serologic results consistent with recent infection

*Rubella - by culture, nucleic acid detection, or serologic results consistent with recent infection

Salmonellosis - by culture or antigen detection

*Severe acute respiratory syndrome, including any coronavirus causing a severe acute illness - by culture, nucleic acid detection, or serologic results consistent with recent infection

Shigellosis - by culture or antigen detection

*Smallpox ~~(variola)~~ (Variola) - by culture or nucleic acid detection

Spotted fever rickettsiosis - by culture, antigen detection (including immunohistochemical staining), nucleic acid detection, or serologic results consistent with recent infection

Staphylococcus aureus infection, resistant, as defined below~~.~~:

~~1. Methicillin-resistant - by antimicrobial susceptibility testing of a Staphylococcus aureus isolate, with a susceptibility result indicating methicillin resistance, cultured from a normally sterile site~~

~~2.~~ Vancomycin-intermediate or vancomycin-resistant Staphylococcus aureus infection - by antimicrobial susceptibility testing of a Staphylococcus aureus isolate, with a vancomycin susceptibility result of intermediate or resistant, cultured from a clinical specimen. Include available antimicrobial susceptibility findings in report.

Streptococcal disease, Group A, invasive or toxic shock - by culture from a normally sterile site

Streptococcus pneumoniae infection, invasive, in children <5 years of age - by culture from a normally sterile site in a child under the age of five years

*Syphilis - by microscopic examination (including dark field), antigen detection (including direct fluorescent antibody), or serology by either treponemal or nontreponemal methods

Toxic substance-related illness - by blood or urine laboratory findings above the normal range, including but not limited to heavy metals, pesticides, and industrial-type solvents and gases. When applicable and available, report speciation of metals when blood or urine levels are elevated in order to differentiate the chemical species (elemental, organic, or inorganic).

Trichinosis ~~(trichinellosis)~~ (Trichinellosis) - by microscopic examination of a muscle biopsy or serologic results consistent with recent infection

*Tularemia - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Typhoid/Paratyphoid fever - by culture

*Vaccinia, disease or adverse event - by culture or nucleic acid detection

*Vibrio infection - by culture. Include Photobacterium damselae and Grimontia hollisae as well as Vibrio species.

*Viral hemorrhagic fever - by culture, antigen detection (including immunohistochemical staining), nucleic acid detection, or serologic results consistent with recent infection

*Yellow fever - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Yersiniosis - by culture, nucleic acid detection, or serologic results consistent with recent infection

C. Reportable diseases requiring rapid communication. Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature or their potential for greater harm, or both, require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed below, shall be made immediately by the most rapid means available, preferably ~~that of telecommunication (e.g.,~~ by telephone~~, telephone transmitted facsimile, pagers, etc.)~~ to the local health ~~director or other professional employee of the~~ department. (These same diseases are also identified by an asterisk (*) in ~~subsection A and subsection B~~ subsections A and B, where applicable, of this section.)

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

Disease caused by an agent that may have been used as a weapon

Haemophilus influenzae infection, invasive

Hepatitis A

Influenza-associated deaths in children <18 years of age

Influenza A, novel virus

Measles (Rubeola)

Meningococcal disease

~~Monkeypox~~

Outbreaks, all

Pertussis

Plague

Poliovirus infection, including poliomyelitis

Psittacosis

Q fever

Rabies, human and animal

Rubella, including congenital rubella syndrome

Severe acute respiratory syndrome (SARS), including any coronavirus causing a severe acute illness

Smallpox (Variola)

Syphilis, primary and secondary

Tuberculosis, active disease

Tularemia

~~*Typhoid/Paratyphoid~~ Typhoid/Paratyphoid fever

Unusual occurrence of disease of public health concern

Vaccinia, disease or adverse event

Vibrio infection

Viral hemorrhagic fever

Yellow fever

D. Toxic substance-related illnesses. All toxic substance-related illnesses, including pesticide and heavy metal poisoning or illness resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such illness is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such illness shall be ~~by rapid communication as in subsection C of this section~~ made immediately by the most rapid means available.

E. Outbreaks. The occurrence of outbreaks or clusters of any illness which may represent a group expression of an illness which may be of public health concern shall be reported to the local health department immediately by the most rapid means available.

F. Unusual or ill-defined diseases or emerging or reemerging pathogens. Unusual or emerging conditions of public health concern shall be reported to the local health department immediately by the most rapid means available. In addition, the commissioner or his designee may establish surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

12VAC5-90-90. Those required to report.

A. Physicians. Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease or condition shall report that person's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease diagnosed or suspected; the date of onset of illness; and the name, address, and telephone number of the physician and medical facility where the examination was made, except that influenza should be reported by number of cases only (and type of influenza, if available). Reports are to be made to the local health department serving the jurisdiction where the physician practices. A physician may designate someone to report on his behalf, but the physician remains responsible for ensuring that the appropriate report is made. Any physician, designee, or organization making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

Such reports shall be made on a ~~form to be provided by the department (Form Epi-1)~~ Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a ~~Centers for Disease Control and Prevention (CDC)~~ CDC surveillance form that provides the same information and shall be made within three days of the suspicion or confirmation of disease ~~unless the disease in question requires rapid reporting under 12VAC5-90-80 C~~ except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid means available to the local health department serving the jurisdiction in which the facility is located. Reporting may be done by means of secure electronic transmission upon agreement of the physician and the department.

~~Pursuant to § 32.1-49.1 of the Code of Virginia, additional~~ Additional elements are required to be reported for individuals with confirmed or suspected active tuberculosis disease. Refer to Part X (12VAC5-90-225 et seq.) for details on these requirements.

B. Directors of laboratories. Any person ~~who is~~ in charge of a laboratory conducting business in the Commonwealth shall report any laboratory examination of any clinical specimen, whether performed in-house or referred to an out-of-state laboratory, which yields evidence, by the laboratory method(s) indicated or any other confirmatory test, of a disease listed in 12VAC5-90-80 B.

Each report shall give the source of the specimen and the laboratory method and result; the name, address, age, date of birth, race, sex, and pregnancy status for females (if known) of the person from whom the specimen was obtained; and the name, address, and telephone number of the physician for whom and medical facility ~~for whom~~ at which the examination was made. When the influenza virus is isolated,

the type should be reported, if available. Reports shall be made within three days of identification of evidence of disease, except that those identified ~~by an asterisk~~ in 12VAC5-90-80 C shall be reported immediately by the most rapid means available~~,~~ to the local health department serving the jurisdiction in which the laboratory is located. Reports shall be made on Form Epi-1 or on the laboratory's own form if it includes the required information. Computer generated reports containing the required information may be submitted. Reporting may be done by means of secure electronic transmission upon agreement of the laboratory director and the department. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

A laboratory identifying evidence of any of the following conditions shall notify the local health department of the positive culture or other positive test result within the timeframes specified in 12VAC5-90-80 and submit the initial isolate or other initial specimen to the ~~Virginia~~ Division of Consolidated Laboratory Services ~~(DCLS)~~ within seven days of identification. All specimens must be identified with the patient and physician information required in this subsection.

Anthrax

Brucellosis

Cholera

Diphtheria

E. coli infection, Shiga toxin-producing. (Laboratories that use a Shiga toxin EIA methodology but do not perform simultaneous culture for Shiga toxin-producing E. coli should forward all positive stool specimens or positive ~~broth cultures~~ enrichment broths to ~~DCLS~~ the Division of Consolidated Laboratory Services for confirmation and further characterization.)

Haemophilus influenzae infection, invasive

Human immunodeficiency virus (HIV) (Submit all remnant HIV diagnostic sera to the Division of Consolidated Laboratory Services or other laboratory designated by the department for HIV recency testing.)

Influenza A, novel virus

Listeriosis

Meningococcal disease

Pertussis

Plague

Poliovirus infection

Q fever

Salmonellosis

Shigellosis

Streptococcal disease, Group A, invasive

Tuberculosis (A laboratory identifying Mycobacterium tuberculosis complex (see 12VAC5-90-225) shall submit a representative and viable sample of the initial culture to ~~DCLS~~ the Division of Consolidated Laboratory Services or other laboratory designated by the board to receive such specimen.)

Typhoid/Paratyphoid fever

Vancomycin-intermediate or vancomycin-resistant Staphylococcus aureus infection

Vibrio infection, including infections due to Photobacterium damselae and Grimontia hollisae

Yersiniosis

Other diseases as may be requested by the health department

When a clinical specimen yields evidence indicating the presence of a select agent or toxin as defined by federal regulations in 42 CFR Part 73, the person in charge of the laboratory shall contact the Division of Consolidated Laboratory Services and arrange to forward an isolate for confirmation. If a select agent or toxin has been confirmed in a clinical specimen, the laboratory director shall consult with Division of Consolidated Laboratory Services or CDC regarding isolate transport or destruction.

Laboratories operating within a medical care facility shall be considered to be in compliance with the requirement to notify the local health department when the director of that medical care facility assumes the reporting responsibility; however, laboratories are still required to submit isolates to ~~DCLS~~ the Division of Consolidated Laboratory Services or other designated laboratory as noted ~~above~~ in this subsection.

C. Persons in charge of a medical care facility. Any person in charge of a medical care facility shall make a report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in 12VAC5-90-80 A unless he has evidence that the occurrence has been reported by a physician. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia. The requirement to report shall include all inpatient, outpatient, and emergency care departments within the medical care facility. Such report shall contain the patient's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease being reported; the date of admission; hospital chart number; date expired (when applicable); and attending physician. Influenza should be reported by number of cases only (and type of influenza, if available). Reports shall be made within three days of the suspicion or confirmation of disease ~~unless the disease in question requires rapid reporting under 12VAC5-90-80 C and~~ except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid means available to the local health department serving the jurisdiction in which the facility is located. Reports shall be made on Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a ~~Centers for Disease Control and Prevention~~

~~(CDC)~~ CDC surveillance form that provides the same information. Reporting may be done by means of secure electronic transmission upon agreement of the medical care facility and the department.

A person in charge of a medical care facility may assume the reporting responsibility on behalf of the director of the laboratory operating within the facility.

D. Persons in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp. Any person in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp as defined in § 35.1-1 of the Code of Virginia shall report immediately to the local health department the presence or suspected presence in his program, service, facility, school, child care center, or summer camp of persons who have common symptoms suggesting an outbreak situation. Such persons may report additional information, including ~~individual cases of~~ identifying and contact information for individuals with communicable diseases of public health concern or individuals who are involved in outbreaks that occur in their facilities, as necessary to facilitate public health investigation and disease control. Any person so reporting shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

E. Local health directors. The local health director shall forward any report of a disease or report of evidence of a disease which has been made on a resident of his jurisdiction to the Office of Epidemiology within three days of receipt. This report shall be submitted immediately by the most rapid means available if the disease is one requiring rapid communication, as required in 12VAC5-90-80 C. All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology, by either a paper report or entry into a shared secure electronic disease surveillance system, within three days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individuals residing in the latter's jurisdiction or to the Office of Epidemiology on individuals residing outside Virginia. The Office of Epidemiology shall be responsible for notifying other state health departments of reported illnesses in their residents and of notifying CDC as necessary and appropriate.

