
THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **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 OF REGULATIONS**. In addition, **THE VIRGINIA REGISTER** is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

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 appropriate standing committee of each branch 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 committee, 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 standing committees 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 extension 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.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt an emergency regulation. 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 addressing specifically defined situations and may not exceed 12 months in duration. 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 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. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations.

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This schedule is available on the *Register's* Internet home page (<http://legis.state.va.us/codecomm/register/regindex.htm>).

February 2000 through December 2000

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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16:15	March 22, 2000	April 10, 2000
16:16	April 5, 2000	April 24, 2000
16:17	April 19, 2000	May 8, 2000
16:18	May 3, 2000	May 22, 2000
16:19	May 17, 2000	June 5, 2000
16:20	May 31, 2000	June 19, 2000
INDEX 3 - Volume 16		July 2000
16:21	June 14, 2000	July 3, 2000
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17:1	September 6, 2000	September 25, 2000
17:2	September 20, 2000	October 9, 2000
17:3	October 4, 2000	October 23, 2000
17:4	October 18, 2000	November 6, 2000
17:5	November 1, 2000	November 20, 2000
17:6	November 14, 2000 (Tuesday)	December 4, 2000
17:7	November 29, 2000	December 18, 2000
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*Filing deadlines are Wednesdays unless otherwise specified.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 15-20-70	Amended	16:9 VA.R. 1150	1/1/00
2 VAC 15-20-80	Amended	15:26 VA.R. 3445	8/17/99
2 VAC 15-20-80	Repealed	16:9 VA.R. 1150	1/1/00
2 VAC 15-20-81	Added	16:9 VA.R. 1150	1/1/00
Title 4. Conservation and Natural Resources			
4 VAC 20-252-60	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-85	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-90	Amended	16:10 VA.R. 1222	1/1/00
4 VAC 20-252-100	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-252-110	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-252-140	Amended	16:10 VA.R. 1223	1/1/00
4 VAC 20-270-50	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-333-10 through 4 VAC 20-333-40	Added	15:24 VA.R. 3035-3037	7/6/99
4 VAC 20-595-10 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-595-20 emer	Added	15:25 VA.R. 3366	8/15/99-8/31/99
4 VAC 20-620-30	Amended	16:5 VA.R. 580	11/1/99
4 VAC 20-620-40	Amended	16:5 VA.R. 580	11/1/99
4 VAC 20-700-20	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-720-20	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-35	Added	16:3 VA.R. 292	10/1/99
4 VAC 20-720-40	Amended	16:3 VA.R. 292	10/1/99
4 VAC 20-720-50	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-60	Amended	16:3 VA.R. 293	10/1/99
4 VAC 20-720-70	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-80	Amended	16:3 VA.R. 294	10/1/99
4 VAC 20-720-105	Repealed	16:3 VA.R. 294	10/1/99
4 VAC 20-890-10	Amended	16:7 VA.R. 804	1/1/00
4 VAC 20-890-25	Added	16:7 VA.R. 805	1/1/00
4 VAC 20-890-35	Amended	16:7 VA.R. 805	1/1/00
4 VAC 20-891-10 through 4 VAC 20-891-30 emer	Added	16:10 VA.R. 1268	1/1/00-1/31/00
4 VAC 25-40 (Forms)	Amended	16:10 VA.R. 1335	--
4 VAC 25-130 (Forms)	Amended	16:10 VA.R. 1335	--
4 VAC 25-150 (Forms)	Amended	16:10 VA.R. 1335	--
Title 6. Criminal Justice and Corrections			
6 VAC 20-170-10 et seq.	Repealed	16:8 VA.R. 945	2/2/00
6 VAC 20-171-10 through 6 VAC 20-171-560	Added	16:8 VA.R. 945-974	2/2/00
6 VAC 35-50-10 et seq.	Repealed	16:10 VA.R. 1223	7/1/00
Title 7. Economic Development			
7 VAC 10-20-10	Amended	15:25 VA.R. 3348	9/29/99
7 VAC 10-20-30	Amended	15:25 VA.R. 3350	9/29/99
7 VAC 10-20-50	Amended	15:25 VA.R. 3350	9/29/99
Title 8. Education			
8 VAC 20-50-10 et seq.	Repealed	16:10 VA.R. 1223	7/1/00

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Title 9. Environment			
9 VAC 5-80-1400 through 9 VAC 5-80-1590	Added	16:7 VA.R. 806-819	2/1/00
9 VAC 25-151 (Forms)	Amended	15:24 VA.R. 3251	--
Title 11. Gaming			
11 VAC 10-130-10	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-20	Amended	15:26 VA.R. 3449	8/25/99
11 VAC 10-130-40	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-51	Amended	15:26 VA.R. 3451	8/25/99
11 VAC 10-130-60	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-76	Amended	15:26 VA.R. 3452	8/25/99
11 VAC 10-130-77	Amended	15:26 VA.R. 3452	8/25/99
Title 12. Health			
12 VAC 5-65-10 et seq. emer	Amended	16:10 VA.R. 1268-1275	1/3/00-1/2/01
12 VAC 5-220-10 emer	Amended	16:10 VA.R. 1276	1/3/00-1/2/01
12 VAC 5-220-90 emer	Amended	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-105 emer	Amended	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-150 emer	Repealed	16:10 VA.R. 1280	1/3/00-1/2/01
12 VAC 5-220-160 emer	Amended	16:10 VA.R. 1281	1/3/00-1/2/01
12 VAC 5-220-180 emer	Amended	16:10 VA.R. 1281	1/3/00-1/2/01
12 VAC 5-220-200 emer	Amended	16:10 VA.R. 1282	1/3/00-1/2/01
12 VAC 5-220-230 emer	Amended	16:10 VA.R. 1284	1/3/00-1/2/01
12 VAC 5-220-270 emer	Amended	16:10 VA.R. 1286	1/3/00-1/2/01
12 VAC 5-220-280 emer	Amended	16:10 VA.R. 1286	1/3/00-1/2/01
12 VAC 5-220-355 emer	Amended	16:10 VA.R. 1287	1/3/00-1/2/01
12 VAC 5-220-385 emer	Amended	16:10 VA.R. 1287	1/3/00-1/2/01
12 VAC 5-220-420 emer	Amended	16:10 VA.R. 1288	1/3/00-1/2/01
12 VAC 5-220-470 emer	Amended	16:10 VA.R. 1289	1/3/00-1/2/01
12 VAC 5-230-10 emer	Amended	16:10 VA.R. 1289	1/3/00-1/2/01
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12 VAC 5-240-30 emer	Amended	16:10 VA.R. 1291	1/3/00-1/2/01
12 VAC 5-250-30 emer	Amended	16:10 VA.R. 1293	1/3/00-1/2/01
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12 VAC 5-260-40 emer	Amended	16:10 VA.R. 1293	1/3/00-1/2/01
12 VAC 5-260-80 emer	Amended	16:10 VA.R. 1294	1/3/00-1/2/01
12 VAC 5-260-100 emer	Amended	16:10 VA.R. 1294	1/3/00-1/2/01
12 VAC 5-270-30 emer	Amended	16:10 VA.R. 1295	1/3/00-1/2/01
12 VAC 5-270-40 emer	Amended	16:10 VA.R. 1295	1/3/00-1/2/01
12 VAC 5-280-10 emer	Amended	16:10 VA.R. 1296	1/3/00-1/2/01
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12 VAC 5-290-10 emer	Amended	16:10 VA.R. 1296	1/3/00-1/2/01
12 VAC 5-290-30 emer	Amended	16:10 VA.R. 1297	1/3/00-1/2/01
12 VAC 5-300-30 emer	Amended	16:10 VA.R. 1297	1/3/00-1/2/01
12 VAC 5-310-30 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-320-50 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
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12 VAC 5-360-30 emer	Amended	16:10 VA.R. 1298	1/3/00-1/2/01
12 VAC 5-360-40 emer	Amended	16:10 VA.R. 1299	1/3/00-1/2/01
12 VAC 5-371-40 emer	Amended	16:7 VA.R. 896	12/31/99-12/30/00
12 VAC 5-408-10 through 12 VAC 5-408-370	Added	16:7 VA.R. 819-837	1/20/00
12 VAC 5-408-70	Erratum	16:9 VA.R. 1174	--
12 VAC 5-408-230	Erratum	16:9 VA.R. 1174	--
12 VAC 5-408-360	Erratum	16:9 VA.R. 1174	--