F. Persons in charge of hospitals, nursing facilities or nursing homes, assisted living facilities, and correctional facilities. In accordance with § 32.1-37.1 of the Code of Virginia, any person in charge of a hospital, nursing facility or nursing home, assisted living facility, or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral services or his agent if the dead person was known to have had, immediately prior to death, an infectious disease which may be transmitted through exposure to any bodily fluids. These include any of the following infectious diseases:

Creutzfeldt-Jakob disease

Human immunodeficiency virus infection

Hepatitis B

Hepatitis C

~~Monkeypox~~

Rabies

Smallpox

Syphilis, infectious

Tuberculosis, active disease

Vaccinia, disease or adverse event

Viral hemorrhagic fever

G. Employees, applicants, and persons in charge of food establishments. 12VAC5-421-80 of the Food Regulations requires a food employee or ~~applicant~~ conditional employee to notify the person in charge of the food establishment when diagnosed with certain diseases that are transmissible through food~~. 12VAC5-421-120~~ and requires the person in charge of the food establishment to notify the ~~health department~~ regulatory authority. Refer to ~~the appropriate sections~~ 12VAC5-421-80 ~~of the Virginia Administrative Code~~ for further guidance and clarification regarding these reporting requirements.

Part IV
Control of Disease

12VAC5-90-100. Methods.

The board and commissioner shall use appropriate disease control measures to manage the diseases listed in 12VAC5-90-80 A, including but not limited to those described in the "Methods of Control" sections of the ~~18th~~ 20th Edition of the Control of Communicable Diseases Manual ~~(2004)~~ (2015) published by the American Public Health Association. The board and commissioner reserve the right to use any legal means to control any disease which is a threat to the public health.

When notified about a disease specified in 12VAC5-90-80, the local health director or his designee shall have the authority and responsibility to perform contact tracing/contact services for HIV infection, infectious syphilis, and active tuberculosis disease and may perform contact services for the other diseases if deemed necessary to protect the public health. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected individuals be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

The local health director or his designee shall review reports of diseases received from his jurisdiction and follow up such reports, when indicated, with an appropriate investigation in

order to evaluate the severity of the problem. The local health director or his designee may recommend to any individual or group of individuals appropriate public health control measures, including but not limited to quarantine, isolation, immunization, decontamination, or treatment. He shall determine in consultation with the Office of Epidemiology and the commissioner if further investigation is required and if one or more forms of quarantine ~~and/or,~~ isolation, or both will be necessary.

Complete isolation shall apply to situations where an individual is infected with a communicable disease of public health significance (including but not limited to active tuberculosis disease or HIV infection) and is engaging in behavior that places others at risk for infection with the communicable disease of public health significance, in accordance with the provisions of Article 3.01 (§ ~~32.1-48.02~~ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Modified isolation shall apply to situations in which the local health director determines that modifications of activity are necessary to prevent disease transmission. Such situations shall include but are not limited to the temporary exclusion of a child with a communicable disease from school, the temporary exclusion of an individual with a communicable disease from food handling or patient care, the temporary prohibition or restriction of an individual with a communicable disease from using public transportation, the requirement that a person with a communicable disease use certain personal protective equipment, or restrictions of other activities that may pose a risk to the health of others.

Protective isolation shall apply to situations such as the exclusion, under § 32.1-47 of the Code of Virginia, of any unimmunized child from a school in which an outbreak, potential epidemic, or epidemic of a vaccine preventable disease has been identified.

To the extent permitted by the Code of Virginia, the local health director may be authorized as the commissioner's designee to implement the forms of isolation described in this section. When these forms of isolation are deemed to be insufficient, the local health director may use the provisions of Article 3.01 (§ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia for the control of communicable diseases of public health significance or, in consultation with the Office of Epidemiology, shall provide sufficient information to enable the commissioner to prepare an order or orders of isolation ~~and/or,~~ quarantine, or both under Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia for the control of communicable diseases of public health threat.

Part V

Immunization of Persons Less Than 18 Years of Age

12VAC5-90-110. Dosage and age requirements for immunizations; obtaining immunizations.

A. Every person in Virginia less than 18 years of age shall be immunized in accordance with the most recent Immunization Schedule developed and published by the ~~Centers for Disease Control and Prevention (CDC)~~ CDC, Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). Requirements for school and day care attendance are addressed in 12VAC5-110.

B. The required immunizations may be obtained from a physician ~~licensed to practice medicine or from the local health department~~, registered nurse, or other licensed professional authorized by the Code of Virginia to administer immunizations at locations to include private settings or local health departments.

Part XII

Reporting of Dangerous Microbes and Pathogens

12VAC5-90-280. ~~Definitions.~~ Reporting of dangerous microbes and pathogens.

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

"Biologic agent" means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism; deterioration of food, water, equipment, supplies, or material of any kind; or deleterious alteration of the environment.

"CDC" means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

"Diagnosis" means the analysis of specimens for the purpose of identifying or confirming the presence or characteristics of a select agent or toxin, provided that such analysis is directly related to protecting the public health or safety.

"Proficiency testing" means a sponsored, time-limited analytical trial whereby one or more analytes, previously confirmed by the sponsor, are submitted to the testing laboratory for analysis and where final results are graded, scores are recorded and provided to participants, and scores for participants are evaluated.

"Responsible official" means any person in charge of directing or supervising a laboratory conducting business in the Commonwealth of Virginia. At colleges and universities, the responsible official shall be the president of the college or university or his designee. At private, state, or federal

organizations, the responsible official shall be the laboratory director or a chief officer of the organization or his designee.

"Select agent or toxin" or "select agent and toxin" means all those biological agents or toxins as defined by federal regulations in 42 CFR Part 73, including~~: 1.~~ Health and Human Services ~~(HHS)~~ select agents and toxins~~, as outlined in 42 CFR 73.4~~ and overlap select agents and toxins.

~~2. HHS overlap select agents and toxins, as outlined in 42 CFR 73.5.~~

"Toxin" means the toxic material or product of plants, animals, microorganisms (including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa); or infectious substances; or a recombinant or synthesized molecule, whatever the origin and method of production; and includes any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or any poisonous isomer or biological product, homolog, or derivative of such a substance.

"Verification" means the process required to assure the accuracy, precision, and the analytical sensitivity and specificity of any procedure used for diagnosis.

B. Administration. The dangerous microbes and pathogens will be known as "select agents and toxins." The select agent and toxin registry will be maintained by the Virginia Department of Health, Office of Epidemiology, Division of Surveillance and Investigation.

C. Reportable agents. The board declares the select agents and toxins and overlap select agents and toxins outlined in 42 CFR Part 73 to be reportable and adopts it herein by reference including subsequent amendments and editions. The select agents and toxins are to be reportable by the persons enumerated in subsection F of this section.

D. Items to report. Each report shall be made on a form determined by the department and shall contain the following: name, source and characterization information on select agents and toxins and quantities held; objectives of the work with the agent; location (including building and room) where each select agent or toxin is stored or used; identification information of persons with access to each agent; identification information of the person in charge of each of the agents; and the name, position and identification information of one responsible official as a single point of contact for the organization. The report shall also indicate whether the laboratory is registered with the CDC Select Agent Program and may contain additional information as required by 42 CFR Part 73 or the department.

E. Timing of reports. Reports shall be made to the department within seven calendar days of submission of an application to the CDC Select Agent Program. By January 31 of every year, laboratories shall provide a written update to the department, which shall include a copy of the federal registration certificate received through the CDC Select Agent Program.

In the event that a select agent or toxin that has previously been reported to the department is destroyed, a copy of federal forms addressing the destruction of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event that a select agent or toxin, or a specimen or isolate from a specimen containing a select agent or toxin, has previously been reported to the department and is subsequently transferred to a facility eligible for receiving the items, a copy of federal forms addressing the transfer of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event of a suspected release, loss, or theft of any select agent or toxin, the responsible official at a laboratory shall make a report to the department immediately by the most rapid means available, preferably by telephone. The rapid report shall be followed up by a written report within seven calendar days and shall include the following information:

1. The name of the biologic agent and any identifying information (e.g., strain or other characterization information);

2. An estimate of the quantity released, lost, or stolen;

3. An estimate of the time during which the release, loss, or theft occurred; and

4. The location (building, room) from or in which the release, loss, or theft occurred. The report may contain additional information as required by 42 CFR Part 73 or the department.

The department must be notified in writing of any change to information previously submitted to the department. If a new application or an amendment to an existing application is filed with the CDC Select Agent Program, a copy of the application or amendment must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

F. Those required to report. The responsible official in charge of a laboratory conducting business in the Commonwealth shall be responsible for annual reporting of select agents and toxins to the Virginia Department of Health and for the reporting of any changes within the time periods as specified within these regulations. Such reports shall be made on forms to be determined by the department. Any person making such reports as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

G. Exemption from reporting. A person who detects a select agent or toxin for the purpose of diagnosing a disease, verification, or proficiency testing and either transfers the specimens or isolates containing the select agent or toxin to a facility eligible for receiving them or destroys them on site is

not required to make a report except as required by 12VAC5-90-80 and 12VAC5-90-90. Proper destruction of the agent must take place through autoclaving, incineration, or by a sterilization or neutralization process sufficient to cause inactivation. The transfer or destruction must occur within seven calendar days after identification of a select agent or toxin used for diagnosis or testing and within 90 calendar days after receipt for proficiency testing.

Any additional exemptions from reporting under 42 CFR Part 73, including subsequent amendments and editions, are also exempt from reporting under this regulation; however, the department must be notified of the exemption by submitting a copy of federal forms addressing the exemption within seven calendar days of submission to the CDC Select Agent Program.

H. Release of reported information. Reports submitted to the select agent and toxin registry shall be confidential and shall not be a public record pursuant to the Freedom of Information Act, regardless of submitter. Release of information on select agents or toxins shall be made only by order of the State Health Commissioner to the CDC and state and federal law-enforcement agencies in any investigation involving the release, theft, or loss of a select agent or toxin required to be reported to the department under this regulation.

12VAC5-90-290. ~~Authority.~~ (Repealed.)

~~Chapter 2 (§ 32.1 35 et seq.) of Title 32.1 of the Code of Virginia authorizes the reporting of dangerous microbes and pathogens to the department. Specifically, § 32.1 35 directs the board to promulgate regulations specifying which dangerous microbes and pathogens are to be reportable and the method and timeframe by which they are to be reported by laboratories.~~

12VAC5-90-300. ~~Administration.~~ (Repealed.)

~~The dangerous microbes and pathogens will be known as "select agents and toxins." The select agent and toxin registry will be maintained by the Virginia Department of Health, Office of Epidemiology, Division of Surveillance and Investigation.~~

12VAC5-90-310. ~~Reportable agents.~~ (Repealed.)

~~The board declares the select agents and toxins outlined in 42 CFR 73.4 and 42 CFR 73.5 to be reportable, and adopts it herein by reference including subsequent amendments and editions. The select agents and toxins are to be reportable by the persons enumerated in 12VAC5-90-340.~~

12VAC5-90-320. ~~Items to report.~~ (Repealed.)

~~Each report shall be made on a form determined by the department and shall contain the following: name, source and characterization information on select agents and toxins and quantities held; objectives of the work with the agent; location (including building and room) where each select agent or toxin is stored or used; identification information of persons with access to each agent; identification information of the person in charge of each of the agents; and the name, position and identification information of one responsible official as a single point of contact for the organization. The report shall also indicate whether the laboratory is registered with the CDC Select Agent Program and may contain additional information as required by 42 CFR Part 73 or the department.~~

12VAC5-90-330. ~~Timing of reports.~~ (Repealed.)

~~Initial reports shall be made by October 26, 2004. Thereafter, reports shall be made to the department within seven calendar days of submission of an application to the CDC Select Agent Program. By January 31 of every year, laboratories shall provide a written update to the department, which shall include a copy of the federal registration certificate received through the CDC Select Agent Program.~~

~~In the event that a select agent or toxin that has previously been reported to the department is destroyed, a copy of federal forms addressing the destruction of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.~~

~~In the event that a select agent or toxin, or a specimen or isolate from a specimen containing a select agent or toxin, has previously been reported to the department and is subsequently transferred to a facility eligible for receiving the items, a copy of federal forms addressing the transfer of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.~~

~~In the event of a suspected release, loss or theft of any select agent or toxin, the responsible official at a laboratory shall make a report to the department within 24 hours by the most rapid means available, preferably that of telecommunication (e.g., telephone, telephone transmitted facsimile, pagers, etc.) The rapid report shall be followed up by a written report within seven calendar days and shall include the following information:~~

~~1. The name of the biologic agent and any identifying information (e.g., strain or other characterization information);~~

~~2. An estimate of the quantity released, lost or stolen;~~

~~3. An estimate of the time during which the release, loss or theft occurred; and~~

~~4. The location (building, room) from or in which the release, loss or theft occurred. The report may contain additional information as required by 42 CFR Part 73 or the department.~~

~~The department must be notified in writing of any changes to information previously submitted to the department. If a new application or an amendment to an existing application is filed with the CDC Select Agent Program, a copy of the application or amendment must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.~~

12VAC5-90-340. ~~Those required to report.~~ (Repealed.)

~~The responsible official in charge of a laboratory conducting business in the Commonwealth shall be responsible for annual reporting of select agents and toxins to the Virginia Department of Health and for the reporting of any changes within the time periods as specified within these regulations. Such reports shall be made on forms to be determined by the department. Any person making such reports as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.~~

12VAC5-90-350. ~~Exemption from reporting.~~ (Repealed.)

~~A person who detects a select agent or toxin for the purpose of diagnosing a disease, verification, or proficiency testing and either transfers the specimens or isolates containing the select agent or toxin to a facility eligible for receiving them or destroys them onsite is not required to make a report. Proper destruction of the agent must take place through autoclaving, incineration, or by a sterilization or neutralization process sufficient to cause inactivation. The transfer or destruction must occur within seven calendar days after identification of a select agent or toxin used for diagnosis or testing and within 90 calendar days after receipt for proficiency testing.~~

~~Any additional exemptions from reporting under 42 CFR 73.6, including subsequent amendments and editions, are also exempt from reporting under this regulation; however, the department must be notified of the exemption by submitting a copy of federal forms addressing the exemption within seven calendar days of submission to the CDC Select Agent Program.~~

12VAC5-90-360. ~~Release of reported information.~~ (Repealed.)

~~Reports submitted to the select agent and toxin registry shall be confidential and shall not be a public record pursuant to the Freedom of Information Act. Relea\se of information on select agents or toxins shall be made only by order of the State Health Commissioner to the CDC and state and federal law enforcement agencies in any investigation involving the release, theft, or loss of a select agent or toxin required to be reported to the department under this regulation.~~

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 of a form with a hyperlink 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 (12VAC5-90)

~~Virginia Department of Health Confidential Morbidity Report, Epi-1 (rev. 3/07)~~

Confidential Morbidity Report, Epi-1 (rev. 10/11)

Virginia Cancer Registry Reporting Form (rev. 1/98)

DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-90)

~~Control of Communicable Diseases Manual, 18th Edition, American Public Health Association, 2004.~~

Control of Communicable Diseases Manual, 20th Edition, American Public Health Association, 2015

VA.R. Doc. No. R13-3366; Filed May 29, 2015, 11:39 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Extension of Emergency Regulation

Title of Regulation: **12VAC30-20. Administration of Medical Assistance Services (amending 12VAC30-20-500, 12VAC30-20-520, 12VAC30-20-540, 12VAC30-20-560).**

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

Expiration Date Extended Through: December 30, 2015.

The Governor has approved the Department of Medical Assistance Services' request to extend the expiration date of the above-referenced emergency regulation for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through December 30, 2015. The emergency regulation was published in 30:7 VA.R. 929-932 December 2, 2013.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

VA.R. Doc. No. R14-3105; Filed June 24, 2015, 5:42 p.m.

Notice of Extension of Emergency Regulation

Title of Regulation: **12VAC30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12VAC30-80-20, 12VAC30-80-40; adding 12VAC30-80-36).**

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

Expiration Date Extended Through: December 30, 2015.

The Governor has approved the Department of Medical Assistance Services' request to extend the expiration date of the above-referenced emergency regulation for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through December 30, 2015. The emergency regulation was published in 30:7 VA.R. 940-946 December 2, 2013.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

VA.R. Doc. No. R14-3799; Filed June 24, 2015, 5:42 p.m.

Emergency Regulation

Title of Regulation: **12VAC30-135. Demonstration Waiver Services (amending 12VAC30-135-400 through 12VAC30-135-430, 12VAC30-135-450).**

Statutory Authority: § 32.1-325 of the Code of Virginia; § 1115 of the Social Security Act.

Effective Dates: July 1, 2015, through June 30, 2016.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Preamble:

Section 2.2-4011 A of the Code of Virginia states that agencies may adopt regulations in emergency situations after the agency submits a written request stating the nature of the emergency and the Governor approves the emergency action. The Department of Medical Assistance Services (DMAS) submitted a request to the Governor stating in writing the nature of this emergency, and on June 24, 2015, the Governor specifically authorized this action to amend the previous emergency action for the Governor's Access Plan (GAP) Demonstration Waiver for Individuals with Serious Mental Illness, which was published in 31:10 VA.R. 864 January 12, 2015, to be promulgated as an emergency action.

Item 301 LLLL of Chapter 665 of the 2015 Acts of Assembly directed DMAS to amend the GAP Demonstration Waiver by (i) reducing the household income level to 60% of the federal poverty level (FPL), while retaining the additional 5.0% household income disregard; (ii) providing continued eligibility for all individuals enrolled in the demonstration waiver with incomes between 61% and 100% of the FPL, plus a 5.0% household income disregard, as of May 15, 2015, who continue to meet other program eligibility rules, until their next eligibility renewal period or July 1, 2016, whichever comes first; and (iii) modifying the list of benefits provided. The amendments conform the emergency regulation to this requirement.

Part III
Governor's Access Plan Demonstration Waiver for Individuals with Serious Mental Illness

12VAC30-135-400. Establishment of program.

A. The Commonwealth through the Department of Medical Assistance Services (DMAS), the single state Medicaid agency, establishes a § 1115 demonstration waiver, the Virginia Governor's Access Plan (GAP) for the Seriously Mentally Ill (SMI). With federal approval, Virginia will offer a limited yet targeted benefit package of services that builds on a successful model of using existing partnerships to provide and integrate basic medical and behavioral health care services for individuals who have a serious mental illness (SMI) and have incomes less than ~~100%~~ 60% of the federal poverty limit (~~below 95% with~~ plus a 5.0% household income disregard ~~to equal 100% of the FPL~~).

B. Enabling persons with SMI to access both behavioral health and primary health services will enhance the treatment they can receive, allow their care to be coordinated among providers, and potentially significantly decrease the severity of their condition. The three goals of this program are:

1. Improve access to health care for a segment of the uninsured population in Virginia that has significant behavioral and medical needs;

2. Improve health and behavioral health outcomes of demonstration participants; and

3. Serve as a bridge to closing the coverage gap for uninsured Virginians.

12VAC30-135-410. Definitions.

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

"Action" means an action by Cover Virginia or the service authorization contractor that constitutes a termination or denial of eligibility or services or limited authorization of a service authorization request including (i) type or level of service; (ii) reduction, suspension, or termination of a previously authorized service; (iii) failure to act on a service request; (iv) denial in whole or in part of coverage for a service; or (v) failure by Cover Virginia or the service authorization contractor to render a decision within the required timeframes.

"Agency" means either Cover Virginia or the service authorization contractor.

"Alternative home care" means mental health services more intensive than outpatient services provided either in the individual's home or the individual is temporarily (less than two weeks) placed in a therapeutic living setting that provides intensive mental health services such as residential crisis stabilization.

"Appellant" means an applicant for or recipient of GAP benefits who seeks to challenge an action regarding eligibility, services, and coverage determinations.

"Behavioral health" means mental health and substance use disorder services.

"BHSA" means the behavioral health services administrator entity that manages or directs a behavioral health benefits program under contract with DMAS.

"Care coordination" means the collaboration and sharing of information among health care providers who are involved with an individual's health care to (i) improve the health and wellness of individuals with complex and special care needs and (ii) integrate services around the needs of such individuals at the local level by working collaboratively with

all partners, including the individual, his family, and providers.

"CAT" means computer aided tomography.

"Certified prescreener" means an employee of the local community services board/behavioral health authority or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DBHDS.

"Client appeal" means an individual's request for review of an eligibility, coverage, or payment determination. An appeal is an individual's challenge to the actions regarding benefits, services, and reimbursement provided by the department, its service authorization contractor, or Cover Virginia.

"Cover Virginia" or "Cover VA" means a department contractor that receives applications for the GAP Demonstration Waiver for Individuals with SMI, determines eligibility, and handles individuals' appeal of actions that have denied, reduced, or terminated covered benefits.

"CSB" means the local community services board or behavioral health authority agency, which is the entry point for citizens into behavioral health and substance abuse treatment services as established in Chapter 5 (§ 37.2-500 et seq.) and Chapter 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia.

"DBHDS" means the Department of Behavioral Health and Developmental Services consistent with Chapter 3 (§ 37.2-300 et seq.) of Title 37.2 of the Code of Virginia.

"Department" or "DMAS" means the Department of Medical Assistance Services and its contractor or contractors consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Direct services" means the provision of direct behavioral health and medical treatment, counseling, or other supportive services not included in the definition of care management services.