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-408-370	Erratum	16:9 VA.R. 1174	--
12 VAC 5-410-70 emer	Amended	16:7 VA.R. 897	12/31/99-12/30/00
12 VAC 5-610-10*	Repealed	15:24 VA.R. 3188	*
12 VAC 5-610-20*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-30*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-40*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-50*	Amended	15:24 VA.R. 3188	*
12 VAC 5-610-70*	Amended	15:24 VA.R. 3189	*
12 VAC 5-610-75*	Added	15:24 VA.R. 3190	*
12 VAC 5-610-80*	Amended	15:24 VA.R. 3190	*
12 VAC 5-610-90*	Repealed	15:24 VA.R. 3190	*
12 VAC 5-610-100*	Amended	15:24 VA.R. 3190	*
12 VAC 5-610-110*	Repealed	15:24 VA.R. 3190	*
12 VAC 5-610-120*	Amended	15:24 VA.R. 3190	*
12 VAC 5-610-130*	Amended	15:24 VA.R. 3192	*
12 VAC 5-610-140*	Repealed	15:24 VA.R. 3192	*
12 VAC 5-610-150*	Repealed	15:24 VA.R. 3192	*
12 VAC 5-610-170*	Amended	15:24 VA.R. 3192	*
12 VAC 5-610-180*	Repealed	15:24 VA.R. 3193	*
12 VAC 5-610-190*	Amended	15:24 VA.R. 3193	*
12 VAC 5-610-200*	Amended	15:24 VA.R. 3194	*
12 VAC 5-610-230*	Amended	15:24 VA.R. 3195	*
12 VAC 5-610-250*	Amended	15:24 VA.R. 3195	*
12 VAC 5-610-255*	Added	15:24 VA.R. 3198	*
12 VAC 5-610-260*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-270*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-280*	Amended	15:24 VA.R. 3198	*
12 VAC 5-610-290*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-300*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-330*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-340*	Amended	15:24 VA.R. 3199	*
12 VAC 5-610-360*	Amended	15:24 VA.R. 3200	*
12 VAC 5-610-370*	Repealed	15:24 VA.R. 3200	*
12 VAC 5-610-380*	Amended	15:24 VA.R. 3201	*
12 VAC 5-610-430*	Amended	15:24 VA.R. 3202	*
12 VAC 5-610-440*	Amended	15:24 VA.R. 3202	*
12 VAC 5-610-441 through 12 VAC 5-610-449*	Added	15:24 VA.R. 3202-3210	*
12 VAC 5-610-449.1*	Added	15:24 VA.R. 3211	*
12 VAC 5-610-450*	Amended	15:24 VA.R. 3212	*
12 VAC 5-610-470*	Amended	15:24 VA.R. 3212	*
12 VAC 5-610-480*	Amended	15:24 VA.R. 3214	*
12 VAC 5-610-490*	Amended	15:24 VA.R. 3214	*
12 VAC 5-610-500*	Amended	15:24 VA.R. 3215	*
12 VAC 5-610-510 through 12 VAC 5-610-550*	Repealed	15:24 VA.R. 3215-3216	*
12 VAC 5-610-560*	Amended	15:24 VA.R. 3216	*
12 VAC 5-610-570*	Repealed	15:24 VA.R. 3216	*
12 VAC 5-610-580*	Amended	15:24 VA.R. 3217	*
12 VAC 5-610-591 through 12 VAC 5-610-594*	Added	15:24 VA.R. 3217-3218	*
12 VAC 5-610-596 through 12 VAC 5-610-599*	Added	15:24 VA.R. 3218-3222	*
12 VAC 5-610-599.1 through 12 VAC 5-610-599.4*	Added	15:24 VA.R. 3222-3223	*
12 VAC 5-610-620*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-650*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-670*	Amended	15:24 VA.R. 3223	*