"Division" means the Appeals Division at DMAS.

"DSM-IV-TR" means the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, copyright 2000, American Psychiatric Association.

"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Duration of illness" means the individual (i) is expected to require this program's services for an extended period of time; (ii) has undergone more than once in his lifetime psychiatric treatment more intensive than outpatient care such as crisis response services, alternative home care, partial hospitalization, or inpatient hospitalization; or (iii) has experienced an episode of continuous, supportive residential care, other than hospitalization, for a period long enough to have significantly disrupted his normal living situation.

"Eight dimensions of wellness" means the same as found on the website for the Substance Abuse and Mental Health Services Administration at http://www.promoteacceptance.samhsa.gov/10by10/dimensions.aspx.

"Expedited appeal" means the process by which the department must respond to an individual's appeal of an adverse action regarding services if an eligibility or denial of care decision may jeopardize the individual's life; health; or ability to attain, maintain, or regain maximum function.

"Final decision" means a written determination pertaining to client appeals by a department hearing officer that is binding on the department, unless modified during or after the judicial process, and that may be appealed to the local circuit court.

"FPL" means the federal poverty level.

"FQHC" means a federally qualified health center.

"GAP" means Governor's Access Plan.

"GAP case management" means services to assist individuals in solving problems, if any, in accessing needed medical, behavioral health, social, educational, vocational, and other supports essential to meeting basic needs, including (i) assessment and planning services, including developing an individual service plan (does not include performing medical and psychiatric assessment but does include referral for such assessment); (ii) linking the individual to services and supports specified in the individual service plan; (iii) assisting the individual for the purpose of locating, developing, or obtaining needed services and resources; (iv) coordinating services and service planning with other agencies and providers involved with the individual; (v) enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic, and recreational services; (vi) making collateral contacts with the individuals' significant others to promote implementation of the service plan and community adjustment; (vii) follow-up and monitoring to assess ongoing progress and to ensure services are delivered; and (viii) education and counseling that guides the client and develops a supportive relationship that promotes the service plan.

"GAP screening entity" means the entity that conducts the SMI screening for the GAP SMI program; shall be a CSB or participating FQHC or an inpatient psychiatric hospital or general hospital with an inpatient psychiatric unit and shall be conducted by a qualified provider for the purpose of determining eligibility for participation in the GAP SMI program.

"Good cause" means to provide sufficient cause or reason for failing to file a timely appeal or for missing a scheduled appeal hearing. The existence of good cause shall be determined by the department.

"Grievance" means an expression of dissatisfaction about any matter other than an action. A grievance shall be filed and

resolved at Cover Virginia or the service authorization contractor. Possible subjects for grievances include, but shall not be limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the enrollee's rights.

"Hearing" means an informal evidentiary proceeding conducted by a department hearing officer during which an individual has the opportunity to present his concerns with or objections to the action taken by Cover Virginia or the service authorization contractor.

"Hearing officer" means an impartial decision maker who conducts evidentiary hearings on behalf of the department.

"Individual" means the client, enrollee, or recipient of services described in this section.

"Individual service plan" or "ISP" means a comprehensive and regularly updated treatment plan specific to the individual's unique treatment needs as identified in the clinical assessment.

"Intensive outpatient services" means services for individuals who have substance use disorders that are provided in a nonresidential clinical setting scheduled a maximum of 19 hours of services per week. Intensive outpatient services are targeted to individuals who require more intensive services than outpatient counseling services. Intensive outpatient services are provided in a concentrated manner and generally involve multiple outpatient visits per week over a period of time for individuals requiring stabilization. Intensive outpatient services include monitoring and multiple group therapy sessions during the week and individual and family therapy focused on the Medicaid-eligible individual. The maximum annual limit is 600 hours.

"Licensed mental health professional" or "LMHP" means a licensed physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment practitioner, licensed marriage and family therapist, or certified psychiatric clinical nurse specialist.

"LMHP-resident" or "LMHP-R" means the same as "resident" as defined in (i) 18VAC115-20-10 for licensed professional counselors; (ii) 18VAC115-50-10 for licensed marriage and family therapists; or (iii) 18VAC115-60-10 for licensed substance abuse treatment practitioners. An LMHP-resident shall be in continuous compliance with the regulatory requirements of the applicable counseling profession for supervised practice and shall not perform the functions of the LMHP-R or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Counseling. For purposes of Medicaid reimbursement to their supervisors for services provided by such residents, they shall use the title "Resident" in connection with the applicable profession after their signatures to indicate such status.

"LMHP-resident in psychology" or "LMHP-RP" means the same as an individual in a residency program as defined in 18VAC125-20-10 for clinical psychologists. An LMHP-resident in psychology shall be in continuous compliance with the regulatory requirements for supervised experience as found in 18VAC125-20-65 and shall not perform the functions of the LMHP-RP or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Psychology. For purposes of Medicaid reimbursement by supervisors for services provided by such residents, they shall use the title "Resident in Psychology" after their signatures to indicate such status.

"LMHP-supervisee in social work" or "LMHP-S" means the same as "supervisee" as defined in 18VAC140-20-10 for licensed clinical social workers. An LMHP-supervisee in social work shall be in continuous compliance with the regulatory requirements for supervised practice as found in 18VAC140-20-50 and shall not perform the functions of the LMHP-S or be considered a "supervisee" until the supervision for specific clinical duties at a specific site is preapproved in writing by the Virginia Board of Social Work. For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status.

"MRI" means magnetic resonance imaging.

"Peer support services" or "peer support" means supportive services provided by adults who self-disclose as living with or having lived with a behavioral health condition and includes (i) planning for engaging in natural community support resources as part of the recovery process, (ii) helping to initiate rapport with therapists, and (iii) increasing teaching and modeling of positive communication skills with individuals to help them self-advocate for individualized services to promote successful community integration strategies.

"Progress notes" means individual-specific documentation that contains the unique differences particular to the individual's circumstances, treatment, and progress that is also signed and contemporaneously dated by the provider's professional staff who have prepared the notes.

"PSN" means a peer support navigator who has self-declared that he is living with or has lived with a behavioral health condition. PSNs assist individuals to successfully remain in or transition back into their communities from inpatient hospital stays, help them avoid future inpatient stays, and increase community tenure by providing an array of linkages to peer run services, natural supports, and other recovery oriented resources.

"Psychoeducational activities and services" means systematic interventions based on supportive and cognitive behavior therapy that emphasizes individuals' and families' needs and focuses on increasing individuals' and families'

knowledge about mental disorders, adjusting to mental illness, communicating and facilitating problem solving and increasing coping skills.

"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC35-105-20.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as defined in 12VAC35-105-20.

"Qualified paraprofessional in mental health" or "QPPMH" means the same as defined in 12VAC35-105-20.

"Qualified substance abuse professional" or "QSAP" means the same as defined in 12VAC35-105-20.

"Register" or "registration" means notifying DMAS or its contractor that an individual will be receiving services that do not require service authorization.

"Remand" means the return of a case by the hearing officer to Cover Virginia or the service authorization contractor for further review, evaluation, and action.

"Representative" means an attorney or other individual who has been authorized to represent an applicant or enrollee pursuant to this part.

"Reverse" means to overturn the action of Cover Virginia or the service authorization contractor and direct that eligibility or requested services be fully approved for the amount, duration, and scope of requested services.

"Serious mental illness" or "SMI" means, for the purpose of this part, a diagnosis of (i) schizophrenia spectrum disorders and other psychotic disorders but not substance/medication induced psychotic disorder; (ii) major depressive disorder; (iii) bipolar and related disorders but not cyclothymic disorder; (iv) post-traumatic stress disorder; (v) ~~other disorders including~~ obsessive-compulsive disorder; (vi) agoraphobia; (vii) anorexia nervosa; or (viii) bulimia nervosa.

"Service authorization" means the process to approve specific services for an enrolled GAP individual prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets the DMAS and the DMAS contractor criteria for reimbursement.

"Service-specific provider intake" means the face-to-face interaction in which the provider obtains information from the individual and his parent or other family member or members, as appropriate, about mental health status. It includes documented history of the severity, intensity, and duration of mental health care problems and issues and shall contain all of the following elements: (i) the presenting issue or reason for referral; (ii) mental health history and hospitalizations; (iii) previous interventions by providers and the timeframes and response to treatment; (iv) medical profile; (v) developmental history including history of abuse, if appropriate; (vi) educational/vocational status; (vii) current living situation and family history and relationships; (viii) legal status; (ix) drug and alcohol profile; (x) resources and strengths; (xi) mental status exam and profile; (xii) diagnosis; (xiii) professional summary and clinical formulation; (xiv) recommended care and treatment goals; and (xv) the dated signature of the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP.

"State fair hearing" means the DMAS evidentiary hearing process as administered by the division.

"State Plan" or "the Plan" means the document required by § 1902(a) of the Act.

"Sustain" means to uphold the action of Cover Virginia or the service authorization contractor.

"Title XIX of the Social Security Act" or "the Act" means the United States Code beginning at 42 USC § 1396.

"Virtual engagement" means telephonic communications between a peer specialist and GAP enrolled individual to discuss and promote engagement with resources that may be available to the individual to promote his recovery.

"Warm line" means a peer-support telephone line that provides peer support for adult individuals who are living with or have lived with behavioral health conditions. The peers shall have specific training to provide telephonic support, and such systems may operate regionally or statewide and beyond traditional business hours.

"Withdrawal" means a written request from the applicant or enrollee or his representative for the department to terminate the appeal process without a final decision on the merits.

12VAC30-135-420. Administration; authority; waived provisions.

A. DMAS shall cover a targeted set of services as set forth in 12VAC30-135-450 for currently uninsured individuals who have diagnoses of serious mental illnesses with incomes below ~~100%~~ 60% of the federal poverty line (FPL) (~~below 95% of the FPL~~ plus a 5.0% household income disregard). All individuals enrolled in this Medicaid demonstration project with incomes between 61% and 100% of the FPL as of May 15, 2015, who continue to meet other program eligibility rules shall maintain enrollment in the demonstration until their next eligibility renewal period or July 1, 2016, whichever comes first.

B. Consistent with § 1115 of the Social Security Act (42 USC § 1315), the department covers certain limited services specified in 12VAC30-135-450 for certain targeted individuals specified in 12VAC30-135-430.

C. The Secretary of the U.S. Department of Health and Human Resources has waived compliance for the department with the following for the purpose of this demonstration waiver program:

1. Consistent with § 1902(a)(10)(B) of the Act, the amount, duration, and scope of services covered in the State Plan for Medical Assistance shall be waived. The department shall cover a specified set of benefits for the individuals who are determined to be eligible for this program.

2. Consistent with § 1902(a)(23)(A) of the Act, the participating individuals' freedom of choice of providers of

services shall be waived for peer supports and GAP case management.

3. Consistent with § 1902(a)(23) of the Act, the services shall be provided by a different delivery system than otherwise used for full State Plan services for peer supports and GAP case management.

4. Consistent with § 1902(a)(4) of the Act, insofar as it incorporates 42 CFR 431.53 permitting the Commonwealth to waive providing nonemergency transportation to and from participating providers for eligible, participating individuals.

5. Consistent with § 1902(a)(35) of the Act, permitting the Commonwealth to waiver offering eligible, participating individuals retroactive eligibility for this demonstration program.

D. This demonstration program shall operate statewide.

E. This demonstration program shall operate for at least two years beginning January 2015 through January 2017 or until the Commonwealth implements an alternative plan to provide health care coverage to all individuals having incomes up to ~~100%~~ 60% of the FPL.

F. This demonstration program shall not affect or modify, or both, components of the Commonwealth's existing medical assistance or children's health insurance programs.

12VAC30-135-430. Individual eligibility; limitations; referrals; eligibility determination process.

A. The GAP eligibility determination process shall have two parts: (i) a determination of whether or not the individual meets the GAP SMI criteria and (ii) a determination of whether or not the individual meets the GAP financial and nonfinancial eligibility criteria.

1. A person may apply through Cover Virginia for GAP by phone or through a provider-assisted web portal.

2. If an individual is found not to meet GAP eligibility rules, either the GAP financial/nonfinancial criteria or the GAP SMI criteria, then the individual shall be sent an adverse determination letter with appeal rights. Such individuals shall be assessed and referred for eligibility through Medicaid, FAMIS MOMS, and the federal marketplace for private health insurance.

B. Individuals shall have a screening conducted by a DMAS-approved GAP screening entity for the determination of eligibility for GAP SMI services.

C. In order to be eligible for this program, individuals shall be assessed to determine whether their diagnosed condition is a serious mental illness. The serious mental illness shall be diagnosed according to criteria defined in the DSM-IV-TR or DSM-5. LMHPs, including LMHP-supervisees, LMHP-residents, and LMHP-residents in psychology, shall conduct the clinical screening required to determine the individual's diagnosis if one has not already been made. At least one of the following diagnoses shall be documented for the individual to be approved for GAP SMI services:

1. Schizophrenia spectrum disorders and other psychotic disorders with the exception of substance/medication induced psychotic disorders;

2. Major depressive disorder;

3. Bipolar and related disorders with the exception of cyclothymic disorder;

4. Post-traumatic stress disorder; or

5. Obsessive compulsive disorder, panic disorder, agoraphobia, anorexia nervosa, or bulimia nervosa.

D. In order to be eligible for this program, individuals shall meet at least one of the following criteria to reflect the duration of illness:

1. The individual is expected to require treatment and supportive services for the next 12 months;

2. The individual has undergone psychiatric treatment more intensive than outpatient care, such as crisis response services, alternative home care, partial hospitalization, or inpatient hospitalization for a psychiatric condition, more than once in his lifetime; or

3. The individual has experienced an episode of continuous, supportive residential care, other than hospitalization, for a period long enough to have significantly disrupted the normal living situation. A significant disruption of a normal living situation means the individual has been unable to maintain his housing or had difficulty maintaining his housing due to being in a supportive residential facility or program that was not a hospital. This includes group home placement as an adolescent and assisted living facilities but does not include living situations through the Department of Social Services.

E. In order to be eligible for this program, individuals shall demonstrate a significant level of impairment on a continuing or intermittent basis. There shall be evidence of severe and recurrent impairment resulting from mental illness. The impairment shall result in functional limitation in major life activities. Due to the mental illness, the person shall meet at least two of the following:

1. The person is either unemployed or employed in a sheltered setting or a supportive work situation, has markedly limited or reduced employment skills, or has a poor employment history;

2. The person requires public and family financial assistance to remain in his community;

3. The person has difficulty establishing or maintaining a personal social support system;

4. The person requires assistance in basic living skills such as personal hygiene, food preparation, or money management; or

5. The person exhibits inappropriate behavior that often results in intervention by the mental health or judicial system.

F. The individual shall require assistance to consistently access and to utilize needed medical or behavioral, or both, health services and supports due to the mental illness.

G. In addition, the individuals shall:

1. Be adults ages 21 through 64 years of age;

2. Be United States citizens or lawfully residing immigrants;

3. Be residents of the Commonwealth;

4. Be uninsured;

5. Be ineligible for any state or federal full benefits health insurance program including, but not necessarily limited to Medicaid, Children's Health Insurance Program (CHIP/FAMIS), Medicare, or TriCare Federal Military benefits;

6. Have household incomes below ~~95%~~ 60% of the federal poverty level (FPL) plus a 5.0% household income disregard, which shall be verified via pay stubs or other readily available and reliable electronic sources. All individuals enrolled in this Medicaid demonstration project with incomes between 61% and 100% of the FPL (plus a 5.0% household income disregard) as of May 15, 2015, who continue to meet other program eligibility rules shall maintain enrollment in the demonstration until their next eligibility renewal period or July 1, 2016, whichever comes first. Pursuant to DMAS federal authority under the § 1115 waiver, should expenditures for the GAP demonstration waiver compromise the program's budget neutrality, DMAS may amend the waiver to maintain budget neutrality by reducing income eligibility levels to below ~~95%~~ 60% of the FPL; and

7. Not be current residents of a long-term care facility, mental health facility, or penal institution.

H. Individuals who are enrolled in this GAP demonstration waiver program who require hospitalization shall not be disenrolled from the GAP demonstration waiver program during their hospitalization.

I. If a GAP-eligible individual secures Medicare or Medicaid/FAMIS MOMS coverage, his GAP program eligibility shall be terminated consistent with the effective date of the Medicare or Medicaid coverage. Individuals who gain other sources of health insurance shall not be disenrolled from the GAP demonstration waiver program during their 12 months of eligibility; however, in such instances, the GAP program shall be the payer of last resort.

J. DMAS or its contractor shall verify income data via existing electronic data sources, such as Virginia Employment Commission and TALX. Citizenship and identity shall be verified through the monthly file exchange between DMAS and the Social Security Administration. The individual's age, residency, and insurance status shall be verified through self-attestation. Applicants shall be permitted 90 days to resolve any citizenship discrepancies resulting from Social Security Administration matching process, in any of the information provided, and in the DMAS or the contractor verification process findings.

12VAC30-135-450. Covered services; limitations; restrictions.

A. GAP coverage shall be limited to outpatient medical, behavioral health, pharmacy, GAP case management, and care coordination services for individuals determined to meet the GAP SMI eligibility criteria. This program intends that such services will significantly decrease the severity of individuals' serious mental illnesses so that they can recover, work, parent, learn, and participate more fully in their communities.

B. These services are intended to be delivered in a person-centered manner. The individuals who are receiving these services shall be included in all service planning activities.

C. Medical services including outpatient physician and clinic services, telemedicine, specialists, diagnostic procedures, laboratory procedures, and pharmacy services shall be covered as follows:

1. Outpatient physician services and medical office visits includes evaluation and management, diagnostic and treatment procedures performed in the physician's office, and therapeutic or diagnostic injections. The requirements of 12VAC30-50-140 D 2, 3, and 4 shall be met in order for these services to be reimbursed by DMAS.

2. Outpatient clinic services include evaluation and management, treatment, and procedures performed in the clinic's office, and medically necessary therapeutic and diagnostic injections. The requirements of 12VAC30-50-180 B, C, and D shall be met in order for this service to be reimbursed by DMAS as it pertains to GAP covered services.

3. Outpatient specialty care, consultation, management, and treatment includes evaluation and treatment, and procedures performed in the physician's office, and medically necessary therapeutic or diagnostic injections consistent with 12VAC30-50-140 D 2, 3, and 4 as it pertains to GAP covered services.

4. Outpatient diagnostic services includes ultrasounds, electrocardiogram, service-authorized CAT and MRI scans, and diagnostic services that can be performed in a physician's office with the exception of colonoscopy procedures and other services listed as noncovered in 12VAC30-135-469. The requirements of 12VAC30-50-140 O shall be met as it pertains to GAP SMI services in order for these services to be reimbursed by DMAS. CAT and MRI scans shall be covered if the service is authorized by either DMAS or the service authorization contractor.

5. Outpatient laboratory consistent with 12VAC30-50-120 as it pertains to GAP SMI covered services.

6. Outpatient pharmacy services consistent with 12VAC30-50-210 as it pertains to GAP SMI covered services.

7. Outpatient family planning consistent with 12VAC30-50-130 D as it pertains to GAP SMI covered services; sterilization procedures and abortions shall not be covered.

8. Outpatient telemedicine, which is covered the same as Medicaid for services that are not otherwise excluded from GAP coverage.

9. Outpatient durable medical equipment and supplies coverage shall be limited to diabetic equipment and supplies consistent with 12VAC30-50-165 as it pertains to GAP SMI covered services.

10. Outpatient hospital procedures shall be limited to (i) diagnostic ultrasound procedures; (ii) EKG/ECG including stress tests; and (iii) radiology procedures except for PET scans, colonoscopy, and radiation treatment procedures.

11. GAP case management services pursuant to 12VAC30-50-420 as it pertains to seriously mentally ill adults.

a. Reimbursement shall be provided only for active case management individuals. An active individual for GAP case management purposes means an individual for whom there is a current ISP, as defined in 12VAC30-50-226, that requires regular direct or client-related contacts or activity or communication with the individuals or families, significant others, service providers, or others. Billing can be submitted only for months in which direct or individual-related contacts, activity, or communications occur. Regular case management is reimbursed for months in which the minimum requirements are met for case management. High intensity case management is reimbursed for months in which a face-to-face contact with the individual takes place in a community setting outside of the case management office.

b. The case management entity shall collaborate with the BHSA monthly with care coordination efforts.

c. Case management shall not be billed for persons while they are in institutions for mental disease.

d. The provider of case management services shall be licensed by DBHDS as a provider of case management services.

D. Care coordination, crisis phone line, and peer supports shall be covered through the BHSA as follows:

1. Care coordination shall be provided as defined in 12VAC30-135-410. BHSA LMHP care managers shall work closely with behavioral health providers including local CSB staff to provide information to the individual in accessing covered benefits, provider selection, and how to access all services including behavioral health.

2. The BHSA shall provide crisis phone lines 24 hours per day and seven days per week including access to a licensed care manager during a crisis.