* The regulatory process was suspended on this section in 16:2 VA.R. 202, and the final effective date is pending until further action by the board.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-610-690*	Amended	15:24 VA.R. 3223	*
12 VAC 5-610-700*	Amended	15:24 VA.R. 3224	*
12 VAC 5-610-800*	Amended	15:24 VA.R. 3226	*
12 VAC 5-610-810*	Amended	15:24 VA.R. 3226	*
12 VAC 5-610-815*	Added	15:24 VA.R. 3226	*
12 VAC 5-610-817*	Added	15:24 VA.R. 3227	*
12 VAC 5-610-820*	Amended	15:24 VA.R. 3227	*
12 VAC 5-610-830*	Repealed	15:24 VA.R. 3227	*
12 VAC 5-610-840*	Repealed	15:24 VA.R. 3227	*
12 VAC 5-610-880*	Amended	15:24 VA.R. 3227	*
12 VAC 5-610-890*	Amended	15:24 VA.R. 3229	*
12 VAC 5-610-930*	Amended	15:24 VA.R. 3229	*
12 VAC 5-610-940*	Amended	15:24 VA.R. 3232	*
12 VAC 5-610-950*	Amended	15:24 VA.R. 3233	*
12 VAC 5-610-960*	Amended	15:24 VA.R. 3235	*
12 VAC 5-610-965*	Added	15:24 VA.R. 3236	*
12 VAC 5-610-980*	Amended	15:24 VA.R. 3237	*
12 VAC 5-610-1080*	Amended	15:24 VA.R. 3238	*
12 VAC 5-610-1140*	Amended	15:24 VA.R. 3240	*
12 VAC 5-610-1150*	Repealed	15:24 VA.R. 3240	*
12 VAC 5-615-10 through 12 VAC 5-615-420 emer	Added	16:10 VA.R. 1301-1313	1/3/00-1/2/01
12 VAC 30-10-150 emer	Amended	16:10 VA.R. 1315	1/1/00-12/31/00
12 VAC 30-10-441	Added	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-490	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-10-680	Amended	15:26 VA.R. 3454	10/13/99
12 VAC 30-50-30 emer	Amended	16:10 VA.R. 1315	1/1/00-12/31/00
12 VAC 30-50-70 emer	Amended	16:10 VA.R. 1316	1/1/00-12/31/00
12 VAC 30-50-100	Amended	15:24 VA.R. 3243	9/15/99
12 VAC 30-50-105	Amended	15:24 VA.R. 3245	9/15/99
12 VAC 30-50-130 emer	Amended	16:10 VA.R. 1316	1/1/00-12/31/00
12 VAC 30-50-140	Amended	15:24 VA.R. 3247	9/15/99
12 VAC 30-50-160	Amended	16:2 VA.R. 202	11/10/99
12 VAC 30-50-210	Amended	16:2 VA.R. 205	11/10/99
12 VAC 30-50-220	Amended	15:25 VA.R. 3362	10/1/99
12 VAC 30-50-229.1 emer	Amended	16:10 VA.R. 1322	1/12/00-1/11/01
12 VAC 30-50-250 emer	Amended	16:10 VA.R. 1317	1/1/00-12/31/00
12 VAC 30-50-270	Amended	16:6 VA.R. 706	1/5/00
12 VAC 30-50-480 emer	Amended	16:10 VA.R. 1326	1/1/00-12/31/00
12 VAC 30-60-130	Amended	16:6 VA.R. 707	1/5/00
12 VAC 30-60-170 emer	Amended	16:10 VA.R. 1328	1/1/00-12/31/00
12 VAC 30-80-21 emer	Added	16:10 VA.R. 1317	1/1/00-12/31/00
12 VAC 30-80-30	Amended	16:2 VA.R. 207	11/10/99
12 VAC 30-80-30	Amended	16:6 VA.R. 710	1/5/00
12 VAC 30-80-40	Amended	16:2 VA.R. 208	11/10/99
12 VAC 30-80-111 emer	Added	16:10 VA.R. 1329	1/1/00-12/31/00
12 VAC 30-129-100 through 12 VAC 30-129-150 emer	Added	16:10 VA.R. 1329-1334	1/1/00-12/31/00
12 VAC 30-130-270 through 12 VAC 30-130-530	Repealed	16:6 VA.R. 711-715	1/5/00
12 VAC 30-130-850 through 12 VAC 30-130-890 emer	Added	16:10 VA.R. 1317-1320	1/1/00-12/31/00
12 VAC 30-140-10 through 12 VAC 30-140-570	Added	15:26 VA.R. 3456-3465	10/13/99
12 VAC 30-140-370	Amended	16:4 VA.R. 404	12/8/99
12 VAC 30-140-380	Amended	16:4 VA.R. 404	12/8/99
12 VAC 35-30-10 et seq.	Repealed	16:10 VA.R. 1233	7/1/00

* The regulatory process was suspended on this section in 16:2 VA.R. 202, and the final effective date is pending until further action by the board.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 13. Housing			
13 VAC 5-175-10 through 13 VAC 5-175-40	Added	16:4 VA.R. 405-406	10/20/99
Title 14. Insurance			
14 VAC 5-270-30	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-40	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-60	Amended	16:5 VA.R. 582	1/1/00
14 VAC 5-270-70	Amended	16:5 VA.R. 583	1/1/00
14 VAC 5-270-80	Amended	16:5 VA.R. 583	1/1/00
14 VAC 5-270-160	Repealed	16:5 VA.R. 584	1/1/00
14 VAC 5-319-10 through 14 VAC 5-319-80	Added	16:5 VA.R. 585-599	1/1/00
14 VAC 5-350-10 et seq. (Forms)	Amended	16:8 VA.R. 976	--
14 VAC 5-395-20	Amended	16:4 VA.R. 407	10/20/99
14 VAC 5-395-25	Added	16:4 VA.R. 407	10/20/99
14 VAC 5-395-60	Amended	16:4 VA.R. 407	10/20/99
Title 16. Labor and Employment			
16 VAC 25-120-1917.1	Amended	16:7 VA.R. 843	1/20/00
16 VAC 25-130-1918.1	Amended	16:7 VA.R. 843	1/20/00
16 VAC 30-11-10 through 16 VAC 30-11-30	Added	16:10 VA.R. 1224	3/1/00
Title 18. Professional and Occupational Licensing			
18 VAC 5-20-10 emer	Amended	16:3 VA.R. 319	10/4/99-10/3/00
18 VAC 5-20-11 emer	Added	16:3 VA.R. 321	10/4/99-10/3/00
18 VAC 5-20-20 emer	Amended	16:3 VA.R. 322	10/4/99-10/3/00
18 VAC 5-20-30 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-40 emer	Repealed	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-41 emer	Added	16:3 VA.R. 324	10/4/99-10/3/00
18 VAC 5-20-50 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-60 emer	Repealed	16:3 VA.R. 325	10/4/99-10/3/00
18 VAC 5-20-70 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-80 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-81 emer	Added	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-90 emer	Repealed	16:3 VA.R. 326	10/4/99-10/3/00
18 VAC 5-20-91 emer	Added	16:3 VA.R. 327	10/4/99-10/3/00
18 VAC 5-20-100 emer	Amended	16:3 VA.R. 328	10/4/99-10/3/00
18 VAC 5-20-110 emer	Amended	16:3 VA.R. 329	10/4/99-10/3/00
18 VAC 5-20-111 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-112 emer	Added	16:3 VA.R. 330	10/4/99-10/3/00
18 VAC 5-20-120 through 18 VAC 5-20-440 emer	Repealed	16:3 VA.R. 330-333	10/4/99-10/3/00
18 VAC 5-20-441 emer	Added	16:3 VA.R. 333	10/4/99-10/3/00
18 VAC 5-20-442 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-443 emer	Added	16:3 VA.R. 334	10/4/99-10/3/00
18 VAC 5-20-444 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-445 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-450 emer	Repealed	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-451 emer	Added	16:3 VA.R. 336	10/4/99-10/3/00
18 VAC 5-20-460 through 500 emer	Repealed	16:3 VA.R. 337-339	10/4/99-10/3/00
18 VAC 10-20-10	Amended	16:3 VA.R. 298	12/1/99
18 VAC 10-20-20	Amended	16:3 VA.R. 299	12/1/99
18 VAC 10-20-35	Added	16:3 VA.R. 299	12/1/99
18 VAC 10-20-90	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-110	Amended	16:3 VA.R. 299	12/1/99
18 VAC 10-20-120	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-140	Amended	16:3 VA.R. 300	12/1/99
18 VAC 10-20-150	Amended	16:3 VA.R. 301	12/1/99
18 VAC 10-20-160	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-170	Amended	15:24 VA.R. 3248	10/1/99
18 VAC 10-20-170	Amended	16:3 VA.R. 303	12/1/99