3. The BHSA or its designee shall provide peer support services seven days per week. A telephonic support shall be covered staffed by PSNs who have been trained specifically in line telephonic support operations and resources. The telephonic support associated with the PSN GAP program shall offer extended hours, toll-free access, and dedicated data collection capabilities. The BHSA shall provide trained peer navigators as members of its care coordination team or may contract with other entities to do so. The BHSA shall employ community-based peer navigators to work in provider settings, community settings, and peer-run organizations. The scope of peer support services shall include, but not be limited to:

a. Visiting members in inpatient settings to develop the peer relationship.

b. Describing and developing a plan for engaging in peer and natural community support resources as part of the recovery process.

c. Initiating rapport, teaching, and modeling positive communication skills with members to help them self-advocate for an individualized services plan and assisting the individual with the coordination of services to promote successful community integration strategies.

d. Assisting in developing strategies to decrease or avoid the need for future hospitalizations by offering social and emotional support and an array of individualized services.

e. Providing social, emotional, and other supports framed around the eight dimensions of wellness as defined in 12VAC30-135-410.

E. Community mental health (behavioral health) services shall be covered as follows:

1. All community mental/behavioral health services shall be subject to service authorization or registration as specified.

2. GAP case management as defined in 12VAC30-135-410 shall be provided by CSB case managers with consultation and support from BHSA care managers. This service shall be targeted to individuals who are expected to benefit from assistance with medication management and appropriate use of community resources. The CSB GAP case managers shall have the same knowledge, skills, and abilities as set out in 12VAC30-50-420 E 2 e and the case management entity shall maintain all licenses required by DBHDS in 12VAC35-105. GAP case management shall not include the provision of direct treatment services and shall have two levels of service intensity: regular and high intensity, and shall be focused on assisting individuals to access needed medical, behavioral health (psychiatric and

substance abuse treatment), social, education, vocational, and other support services.

3. Crisis intervention shall be covered consistent with the limits and requirements set out in 12VAC30-50-226 B 5 and 12VAC30-60-143. This service shall only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescreener. Crisis intervention services shall be indicated following a marked reduction in the individual's psychiatric, adaptive, or behavioral functioning or an extreme increase in personal distress.

a. The crisis intervention services provider shall be licensed as a provider of emergency services by DBHDS pursuant to 12VAC35-105-30.

b. An individual service plan shall not be required for individuals newly enrolled in GAP services to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

c. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP shall be developed or revised by the fourth face-to-face contact to document the short-term counseling goals.

d. Telephonic supports and collateral contacts related to needs are identified during face-to-face contact.

e. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

f. Crisis intervention services provided to eligible individuals outside of the clinic may be reimbursable, provided the provision of out-of-clinic services is clinically/programmatically appropriate. Travel-related costs (gas and mileage, travel time) by staff to provide out-of-clinic services shall not be reimbursable. Crisis intervention may involve contacts with the family or significant others. If other clinic services are billed at the same time as crisis intervention, documentation must clearly support the separation of the services with distinct treatment goals.

g. An LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescreener shall conduct a face-to-face service-specific provider intake.

h. Crisis intervention shall be provided by either an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescreener.

i. Services shall be documented through daily notes and a daily log of time spent in the delivery of services.

4. Crisis stabilization shall be covered consistent with the limits and requirements set out in 12VAC30-50-226 B and 12VAC30-60-143 except that service authorization shall be required in place of registration. This service shall only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-E, or a certified prescreener.

a. In order to qualify for crisis stabilization services, individuals shall demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature, which puts the individual at risk of psychiatric hospitalization.

b. This service shall be authorized following a face-to-face service-specific provider intake by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescreener.

c. The service-specific provider intake must document the need for crisis stabilization services.

d. Room and board, custodial care, and general supervision are not components of this service and shall not be reimbursed.

e. Clinic option services are not billable at the same time crisis stabilization services are provided with the exception of clinic visits for medication management. Medication management visits may be billed at the same time that crisis stabilization services are provided but documentation must clearly support the separation of the services with distinct treatment goals.

f. Providers of residential crisis stabilization shall be licensed by DBHDS as providers of mental health residential crisis stabilization. Providers of community-based crisis stabilization shall be licensed by DBHDS as providers of mental health nonresidential crisis stabilization.

5. Psychosocial rehabilitation service-specific provider intake and services shall be covered consistent with the limits and requirements set out in 12VAC30-50-226 B 4. This service shall only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-E, or a QPPMH. Psychosocial rehabilitation services shall be provided to individuals who have experienced long-term or repeated psychiatric hospitalization, who experience difficulty in activities of daily living and interpersonal skills, whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term services are needed to maintain the individual in the community.

a. Psychosocial rehabilitation services shall be provided following a service-specific provider intake that clearly documents the need for services. This intake shall be completed by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP. An ISP shall be completed by the LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, or QMHP-E and be reviewed/approved by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP within 30 calendar days of service initiation. At least

every three months, the LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, or QMHP-E shall review, modify as appropriate, and update the ISP.

b. The continued need for psychosocial rehabilitation services that continue more than six months shall be reviewed by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP who shall document the continued need for the service.

c. The enrolled provider of psychosocial rehabilitation services shall be licensed by DBHDS as a provider of psychosocial rehabilitation.

d. Psychosocial rehabilitation services may be provided by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-E, or a qualified paraprofessional under the supervision of a QMHP-A, QMHP-E, LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP.

e. The psychosocial rehabilitation program shall operate a minimum of two continuous hours in a 24-hour period.

f. Time allocated for field trips may be used to calculate time and units when the goal of the field trip is to provide training in an integrated setting and to increase the individual's understanding or ability to access community resources.

F. Outpatient psychotherapy services shall be covered, consistent with 12VAC30-50-140 D 2 through D 5, as follows:

1. Psychiatric evaluation and outpatient individual, family, and group therapies (mental health and substance abuse treatment) shall be covered.

2. The first 26 visits shall be covered without prior authorization, and additional visits beyond the first 26 shall be covered if they have been prior authorized when medically necessity is demonstrated.

3. Reimbursement shall be provided, consistent with 12VAC30-80-30 A 3, in a tiered manner.

G. Community substance abuse treatment services shall be covered as follows:

1. Services shall include intensive outpatient services and opioid treatment services. These services shall be rendered to individuals consistent with the criteria for these two services specified in 12VAC30-50-228 A 2.

a. Intensive outpatient services for individuals shall be provided in a nonresidential setting and may be scheduled multiple times per week, with a maximum of 19 hours of service per week. This service should be provided to individuals who do not require the intensive level of care of inpatient or residential services, but require more intensive services than outpatient services. Intensive outpatient services shall be provided in a concentrated manner and generally involve multiple outpatient visits per week over a period of time for individuals requiring stabilization. These services include monitoring, multiple group therapy sessions during the week, and individual and family therapy focused on the enrolled individual. The maximum annual limit is 600 hours. Intensive outpatient services shall not be provided concurrently with day treatment services or opioid treatment services. Even though day treatment services are not covered in the GAP demonstration SMI program, intensive outpatient services shall not be provided concurrently with it.

b. Pursuant to 12VAC30-50-140 (with the exception of § 6403 of the Omnibus Budget Reconciliation Act of 1989, which is excluded), methadone/opioid treatment means an intervention strategy that combines psychological and psychoeducational services with the administering or dispensing of opioid agonist treatment medication. An individual specific, physician-ordered dose of medication is administered or dispensed either for detoxification or maintenance treatment. Methadone/opioid treatment shall be provided in daily sessions with a maximum of 600 hours per year. Intensive outpatient services shall not be provided concurrently with methadone/opioid treatment. Methadone/opioid treatment service covers psychological and psychoeducational services. Medication costs for methadone/opioid agonists shall be billed separately from psychological and psychoeducational services.

c. Staff qualifications for intensive outpatient and opioid treatment services shall be as follows:

(1) The minimum qualification for providing individual and group counseling, family therapy, and occupational and recreational therapy shall be a QSAP.

(2) A QSAP or a paraprofessional under the supervision of a QSAP may provide education about the effects of alcohol and other drugs on the physical, emotional, and social functioning of the individual; information about relapse prevention; and information about occupational and recreational activities. A QSAP shall be on site when a paraprofessional is providing services.

(3) Paraprofessionals shall participate in supervision as described in 12VAC30-50-228 A 2 d.

2. Evaluations required. Prior to initiation of intensive outpatient or opioid treatment services, an evaluation shall be conducted consistent with 12VAC30-50-228 B by at least a QSAP. The minimum intake will consist of a structured objective assessment of the impact of substance use or dependence on the individual's functioning in the following areas: legal system involvement; employment or school performance, or both; and medical, family-social, and psychiatric issues. A psychological and psychiatric examination shall be included as part of this evaluation, if indicated by history or structured assessment.

DOCUMENTS INCORPORATED BY REFERENCE (12VAC30-135)

Child Adolescent Functional Assessment Scale (Uniform Assessment Instrument), Functional Assessment Systems, 2000.

Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR), Fourth Edition, Text Revision, copyright 2000, American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209, http://www.psychiatry.org

Diagnostic and Statistical Manual of Mental Disorders (DSM-5®), Fifth Edition, copyright 2013, American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209, http://www.psychiatry.org/dsm5

VA.R. Doc. No. R15-4171; Filed June 25, 2015, 11:16 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Final Regulation

REGISTRAR'S NOTICE: The Board of Audiology and Speech-Language Pathology is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Board of Audiology and Speech-Language Pathology will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC30-20. Regulations Governing the Practice of Audiology and Speech-Language Pathology (amending 18VAC30-20-80).**

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

Effective Date: August 12, 2015.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Audiology and Speech-Language Pathology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4630, FAX (804) 527-4413, or email leslie.knachel@dhp.virginia.gov.

Summary:

The amendments reduce renewal fees for the renewal year of 2015 for licenses issued by the Board of Audiology and Speech-Language Pathology.

18VAC30-20-80. Fees.

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

1. Application for audiology or speech-language pathology license	$135
2. Application for school speech-language pathology license	$70
3. Verification of licensure requests from other states	$20
4. Annual renewal of audiology or speech-language pathology license	$75
5. Late renewal of audiology or speech-language pathology license	$25
6. Annual renewal of school speech-language pathology license	$40
7. Late renewal of school speech-language pathology license	$15
8. Reinstatement of audiology or speech-language pathology license	$135
9. Reinstatement of school speech-language pathology license	$70
10. Duplicate wall certificates	$25
11. Duplicate license	$5
12. Returned check	$35
13. Inactive license renewal for audiology or speech-language pathology	$40
14. Inactive license renewal for school speech-language pathology	$20
15. Approval of a continuing education sponsor	$200
16. Application for provisional license	$50
17. Renewal of provisional license	$25

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

C. For renewal of licenses in 2015, the following fees shall apply:

1. Annual renewal of audiology or speech-language pathology license	$55
2. Annual renewal of school speech-language pathology license	$30
3. Inactive license renewal for audiology or speech-language pathology	$30
4. Inactive license renewal for school speech-language pathology	$15

VA.R. Doc. No. R15-4422; Filed June 24, 2015, 9:42 a.m.

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 13 of the Code of Virginia, which exempts amendments to regulations of the board to schedule a substance in Schedule I or II pursuant to subsection D of § 54.1-3443. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322).**

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: August 12, 2015.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4416, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments place four cannabimimetic agents and two substituted cathinones into Schedule I of the Drug Control Act. The added compounds will remain in effect for 18 months or until the compounds are placed in Schedule I by the Drug Control Act.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to § 54.1-3443 D of the Code of Virginia, the Board of Pharmacy places the following substances in Schedule I of the Drug Control Act:

~~1. N (1 amino 3 methyl 1 oxobutan 2 yl) 1 (cyclohexylmethyl)indazole 3 carboxamide (other name: AB CHMINACA);~~

~~2. N (1 amino 3 methyl 1 oxobutan 2 yl) 1 (5 fluoropentyl)indazole 3 carboxamide (other name: 5 fluoro AMB); and~~

~~3. 3,4 methylenedioxy N,N dimethylcathinone (other names: Dimethylone, bk MDDMA).~~

1. Cannabimimetic agents:

a. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names: ADB-CHMINACA, MAB-CHMINACA);

b. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);

c. 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201); and

d. 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144).

2. Substituted cathinones:

a. 4-bromomethcathinone (other name: 4-BMC); and

b. 4-chloromethcathinone (other name: 4-CMC).

B. The placement shall remain in effect until ~~July 28, 2016~~ February 11, 2017, unless enacted into law in the Drug Control Act.

VA.R. Doc. No. R15-4434; Filed June 19, 2015, 2:21 p.m.

EXECUTIVE ORDER NUMBER 44 (2015)

Establishing the Commission on Parole Review

Importance of the Commission

Twenty years ago, the Commonwealth passed legislation eliminating discretionary parole for persons convicted of felonies. Supporters argued that abolishing parole and requiring felony offenders to serve at least 85 percent of their sentences would reduce re-offenses and recidivism while strengthening public safety.

It is time to revisit this policy. Virginia has two decades of evidence by which to assess progress and public safety outcomes and determine whether abolishing parole has achieved its intended goals. Virginia must evaluate past and present crime rates, prison populations, number of facilities, costs of incarceration and recidivism rates. Virginia must carefully examine how resources are being allocated and ensure that public dollars are spent efficiently and effectively.

Virginia should also consider modifications using evidence-based and data-driven approaches that reduce costs while improving outcomes for offenders, their families and the Commonwealth. This analysis should study whether Virginia is properly rehabilitating offenders and preparing them to re-enter communities as productive citizens. Virginia must also look at sentence lengths and determine whether long sentences are appropriate for nonviolent offenders.

Establishment of the Parole Review and Update Commission

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.2-134 and 2.2-135 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Commission on Parole Review.

Composition of the Commission

The Commission will include representatives of the Virginia General Assembly, the Office of the Attorney General, relevant state agencies, advocates, community members and other organizations or individuals as assigned by the Governor. The Governor will designate the chair or co-chairs of the Commission.

Commission Priorities

The Commission will address five significant priorities related to Parole Reform:

1. Conduct a Review of Previous Goals and Subsequent Outcomes. The Commission shall review whether abolishing parole achieved the intended goals of preventing new felony offenses, reducing crime, and reducing recidivism. The Commission's analysis shall include, at a minimum, a quantitative analysis of pre and post-1995 trends in crime rates, incarceration rates, sentence lengths, and recidivism rates.

2. Examine the Cost of Parole Reform/Abolition. The Commission shall conduct an analysis of the fiscal impact abolishing parole has had on the Commonwealth, as well as an analysis of the societal costs on communities and families from longer incarceration.

3. Evaluate the Best Practices of Other States. The Commission shall research and evaluate what policies and practices have proven successful or unsuccessful in other states, and explore the application of the most successful approaches in the Commonwealth.

4. Recommend Other Mediation Strategies. The Commission shall examine what other approaches could be used to achieve similar results in terms of preventing new felony offenses, reducing crime, and reducing recidivism? Virginia must pursue cost-saving, evidence-based, and multi-faceted approaches to reducing crime while also improving outcomes for offenders, families and communities.

5. Provide Recommendations to Address Public Safety Challenges. The Commission shall provide its recommendations on how Virginia may best position itself to address the public safety challenges resulting from changes to parole. These final recommendations shall include any proposed legislative or executive branch actions necessary, as well as any potential private sector engagement.

Staffing

Staff support for the Commission will be provided by the Office of the Governor, Office of the Secretary of Public Safety and Homeland Security, the various secretariats and their agencies represented on the Commission and other agencies as may be designated by the Governor. It is estimated that the staff time required to complete the Commission's work will be 500 hours. All executive branch agencies will cooperate fully with the Commission and will render such assistance as may be requested by the chair or co-chairs. Direct costs for the Commission are estimated to be $3000. Commission members shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Commission will provide an interim report to the Governor no later than November 2, 2015, with a final report due by December 4, 2015.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 24, 2016,

unless otherwise amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 24 day of June 2015.

/s/ Terence R. McAuliffe
Governor

DEPARTMENT OF CONSERVATION AND RECREATION

Proposed Virginia Land Conservation Foundation Guidance Document on Conservation Easement Dispute Resolution

Request for Public Comments: Notice is hereby given that the Virginia Land Conservation Board of Trustees (board) is considering adopting "Virginia Land Conservation Foundation Guidance Document on Conservation Easement Dispute Resolution" as presented to the Board on June 16, 2015. The board has requested a 30-day public comment period to begin on July 13, 2015, and running through August 12, 2015. The following document is available in draft format for review and public comment:

"Virginia Land Conservation Foundation Guidance Document on Conservation Easement Dispute Resolution."

The document contains the proposed Conservation Easement Dispute Resolution Guidance.

Public Comment Period: The public comment period will close August 12, 2015. The board will accept written comments by email at landcon@dcr.virginia.gov and postal mail at Office of Land Conservation, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219. Additionally, the Virginia Regulatory Town Hall website has added a new feature that allows agencies to open a public comment forum in connection with any general notice. Public comment can now also be submitted through http://townhall.virginia.gov/l/generalnotice.cfm. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by August 12, 2015.

Statutory Authority and Mandated Solicitation of Public Comments: Section 10.1-1021.2 of the Code of Virginia directs the board of the Virginia Land Conservation Foundation to adopt guidelines by which specified parties may request the foundation resolve a dispute related to the interpretation or administration of a conservation easement. This guidance serves to set out such procedures.

Purpose and Intent of the Proposed Guidance Document: In accordance with § 10.1-1021.2 of the Code of Virginia, this document serves to provide guidance to any private owner of a fee interest in land that is subject to a perpetual conservation easement pursuant to Chapter 10.1 (§ 10.1-1009 et seq.) of Title 10.1 of the Code of Virginia, any holder of such an easement, or any holder of a third-party right of enforcement of such an easement, regarding procedures for submitting a request to the Virginia Land Conservation Foundation to resolve a dispute that arises out of or relates to the interpretation or administration of a conservation easement. Such request shall not be part of a dispute already in litigation. The Virginia Land Conservation Foundation shall utilize the process set forth in the Administrative Dispute Resolution Act, Chapter 41.1 (§ 2.2-4115 et seq.) of Title 2.2 of the Code of Virginia and the procedures outlined in this guidance to respond to requests.

Copies of the Proposed Guidance Document on Conservation Easement Dispute Resolution: An electronic copy of this draft guidance in PDF format is available on the Regulatory Town Hall under the Department of Conservation and Recreation at http://townhall.virginia.gov/L/GDocs.cfm. The draft guidance can also be obtained from the Department of Conservation and Recreation's website at http://www.dcr.virginia.gov/virginia_land_conservation_foundation/index.shtml or the Office of Land Conservation, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, or telephone (804) 371-5218, or email landcon@dcr.virginia.gov.

Contact Information: Suzan Bulbulkaya, Land Conservation Analyst, Department of Conservation and Recreation, 600 East Main Street, 24th Floor, Richmond, VA 23219, telephone (804) 371-5218, or email landcon@dcr.virginia.gov.

VIRGINIA LOTTERY

Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on June 16, 2015. The orders may be viewed at the Virginia Lottery, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, VA.

Director's Order Number Fifty (15)

Virginia's Lottery's Summer Jam eXTRA Promotion Final Rules for Operation (effective June 2, 2015)

Director's Order Number Fifty-Two (15)

Grocery Out of Stock Retailer Incentive Promotion Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on July 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the incentive program, unless otherwise extended by the Director)

Director's Order Number Fifty-Four (15)

"Have You Played Summer Jam?" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on May 12, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the incentive program, unless otherwise extended by the Director)

Director's Order Number Fifty-Five (15)

Virginia's Instant Game Lottery 1556 "Aces High" Final Rules for Game Operation (effective May 14, 2015)

Director's Order Number Fifty-Six (15)

Virginia's Instant Game Lottery 1552 "5X The Money" Final Rules for Game Operation (effective May 14, 2015)

Director's Order Number Fifty-Seven (15)

7-Eleven 2015 Partnership Program Part 1 Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on June 2, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the incentive program, unless otherwise extended by the Director)

Director's Order Number Fifty-Nine (15)

Virginia Lottery's "Summer Jam Rock Flight® Promotion" Final Rules For Operation (effective June 2, 2015)

Director's Order Number Sixty-One (15)

Virginia's Instant Game Lottery 1567 "Summer Jam" Final Rules for Game Operation (effective May 14, 2015)

Director's Order Number Sixty-Two (15)

Virginia's Computer-Generated Game "Decades of Dollars" Final Rules for Game Operation (This Director's Order becomes effective on April 30, 2015, fully replaces any and all prior Virginia Lottery "Decades of Dollars" game rules, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number Sixty-Three (15)

Virginia Lottery's "VIP NASCAR® Awards Banquet Giveaway Event Promotion" Final Rules for Operation (effective June 5, 2015)

Director's Order Number Sixty-Four (15)

Virginia's Instant Game Lottery 1536 "Aces & 8's" Final Rules for Game Operation (effective May 12, 2015)

Director's Order Number Sixty-Five (15)

Virginia's Instant Game Lottery "Triple Black Cherry" Final Rules for Game Operation (effective May 12, 2015)

Director's Order Number Sixty-Six (15)

Virginia's Instant Game Lottery 1565 "$4,000 Pay Day" Final Rules for Game Operation (effective June 1, 2015)

Director's Order Number Sixty-Seven (15)

Virginia's Instant Game Lottery 1522 "2 For The Money" Final Rules for Game Operation (effective June 1, 2015)

Director's Order Number Sixty-Eight (15)

Virginia's Instant Game Lottery 1578 "Wild Time Gold" Final Rules for Game Operation (effective June 10, 2015)

Director's Order Number Sixty-Nine (15)

Virginia's Instant Game Lottery 1560 "Cash Payout" Final Rules for Game Operation (effective June 10, 2015)

Director's Order Number Seventy-Six (15)

Virginia Lottery's "Summer Jam Ultimate Seat Upgrade Promotion" Final Rules for Operation (This Director's Order becomes effective on Tuesday, June 2, 2015, completely replaces Director's Order Sixty (15), and shall remain in full force and effect unless amended or rescinded by further Director's Order)