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 10-20-190	Amended	16:3 VA.R. 303	12/1/99
18 VAC 10-20-200	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-210	Amended	16:3 VA.R. 304	12/1/99
18 VAC 10-20-215	Added	16:3 VA.R. 305	12/1/99
18 VAC 10-20-230	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-250	Amended	16:3 VA.R. 305	12/1/99
18 VAC 10-20-260	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-270	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-280	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-280	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-300	Amended	16:3 VA.R. 306	12/1/99
18 VAC 10-20-310	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-320	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-330	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-350	Amended	16:3 VA.R. 307	12/1/99
18 VAC 10-20-360	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-400	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-440	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-450	Amended	16:3 VA.R. 308	12/1/99
18 VAC 10-20-470	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-490	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-500	Repealed	16:3 VA.R. 309	12/1/99
18 VAC 10-20-520	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-530	Amended	16:3 VA.R. 309	12/1/99
18 VAC 10-20-560	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-570	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-580	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-590	Amended	16:3 VA.R. 310	12/1/99
18 VAC 10-20-630	Amended	15:24 VA.R. 3249	10/1/99
18 VAC 10-20-640	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-680	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-730	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-740	Amended	16:3 VA.R. 311	12/1/99
18 VAC 10-20-760	Amended	16:3 VA.R. 312	12/1/99
18 VAC 10-20-780	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-790	Amended	16:3 VA.R. 313	12/1/99
18 VAC 10-20-795	Added	16:3 VA.R. 314	12/1/99
18 VAC 25-21-70	Amended	15:26 VA.R. 3468	11/1/99
18 VAC 55-22-310	Amended	15:26 VA.R. 3476	11/1/99
18 VAC 55-22 (Forms)	Amended	16:5 VA.R. 600	--
18 VAC 60-20-20	Amended	16:7 VA.R. 846	1/19/00
18 VAC 60-20-30	Amended	16:7 VA.R. 846	1/19/00
18 VAC 65-20-70	Amended	16:7 VA.R. 851	1/19/00
18 VAC 65-20-120	Amended	16:7 VA.R. 851	1/19/00
18 VAC 65-20-130	Amended	16:7 VA.R. 851	1/19/00
18 VAC 65-20-435	Added	16:7 VA.R. 851	1/19/00
18 VAC 85-20-22	Amended	16:4 VA.R. 407	12/8/99
18 VAC 85-20-230	Amended	16:4 VA.R. 408	12/8/99
18 VAC 85-20-235	Added	16:4 VA.R. 408	12/8/99
18 VAC 85-20-236	Added	16:4 VA.R. 408	12/8/99
18 VAC 85-20-240	Amended	16:4 VA.R. 409	12/8/99
18 VAC 85-20-240	Erratum	16:8 VA.R. 997	--
18 VAC 85-20-280	Added	16:7 VA.R. 854	1/19/00
18 VAC 85-20-290	Added	16:7 VA.R. 854	1/19/00
18 VAC 85-20-300	Added	16:7 VA.R. 855	1/19/00
18 VAC 85-40-10	Amended	16:7 VA.R. 860	1/19/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-40-25	Added	16:7 VA.R. 860	1/19/00
18 VAC 85-40-40	Amended	16:7 VA.R. 860	1/19/00
18 VAC 85-40-45	Added	16:7 VA.R. 860	1/19/00
18 VAC 85-40-50	Amended	16:7 VA.R. 860	1/19/00
18 VAC 85-40-60	Amended	16:7 VA.R. 861	1/19/00
18 VAC 85-40-65	Added	16:7 VA.R. 861	1/19/00
18 VAC 85-40-80	Amended	16:7 VA.R. 861	1/19/00
18 VAC 85-80-10	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-20	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-25	Added	16:7 VA.R. 868	1/19/00
18 VAC 85-80-35	Added	16:7 VA.R. 868	1/19/00
18 VAC 85-80-40	Amended	16:7 VA.R. 868	1/19/00
18 VAC 85-80-50	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-60	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-70	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-80-80	Amended	16:7 VA.R. 869	1/19/00
18 VAC 85-101-10	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-40	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-50	Amended	16:4 VA.R. 410	12/8/99
18 VAC 85-101-60	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-70	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-130	Amended	16:4 VA.R. 411	12/8/99
18 VAC 85-101-160	Amended	16:4 VA.R. 412	12/8/99
18 VAC 90-20-300	Amended	16:3 VA.R. 315	11/24/99
18 VAC 90-20-420	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-430	Added	16:3 VA.R. 315	11/24/99
18 VAC 90-20-440	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-450	Added	16:3 VA.R. 316	11/24/99
18 VAC 90-20-460	Added	16:3 VA.R. 317	11/24/99
18 VAC 100-20-10	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-40	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-50	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-60	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 100-20-70	Amended	15:26 VA.R. 3479	11/1/99
18 VAC 110-20-10	Amended	15:26 VA.R. 3482	10/13/99
18 VAC 110-20-135	Added	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-140	Amended	15:26 VA.R. 3484	10/13/99
18 VAC 110-20-690	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-700	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-710	Added	15:26 VA.R. 3485	10/13/99
18 VAC 110-20-720	Added	15:26 VA.R. 3486	10/13/99
18 VAC 115-30-10	Amended	16:7 VA.R. 876	1/19/00
18 VAC 115-30-20	Repealed	16:7 VA.R. 877	1/19/00
18 VAC 115-30-30	Amended	16:7 VA.R. 877	1/19/00
18 VAC 115-30-40	Amended	16:7 VA.R. 877	1/19/00
18 VAC 115-30-45	Added	16:7 VA.R. 877	1/19/00
18 VAC 115-30-60	Amended	16:7 VA.R. 878	1/19/00
18 VAC 115-30-70	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-80	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-90	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-100	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-110	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-120	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-130	Repealed	16:7 VA.R. 879	1/19/00
18 VAC 115-30-140	Amended	16:7 VA.R. 879	1/19/00
18 VAC 115-30-150	Amended	16:7 VA.R. 880	1/19/00

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 115-30-160	Amended	16:7 VA.R. 880	1/19/00
18 VAC 115-50-10	Amended	16:7 VA.R. 886	1/19/00
18 VAC 115-50-30	Amended	16:7 VA.R. 886	1/19/00
18 VAC 115-50-40	Amended	16:7 VA.R. 887	1/19/00
18 VAC 115-50-50	Amended	16:7 VA.R. 887	1/19/00
18 VAC 115-50-55	Added	16:7 VA.R. 887	1/19/00
18 VAC 115-50-60	Amended	16:7 VA.R. 888	1/19/00
18 VAC 115-50-70	Amended	16:7 VA.R. 889	1/19/00
18 VAC 115-50-80	Repealed	16:7 VA.R. 889	1/19/00
18 VAC 115-50-90	Amended	16:7 VA.R. 889	1/19/00
18 VAC 115-60-10 through 18 VAC 115-60-150	Added	16:7 VA.R. 890-895	1/19/00
18 VAC 120-30-100	Amended	15:26 VA.R. 3487	11/1/99
18 VAC 125-20-10	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-30	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-40	Amended	16:2 VA.R. 210	11/10/99
18 VAC 125-20-41	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-42	Added	16:2 VA.R. 211	11/10/99
18 VAC 125-20-50	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-51	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-52	Repealed	16:2 VA.R. 212	11/10/99
18 VAC 125-20-53	Repealed	16:2 VA.R. 213	11/10/99
18 VAC 125-20-54	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-55	Added	16:2 VA.R. 214	11/10/99
18 VAC 125-20-56	Added	16:2 VA.R. 215	11/10/99
18 VAC 125-20-60	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-65	Added	16:2 VA.R. 216	11/10/99
18 VAC 125-20-70	Repealed	16:2 VA.R. 216	11/10/99
18 VAC 125-20-80	Amended	16:2 VA.R. 217	11/10/99
18 VAC 125-20-90	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-100	Repealed	16:2 VA.R. 217	11/10/99
18 VAC 125-20-120	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-130	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-140	Repealed	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Amended	16:2 VA.R. 218	11/10/99
18 VAC 125-20-150	Erratum	16:4 VA.R. 444	--
18 VAC 125-20-160	Amended	16:2 VA.R. 219	11/10/99
18 VAC 125-20-170	Amended	16:2 VA.R. 219	11/10/99
18 VAC 160-20-40	Amended	15:24 VA.R. 3490	11/1/99
Title 19. Public Safety			
19 VAC 30-20-80	Amended	16:9 VA.R. 1150	3/15/00
19 VAC 30-20-150	Amended	16:9 VA.R. 1150	3/15/00
19 VAC 30-70 Appendix A	Amended	15:25 VA.R. 3364	7/29/99
19 VAC 30-165-10 emer	Added	16:3 VA.R. 339	9/24/99-9/23/00
19 VAC 30-165-20 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-30 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-40 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-50 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
19 VAC 30-165-60 emer	Added	16:3 VA.R. 340	9/24/99-9/23/00
Title 20. Public Utilities and Telecommunications			
20 VAC 5-400-200	Added	16:10 VA.R. 1226	1/12/00
Title 22. Social Services			
22 VAC 30-40-10 through 22 VAC 30-40-150	Added	16:10 VA.R. 1227-1233	3/1/00
22 VAC 40-50-10 et seq.	Repealed	15:24 VA.R. 3250	9/15/99
22 VAC 40-150-10 et seq.	Repealed	16:10 VA.R. 1233	7/1/00
22 VAC 40-710-10 et seq.	Repealed	16:4 VA.R. 412	12/8/99
22 VAC 40-820-10 et seq.	Repealed	16:5 VA.R. 599	12/22/99