Director's Order Number Seventy-Seven (15)

Virginia's Instant Game Lottery 1544 "Platinum Payout" Final Rules for Game Operation (effective June 15, 2015)

Director's Order Number Seventy-Eight (15)

Virginia's Computer-Generated Game Lottery "FastPlay Fast $50's Hot Slots Doubler" Final Rules for Game Operation (effective June 15, 2015)

Director's Order Number Seventy-Nine (15)

Virginia's Computer-Generated Game Lottery "FastPlay Summer Sizzler" Final Rules for Game Operation (effective June 15, 2015)

Director's Order Number Eighty (15)

Virginia's Computer-Generated Game Lottery "FastPlay Money Bag Crossword" Final Rules for Game Operation (effective June 15, 2015)

Director's Order Number Eighty-One (15)

Sunoco Retailer Incentive Program Promotions - Virginia Lottery Program Requirements (This Director's Order becomes effective on July 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Two (15)

"The Pantry August Scratcher Activation Retailer Incentive Promotion" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on August 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Three (15)

MACS Retailer Incentive Program Promotions - Virginia Lottery Program Requirements (This Director's Order becomes effective on July 1, 2015, and shall remain in full

force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Four (15)

"E&C Redskins Ticket Contest Retailer Incentive Promotion" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on August 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Five (15)

"Farm Fresh Stretch Your Scratcher Goal Contest" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on August 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Six (15)

"Pit Stop Redskins Ticket Contest Retailer Incentive Promotion" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on October 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Seven (15)

"Shoppers Stretch Your Scratcher Goal Contest" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order becomes effective on August 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Eighty-Eight (15)

FasMart Retailer Incentive Program Promotions - Virginia Lottery Program Requirements (This Director's Order becomes effective on August 1, 2015, and shall remain in full force and effect until ninety (90) days after the conclusion of the final incentive program, unless otherwise extended by the Director)

Director's Order Number Ninety-One (15)

Certain Virginia Fastplay Game; End of Game - Virginia Lottery's FastPlay Gold Bar Doubler (163 14) (effective June 15, 2015)

Director's Order Number Ninety-Two (15)

Certain Virginia Fastplay Game; End of Game - Virginia Lottery's FastPlay Getaway (29 15) (effective June 15, 2015)

Director's Order Number Ninety-Three (15)

Certain Virginia Fastplay Game; End of Game - Virginia Lottery's FastPlay Crossword (162 14) (effective June 15, 2015)

STATE BOARD OF SOCIAL SERVICES

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Board of Social Services conducted a small business impact review of **22VAC40-890, Human Subject Research Regulations**, and determined that this regulation should be retained in its current form. The State Board of Social Services is publishing its report of findings dated June 15, 2015, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

There is no impact on small businesses. The regulation applies equally to all organizations conducting research through Department of Social Services and its related entities, whether public, nonprofit, or private for-profit organizations. No complaints have been received from the public.

Contact Information: Gail Jennings, Administrator, Department of Social Services, Institutional Review Board, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7490, FAX (804) 726-7906, or email gail.jennings@dss.virginia.gov.

STATE WATER CONTROL BOARD

Total Maximum Daily Load for Kits Creek in Lunenburg County

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the draft stressor analysis in support of the development of the total maximum daily load (TMDL) for Kits Creek in Lunenburg County. This stream is listed on the 2008 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for the aquatic life use due to poor health of the benthic macroinvertebrate community.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law require the State Water Control Board to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. The stressor analysis is the first step in the TMDL process.

The Kits Creek stream segment is located in Lunenburg County. It is 4.8 miles in length and begins at the headwaters and continues to the confluence with the North Meherrin River.

The first public meeting on the stressor analysis, which identifies the stressors to the benthic community in Kits

Creek watershed, will be held on July 16, 2015, 6 p.m. until 8 p.m., 2nd Floor Courtroom, Lunenburg Courts Building, 160 Courthouse Square, Lunenburg VA 23952.

In case of inclement weather, the alternate meeting date is July 21, 2015, 6 p.m. until 8 p.m., 2nd Floor Courtroom, Lunenburg Courts Building, 160 Courthouse Square, Lunenburg VA 23952.

The public comment period will begin July 17, 2015, and end August 17, 2015.

An advisory committee to assist in stressor analysis will be established. Persons interested in assisting should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address, and the organization being represented (if any). Notification of the composition of the advisory committee will be sent to all applicants.

A component of a TMDL is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDL WLAs.

Information on the development of the TMDLs for the impairments is available upon request. Questions or information requests should be addressed to the DEQ contact person listed below. Please note, all written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Paula Nash, Virginia Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, or email paula.nash@deq.virginia.gov.

Total Maximum Daily Loads for Walker Creek, Town Creek, East Wilderness Creek, Nobusiness Creek, Kimberling Creek, and Little Walker Creek in Bland and Giles Counties

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of total maximum daily loads (TMDLs) for Walker Creek, Town Creek, East Wilderness Creek, Nobusiness Creek, Kimberling Creek, and Little Walker Creek in Bland and Giles Counties. These streams are listed on the 2012 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires State Water Control Board to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) Priority List and Report.

The impaired segments include: 33.53 miles of Walker Creek from the Route 52 crossing to the confluence with Kimberling Creek; 4.40 miles of Town Creek from the headwaters downstream to the confluence with Crab Orchard Creek; 3.35 miles of East Wilderness Creek from the confluence with Wolf Pen Branch upstream 3.2 miles; 4.88 miles of Kimberling Creek from the Hiram Thompson Branch confluence upstream to Hazel Branch; and 6.72 miles of Nobusiness Creek from the confluence with Kimberling Creek upstream 6.4 miles.

The first public meeting on the development of the TMDL to address the bacteria impairments for these segments will be held on July 28, 2015, from 6 p.m. until 8 p.m. at the Bland County Public Library located at 697 Main Street, Bland, VA 24315.

The public comment period will begin July 28, 2015, and end August 28, 2015.

An advisory committee to assist in development of this TMDL will be established. Persons interested in assisting should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address, and the organization being represented (if any). Notification of the composition of the panel will be send to all applicants.

A component of a TMDL is the wasteload allocations (WLAs); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDLs associated WLAs. Information on the development of the TMDLs for these impairments is available upon request. Questions, information requests, and written comments should be addressed to the contact listed below. Please note, all written comments should include name, address, and telephone number of the person submitting the comments.

Contact Information: Martha Chapman, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, telephone (276) 676-4800, or email martha.chapman@deq.virginia.gov.

Amendment of Water Quality Management Planning Regulation

Notice of action: The State Water Control Board (Board) is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management Planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The Board is seeking comments through the Department of Environmental Quality (DEQ) on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9VAC25-720) is to adopt 12 total maximum daily load (TMDL) wasteload allocations.

Public comment period: July 13, 2015, through August 12, 2015.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning Regulation for the James River Basin (9VAC25-720-60 A) and the Potomac-Shenandoah River Basin (9VAC25-720-50 A). Statutory authority for promulgating these amendments can be found in subdivision 10 of § 62.1-44.15 of the Code of Virginia.

Staff intends to recommend (1) that the Board approve the TMDL reports as the plan for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, (2) that the Board authorize inclusion of the TMDL reports in the appropriate Water Quality Management Plan, and (3) that the Board adopt 12 TMDL wasteload allocations as part of the state's Water Quality Management Planning Regulation in accordance with §§ 2.2-4006 A 4 c and 2.2-4006 B of the Code of Virginia.

The TMDL reports were developed in accordance with federal regulations (40 CFR 130.7) and are exempt from the provisions of Article 2 (§ 2.2-4000 et seq.) of the Virginia Administrative Process Act. The reports were subject to the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDL.

As of July 1, 2014, TMDL WLAs can receive State Water Control Board approval prior to EPA approval due to amendments outlined in § 2.2-4006 A 14 of the Code of Virginia. The two TMDL reports in this public notice have been reviewed by EPA for required TMDL elements, however the reports remain in draft form awaiting State Water Control Board approval. The draft reports can be found at http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx.

Affected Waterbodies and Localities:

James River Basin (9VAC25-720-60 A):

"Bacteria TMDL Development for the Turkey Island Creek and James River Westover to Claremont Watershed in Charles City, Henrico, Prince George, and Surry Counties, Virginia."

• The Turkey Island Creek and tidal James River Westover to Claremont watersheds TMDL, located in Charles City, Henrico, Prince George, and Surry Counties, proposes E. coli reductions for the Turkey Island Creek, James River Westover to Chippokes Point, and James River Chippokes Point to Claremont watersheds and provides E. coli wasteload allocations of 4.31E11 cfu/year, 4.25E13 cfu/year, and 4.99E13 cfu/year.

Potomac-Shenandoah River Basin (9VAC25-720-50 A):

"Bacteria TMDL Development for Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek Watersheds, and Sediment TMDL Development for Happy Creek Watershed Located in Clarke, Frederick, and Warren Counties, Virginia"

• The Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek watersheds TMDL, located in Clarke, Frederick, and Warren Counties, proposes E. coli reductions for the Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek watersheds and provides E. coli wasteload allocations of 2.22E12 cfu/year, 2.81E11 cfu/year, 2.33E11 cfu/year, 5.80E11 cfu/year, 1.73E11 cfu/year, 3.07E11 cfu/year, 3.24E11 cfu/year, and 4.27E11 cfu/year.

• The Crooked Run, Borden Marsh Run, Willow Brook, West Run, Long Branch, Stephens Run, Manassas Run, and Happy Creek watersheds TMDL, located in Clarke, Frederick, and Warren Counties, proposes sediment reductions for the Happy Creek watershed and provides a sediment wasteload allocation of 29.05 tons/year.

How to comment: DEQ accepts written comments by email, fax, and postal mail. All written comments must include the full name, address, and telephone number of the person commenting and be received by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the Board will make the final decision. Citizens that submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports are available on the DEQ website at http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx, and by contacting the DEQ representative named below for any report. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests, and additional information: Liz McKercher, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone: (804) 698-4291, FAX (804) 698-4032, or email elizabeth.mckercher@deq.virginia.gov.

Proposed Enforcement Action for H&W Properties, Inc.

An enforcement action has been proposed for H&W Properties, Inc. for the Douthat Road Mobile Home Park for violations in Alleghany County at the Douthat Road Mobile Home Park Sewage Treatment Plant. The order resolves violations of State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. G. Marvin Booth, III will accept comments by email at marvin.booth@deq.virginia.gov, FAX (434) 582-5125, or postal mail at Department of Environmental Quality, Blue Ridge Regional Office, 7705 Timberlake Road, Lynchburg, VA 24502, from July 13, 2015, through August 13, 2015.

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; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at http://www.virginia.gov/connect/commonwealth-calendar.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at http://register.dls.virginia.gov/documents/cumultab.pdf.

Filing Material for Publication in the *Virginia Register of Regulations*: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.