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-880-350	Amended	16:4 VA.R. 413	12/8/99
22 VAC 42-10-10 through 22 VAC 42-10-1000	Added	16:10 VA.R. 1234-1267	7/1/00
Title 24. Transportation and Motor Vehicles			
24 VAC 30-130-10	Amended	16:2 VA.R. 229	9/13/99

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-90-10 et seq. Rules and Regulations Governing the Use of Diesel Powered Equipment in Underground Coal Mines.** The purpose of the proposed action is to reflect relevant technological advances and industry standards to the diesel particulate monitoring and control, equipment operation, maintenance, and safety of diesel equipment used in underground coal mines. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, and 45.1-161.206 of the Code of Virginia.

Public comments may be submitted until March 6, 2000.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth St., 8th Floor, Richmond, VA 23219-3402, telephone 692-3211 or FAX (804) 692-3237.

VA.R. Doc. No. R00-85; Filed January 11, 2000, 3:20 p.m.

Notice of Intended Regulatory Action

Notice is hereby given that the Department of Mines, Minerals and Energy intends to consider repealing regulations entitled: **4 VAC 25-100-10 et seq. Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells.** The Department of Mines, Minerals and Energy is proposing to repeal this regulation because the revisions are so extensive, both in text and format, that it is more efficient to repeal this regulation and simultaneously promulgate a new regulation in its place (4 VAC 25-101-10 et seq.). The agency intends to hold a public hearing on the proposed repeal of this regulation after publication.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia.

Public comments may be submitted until March 6, 2000.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211 or FAX (804) 692-3237.

VA.R. Doc. No. R00-95; Filed

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider promulgating regulations entitled: **4 VAC 25-101-10 et seq. Regulation Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells.** The purpose of the proposed action is to establish guidelines that govern drilling, equipping, and remove methane gas from underground coal mines and the practice of mining near or through vertical holes or gas wells. This regulation is being developed to replace the existing regulation. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia.

Public comments may be submitted until March 6, 2000.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth Street, 8th Floor, Richmond, VA 23219-3402, telephone 692-3211 or FAX (804) 692-3237.

VA.R. Doc. No. R00-92; Filed January 11, 2000, 3:20 p.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-70-10 et seq. Financial Assurance Regulations for Solid Waste Facilities.** The amendments further protect the public from bearing the burden of costs associated with abandoned solid waste treatment and disposal facilities. The board will review and evaluate the existing regulations to determine the most effective method of strengthening the existing financial assurance requirements.

Request for Comments. The board requests comments on the intended regulatory action, including ideas to assist the board in the development of a proposal. In addition, the board seeks comments on the costs and benefits of any stated alternative or other alternatives.

Public Meeting. The department will hold a public meeting to receive comments from the public on Thursday, March 2, 2000, at 9 a.m. in the 10th Floor Conference Room,

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Department of Environmental Quality's Office, 629 E. Main Street, in Richmond.

Technical Advisory Committee. Persons wishing to assist in the development of a proposal by serving on a technical advisory committee should contact Melissa Porterfield at (804) 698-4238.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 10.1-1402 and 10.1-1410 of the Code of Virginia.

Public comments may be submitted until March 17, 2000.

Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238.

VA.R. Doc. No. R00-91; Filed January 12, 2000, 11:36 a.m.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-110-10 et seq. General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to reissue the existing general permit which expires on August 1, 2001. The general permit will establish limitations and monitoring requirements for domestic sewage discharges less than or equal to 1,000 gallons per day. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharges. A technical advisory committee will be formed to assist in the development of the regulation. The primary function of the committee will be to develop recommendations to the board for the content of the reissued general permit through a process of negotiation and consensus. Persons who desire to be on the committee should notify the agency contact person in writing by 4:30 p.m. on Wednesday, March 15, 2000, and provide name, address, telephone number and the organization represented (if any). Notification of the composition of the technical advisory committee will be sent to all applicants. Following publication of the draft general permit regulation in the Virginia Register, the board will hold at least one public hearing to provide opportunity for public comment.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on Wednesday, March 15, 2000.

Contact: Lily Choi, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054 or FAX (804) 698-4032.

VA.R. Doc. No. R00-101; Filed January 27, 2000, 11:34 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-115-10 et seq. General VPDES Permit for Seafood Processing Facilities.** The purpose of the proposed action is to reissue the existing general permit which expires on July 24, 2001. The general permit will establish limitations and monitoring requirements for discharges of wastewater from seafood processing facilities. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharges. A technical advisory committee will be formed to assist in the development of the regulation. The primary function of the committee will be to develop recommendations to the board for the content of the reissued general permit through a process of negotiation and consensus. Persons who desire to be on the committee should notify the agency contact person in writing by 4:30 p.m. on Wednesday, March 15, 2000, and provide name, address, telephone number and the organization represented (if any). Notification of the composition of the technical advisory committee will be sent to all applicants. Following publication of the draft general permit regulation in the Virginia Register, the board will hold at least one public hearing to provide opportunity for public comment.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on Wednesday, March 15, 2000.

Contact: Michael Gregory, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or FAX (804) 698-4032.

VA.R. Doc. No. R00-100; Filed January 27, 2000, 11:34 a.m.

Notice of Intended Regulatory Action

Extension of Public Comment Period

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-5 et seq. Water Quality Standards.** The purpose of the proposed action is to consider amending the water quality standards to update numerical or narrative criteria for dissolved oxygen for certain waters of the Chesapeake Bay and other naturally occurring low dissolved oxygen waters where current criteria are not appropriate.

Intent: The intent of this rulemaking is to protect designated and beneficial uses in the Commonwealth by adopting regulations that are technically correct and reasonable. These standards will be used in setting Virginia Pollutant Discharge Elimination System Permit limits and for evaluating the waters of the Commonwealth for inclusion in the federal Clean Water Act § 305(b) report and § 303(d) list. Waters not meeting standards will require development of a Total

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Maximum Daily Load under the federal Clean Water Act § 303(d).

Need: This rulemaking is needed because the current dissolved oxygen criteria (4mg/l minimum and 5mg/l daily average) are not appropriate in waters where the naturally occurring dissolved oxygen levels are below the existing criteria. These types of water may include the deep trenches of the Chesapeake Bay, the deep waters of stratified lakes and wetlands. Changes to these criteria are needed to facilitate permitting, monitoring and Total Maximum Daily Load development.

Alternatives Available to Meet the Need: Many alternatives in the subject areas listed will become available as DEQ staff and the public begin to review scientific data and the needs of permitting and monitoring. DEQ will work in conjunction with other state and federal agencies to consider various alternatives. Alternatives provided by the public will also be considered.

The department has not accepted nor rejected any alternatives as of yet. Some alternatives being considered by the agency now include, but are not limited to, the following:

- whether we should include alternative dissolved oxygen criteria for the Chesapeake Bay, wetlands and lakes;
- whether we should consider for adoption the Chesapeake Bay Living Resources Goals or Environmental Protection Agency criteria or some other criteria;
- whether zones for application of the criteria should be included and what these zones should be (i.e. application of a lower dissolved oxygen criterion one meter off the bottom (for the Bay), in the hypolimnion or below the thermocline (lakes), throughout the column (wetlands) or should some other zone be considered for application of the alternative criteria);
- whether to improve the specific narrative criterion that recognizes natural background differences for all waters. Currently natural conditions in surface water are recognized in the following sections of the regulation: 9 VAC 25-260-10.G, 9 VAC 25-260-50 and 9 VAC 25-260-250;

Request for Comments: Comments are requested on the intended regulatory action, including any ideas to assist the agency in the development of the proposal. Comments are requested on the costs and benefits of the stated alternatives or other alternatives. DEQ also requests comments as to whether the agency should use the participatory approach to assist the agency in the development of the proposal. The participatory approach is defined as a method for the use of (i) standing advisory committees, (ii) ad hoc advisory groups or panels, (iii) consultation with groups or individuals registering interest in working with the agency, or (iv) any combination thereof.

Public Meeting: A public meeting was held on January 27, 2000, at 2 p.m. at the Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia 23220. The public comment period on the intended regulatory action has been

extended until April 7, 2000. Please submit comments to Eleanore Daub, Office of Water Quality Programs, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public comments may be submitted until April 7, 2000.

Contact: Eleanore Daub, Environmental Program Planner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or (804) 698-4522.

VA.R. Doc. No. R00-57; Filed December 1, 1999, 8:46 a.m.



TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled: **11 VAC 10-150-10 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Standardbred Racing.** The purpose of the proposed action is to bring the regulation into conformance with the standards of the U.S. Trotting Association and provide uniformity from jurisdiction to jurisdiction. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until February 16, 2000.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404 or FAX (804) 966-7418.

VA.R. Doc. No. R00-72; Filed December 20, 1999, 3:25 p.m.



TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-10-10 et seq. State Plan under Title XIX of the Social Security Act Medical Assistance Program-General**

Notices of Intended Regulatory Action

Provisions; 12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services; 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates-Other Types of Care; and 12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.

The purpose of the proposed action is to promulgate permanent regulations for the provision of residential psychiatric services for children and adolescents under the provisions of the Early and Periodic Screening, Diagnosis, and Treatment Program (42 CFR 440.40). The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 1, 2000, to Anita Cordill, Analyst, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-81; Filed January 6, 2000, 4:17 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-20-10 et seq. Administration of Medical Assistance Services.** The purpose of the proposed action is to modify the copayment amount for brand name prescription drugs that recipients will be required to pay. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 15, 2000, to William Lessard, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-96; Filed January 19, 2000, 12:07 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to convert the provision of transportation to Medicaid recipients from medical service to an administrative expense. This regulatory change will permit DMAS to

contract with transportation brokers to authorize, arrange and reimburse necessary nonemergency transportation statewide. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 30, 2000, to Jeff Nelson, Analyst, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-102; Filed January 27, 2000, 10:31 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **Uninsured Medical Catastrophe Fund.** Pursuant to Chapter 998 of the 1999 Acts of Assembly, the purpose of the proposed action to adopt regulations for the Uninsured Medical Catastrophe Fund (see § 32.1-324.3 of the Code of Virginia) is to (i) further define an uninsured medical catastrophe, including a life-threatening illness or injury requiring specialized medical treatment hospitalization, or both; (ii) establish procedures for distribution of moneys in the fund to pay for the cost of treating uninsured medical catastrophes; (iii) establish application and appeals procedures; and (iv) establish criteria for eligibility for assistance from the fund and the prioritization and allocation of available moneys among applicants for assistance from the fund. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 15, 2000, to William Lessard, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-99; Filed January 24, 2000, 4:11 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to promulgate permanent regulations for the provision of expanded school-based services consistent with General Assembly mandates. The agency does not

Notices of Intended Regulatory Action

intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 1, 2000, to Jeff Nelson, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-89; Filed January 12, 2000, 9:02 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care; 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates-Other Types of Care;** and promulgating regulations entitled **12 VAC 30-129-100 et seq. Treatment Foster Care Providers.** The purpose of the proposed action is to promulgate permanent regulations for the provision of case management services for treatment foster care. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 1, 2000, to Anita Cordill, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

VA.R. Doc. No. R00-84; Filed January 6, 2000, 4:17 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARDS OF PHARMACY AND MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Pharmacy and Medicine intend to consider promulgating regulations entitled: **18 VAC 110-40-10 et seq. Regulations Governing Collaborative Practice Agreements.** The purpose of the proposed regulation is to adopt regulations pursuant to Chapter 1101 of

the 1999 Acts of Assembly which mandates that the boards jointly promulgate regulations to implement the provisions of the statute regarding collaborative practice agreements. The proposed regulations would replace emergency regulations adopted by the boards in order to have regulations in effect within 280 days of the date of the enactment of the bill. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3300 and 54.1-3300.1 of the Code of Virginia.

Public comments may be submitted until March 15, 2000.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.

VA.R. Doc. No. R00-97; Filed January 20, 2000, 4:23 p.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Notice of Intended Regulation Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to consider amending regulations entitled: **18 VAC 160-20-10 et seq. Board for Waterworks and Wastewater Works Operators Regulations.** The purpose of the proposed action is to seek public comment on existing regulations concerning the effectiveness and continued need for the regulations. The board is considering modifications to the definition section, the entry and experience requirements for licensure, and the procedures and provisions regarding license renewal and reinstatement. Further, the board intends to amend the regulations to implement the EPA Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems, which were published in the February 5, 1999, edition of the Federal Register, by developing appropriate definitions; entry and experience standards; renewal, continuing professional education and reinstatement standards; and disciplinary standards for waterworks operators. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until February 17, 2000.

Contact: Joseph Kossan, Assistant Administrator, Department of Professional and Occupational Regulations, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY

VA.R. Doc. No. R00-74; Filed December 22, 1999, 11:50 a.m.

**TITLE 24. TRANSPORTATION AND
MOTOR VEHICLES**

COMMONWEALTH TRANSPORTATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider promulgating regulations entitled: **24 VAC 30-65-10 et seq. State-Owned Urban Tunnel Safety Regulation.** The purpose of the proposed action is to promulgate a safety inspection regulation of LP gas valves of vehicles using LP gas for purposes other than propulsion at state-owned urban bridge-tunnels in the Suffolk construction district. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 33.1-12, 33.1-268 and 33.1-292 of the Code of Virginia.

Public comments may be submitted until March 1, 2000.

Contact: Perry C. Cogburn, Environmental Program Planner, Department of Transportation, Maintenance Division, 1221 E. Broad St., Richmond, VA 23219, telephone (804) 786-6824 or FAX (804) 786-7987.

VA.R. Doc. No. R00-87; Filed January 12, 2000, 8:56 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider promulgating regulations entitled: **24 VAC 30-125-10 et seq. Regulation for Landscape Recognition and Identification Signs and Structures.** The purpose of the proposed action is to promulgate a new regulation concerning issues related to landscaping and nonregulatory signage placed on state-owned right of way. The regulation will address how donations will be accepted and used in VDOT's Wildflower Program, and the conditions under which localities, businesses, and subdivisions may place signs or related structures on state-owned right of way. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 33.1-12 and 33.1-292 of the Code of Virginia.

Public comments may be submitted until March 1, 2000.

Contact: James R. Barrett, Environmental Program Planner, Department of Transportation, Environmental Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6826 or FAX (804) 371-6827.

VA.R. Doc. No. R00-86; Filed January 12, 2000, 9:33 a.m.



PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the proposed amendment is to repeal certain obstetric and pediatric procedures from the State Plan.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until April 14, 2000, to Bobby Powell, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

requirements for combination inspectors to obtain a certificate of competence; (ii) permit the issuance of provisional certificates under certain conditions; (iii) permit the board to appoint an advisory peer review committee to advise the board concerning proposed sanctions against a certificate holder; (iv) allow the board to impose sanctions on certificate holders under certain conditions; and (v) allow administrative appeals to the Technical Review Board to resolve disputes.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

March 6, 2000 - 9:30 a.m. -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code.** The proposed amendments (i) require the fire code official to enforce the provision of the building code regarding maintenance of smoke detectors in certain dwellings; (ii) require the fire code official to enforce the provision of the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) regarding installation of fire extinguishers and smoke detectors in state regulated facilities (Use Groups R-2, R-3 and R-4 only); (iii) amend the provision concerning the appointment of local assistant fire marshals to conform with state law; (iv) address a potential safety problem with an already installed fire sprinkler device that may not function properly during a fire situation; (v) add a requirement for fire exit drills to be conducted at state regulated care facilities at least 12 times per year with not less than six of the drills being unannounced; (vi) delete all references regarding regulation of transportation of

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

March 6, 2000 - 9:30 a.m. -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards.** The proposed amendments (i) clarify the

Public Comment Periods - Proposed Regulations

explosive materials and add a reference to Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.); (vii) amend the definition of fireworks to conform with the Code of Virginia; and (viii) allow the storage of motor fuels in aboveground tanks at public service stations when the installation meets the National Fire Protection Association standard.

Statutory Authority: § 27-97 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

mercantile space is less than 5,000 square feet; (xi) and require that, in new construction of buildings four stories or more, at least one elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life).

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

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March 6, 2000 - 9:30 a.m. -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code.** The proposed amendments (i) require that persons under contract to a local building department for enforcement of the USBC be certified and attend periodic training courses as designated by the Department of Housing and Community Development and such other training as designated by the local governing body in the same manner as required for employees; (ii) allow for exceptions to filing duplicate construction documents when the already submitted construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans; (iii) clarify that the code official's approval of construction documents is limited to only those items that are within the scope of the USBC; (iv) require that certain measures be taken in the construction of one- and two-family homes in counties or cities with an average residential radon level greater than 4 picoCuries per liter; (v) require that building officials ensure that exterior insulation and finish systems are installed correctly; (vi) clarify that building code officials are allowed to accept third party reviews of construction documents; (vii) require that for new construction, fire walls, fire separation assemblies, fire partitions, and smoke barriers are to be marked with language warning against the creation of holes, and that the warnings must be no more than eight feet apart, above ceilings and at all ceiling access doors; (viii) provide an exemption for the requirement of fire sprinkler systems in certain types of closets; (ix) provide an exemption from the requirement that a toilet be provided when the structure or tenant space has an occupant load less than 150 and food and beverages are neither served nor consumed on the premises; (x) provide an exemption from a requirement that separate-sex toilet facilities be provided when the

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.
Language which has been stricken indicates proposed text for deletion.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-80-10 et seq. **Methods And Standards For Establishing Payment Rates; Other Types Of Care (repealing 12 VAC 30-80-160).**

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until April 14, 2000.

(See Calendar of Events section for additional information)

Basis: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. Sections 9-6.14:7.1 and 9-6.14:9.1 of the Code of Virginia also provide for this agency's promulgation of proposed regulations subject to the Governor's review.

The Balanced Budget Act of 1997 (Public Law 105-33) provided at § 4713 that § 1926 of the Social Security Act (the Act) be repealed. This section of the Act mandated the inclusion of the state's fees for specific obstetric and pediatric procedures into that state's State Plan for Medical Assistance. Now that this information is no longer mandated to appear in the Plan, DMAS is proceeding, under the requirements of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act, to repeal this section from the State Plan.

Purpose: The purpose of this proposal is to repeal Supplement 1 to Attachment 4.19-B (12 VAC 30-80-160) from the State Plan for the efficient and economical operation of the state agency. The agency is no longer federally required to maintain this information in the State Plan and, therefore, does not intend to do so. To have such information in the State Plan become outdated would result in State Plan users being misled.

Substance: The section of the State Plan affected by this action is Methods and Standards for Establishing Payment Rates, Obstetric/Pediatric Fees (Attachment 4.19-B, Supplement 1): 12 VAC 30-80-160, Fees for pediatric and obstetric CPT procedures.

Section 6402 of the Omnibus Budget Reconciliation Act (OBRA) of 1989 added § 1926 to the Social Security Act. This new section required the states to incorporate into their Medicaid State Plans the fees that they paid for certain obstetric and pediatric medical procedures. By April 1, these fees had to be submitted annually to the Health Care Financing Administration (HCFA). Additionally, the states were required to submit physician enrollment and Medicaid

participation data in support of the adequacy of their fee levels. These fees were required to be effective on July 1 of each year.

DMAS has annually complied with all of the requirements of § 1926 of the Social Security Act and secured HCFA's approval.

Section 4713 of the Balanced Budget Act of 1997 (Public Law 105-33) repealed § 1926 of the Social Security Act. Since DMAS no longer has a federal mandate to maintain these specific obstetric and pediatric fees in the State Plan, it is repealing this section.

Additionally, this repealing action is consistent with the administration's intent, as discussed in Executive Order 25 (98), to repeal inappropriate, unnecessary regulations which lack a basis in federal or state law.

Repealing this regulation will not have any impact either on recipients, their families, or Medicaid providers. Repealing this regulation will not have any affect on how much DMAS pays for its obstetric and pediatric procedures only whether those procedures/fees appear in the State Plan. DMAS routinely provides fee information to providers upon request.

Issues: There are no effects to be projected for recipients, their families or Medicaid providers. The agency projects no negative issues involved in implementing this proposed change.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. In 1989, the federal government passed regulations requiring states to include in their Medicaid State Plans the fees paid for certain obstetric and pediatric medical procedures. This federal mandate has since been repealed and DMAS now proposes to repeal the supplement containing obstetric and pediatric rates from the Virginia State Plan for Medical Assistance.

Estimated economic impact. The repeal of this regulation will not change how much DMAS pays for its obstetric and pediatric procedures, only whether those rates appear in the State Plan. If this section was retained, future readers of the

Plan could be misled when the listed fees became outdated. DMAS routinely provides fee information to Medicaid providers upon request. Therefore, the repeal of the supplement to the State Plan containing the fees for obstetric and pediatric medical procedures will not have any economic effect.

Businesses and entities affected. No businesses or entities will be affected by the repeal of this regulation.

Localities particularly affected. No localities will be disproportionately affected by the repeal of this regulation as it applies statewide.

Projected impact on employment. There will be no impact on employment in the Commonwealth of Virginia due to the repeal of this regulation.

Effects on the use and value of private property. There will be no effects on the use and value of private property due to the repeal of this regulation.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning Methods and Standards for Establishing Payment Rates; Other Types of Care: Repeal of Supplement Containing Obstetric/Pediatric Rates.

Summary:

This regulatory action repeals the fee schedule for certain obstetric and pediatric procedures from the State Plan. This proposed action will make no changes in the covered service frequency, in the amount of money reimbursed for these procedures, or in who is covered by the services.

12 VAC 30-80-160. Fees for pediatric and obstetric CPT procedures. (Repealed.)

PEDIATRIC SERVICES

(fee changes are subject to new federal Conversion Factors and Relative Value Units as shown in VR 460-03-4.1924)

CPT-4

CPT-4 Code	Description	Payment
1. Evaluation and Management Services – Physician services performed in a physician's office or in an outpatient facility		
NEW PATIENT		
99201	Problem focused history, examination, and straightforward medical decision making	\$23.58
99202	Expanded problem focused history, examination, and straightforward medical decision making	30.66

99203	Detailed history, examination and medical decision making of moderate complexity	38.50
99204	Comprehensive history, examination, and medical decision making of moderate complexity	55.82
99205	Comprehensive history, examination, and medical decision making of high complexity	64.22
ESTABLISHED PATIENT		
99211	Minimal presenting problems	\$10.31
99212	Problem focused history, or examination, and straightforward medical decision making	19.19
99213	Expanded problem focused history or examination, and medical decision making of low complexity	26.87
99214	Detailed history, or examination, and medical decision making of moderate complexity	37.53
99215	Comprehensive history, or examination and medical decision making of high complexity	52.44
2. Emergency Department Services – for emergency care		
NEW OR ESTABLISHED PATIENT		
99281	Problem focused history, examination, and straightforward medical decision making	\$23.20
99282	Expanded problem focused history, examination, and medical decision making of low complexity	39.51
99283	Expanded problem focused history, examination, and medical decision making of low to moderate complexity	48.41
99284	Detailed history, examination, and medical decision making of moderate complexity	61.60
99285	Comprehensive history, comprehensive examination, and medical decision making of high complexity	91.10
99295	Initial NICU care, per day, for the evaluation and management of a critically ill neonate or infant	587.00

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99296	Subsequent NICU care, per day, for the evaluation and management of a critically ill and unstable neonate or infant	285.25	90711	Diphtheria, tetanus, and pertussis (DTP) and injectable poliomyelitis vaccine	\$ drug cost
99297	Subsequent NICU care, per day, for the evaluation and management of a critically ill and stable neonate or infant	143.28	90712	Poliovirus vaccine, live, oral (any type(s))	\$ drug cost
99431	History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation of hospital records	72.45	90713	Poliomyelitis vaccine	\$ drug cost
99432	Normal newborn care in other than hospital or birthing room setting, including physical examination of baby and conference(s) with parent(s)	46.18	90720	Diphtheria, tetanus, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine	\$ drug cost
99433	Subsequent hospital care, for the evaluation and management of a normal newborn, per day	29.36	90731	Hepatitis B vaccine	\$ drug cost
99440	Newborn resuscitation; care of the high risk newborn at delivery, including, for example, inhalation therapy, aspiration, administration of medication for initial stabilization	122.88	90737	Hemophilus influenza B	\$ drug cost
	3. Immunization Injections*	(no change)		(Note: Appropriate office visit may be billed in addition to the above immunization injections. Payment for immunizations shall not exceed the Medicaid fee on file for the drug at time of service.	Upon implementation of the Vaccines for Children Program, reimbursement for vaccines will change to an administration fee for each vaccine administered. Providers will be supplied with vaccines free of charge.
90700	Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)	\$ drug cost		** Vaccine supplied under contract with manufacturer.	
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	\$ drug cost		*** Medical justification will be required to demonstrate that use of a single antigen vaccine is medically appropriate.	
				4. Preventive Medicine	
				NEW PATIENT	
90702	Diphtheria and tetanus toxoids (DT)	\$ drug cost	99381	Initial evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	\$47.31
90703	Tetanus toxoid	\$ drug cost			
90704	Mumps virus vaccine, live	\$ drug cost			
90705	Measles virus vaccine, live, attenuated	\$ drug cost			
90706	Rubella virus vaccine, live	\$ drug cost	99382	Early childhood (age 1 through 4 years)	53.43
90707	Measles, mumps, and rubella virus vaccine, live	\$ drug cost	99383	Late childhood (age 5 through 11 years)	53.43
90708	Measles and rubella virus vaccine, live	\$ drug cost	99384	Adolescent (age 12 through 17 years)	54.22
90709	Rubella and mumps virus vaccine, live	\$ drug cost		ESTABLISHED PATIENT	
90710	Measles, mumps, rubella, and varicella vaccine	\$ drug cost			

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99391	Periodic evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	43.95	59151	Laparoscopic treatment of ectopic pregnancy; with salpingectomy and/or oophorectomy	738.17
			59160	Curettage, postpartum (separate procedure)	333.55
99392	Early childhood (age 1 through 4 years)	47.98	59200	Insertion of cervical dilator (eg, laminaria, prostaglandin)	61.54
99393	Late childhood (age 5 through 11 years)	47.98		REPAIR	
99394	Adolescent (age 12 through 17 years)	48.10	59300	Episiotomy or vaginal repair, by other than attending physician	\$203.07
	OBSTETRICAL SERVICES		59320	Cerclage of cervix, during pregnancy; vaginal	258.57
			59325	Cerclage of cervix, during pregnancy; abdominal	425.41
CPT-4				DELIVERY, ANTEPARTUM AND POSTPARTUM CARE	
Code	Description	Payment			
	1. Maternity Care and Delivery				
	INCISION		59400	Total obstetrical care (all inclusive, "global" care) includes antepartum care, vaginal delivery (with or without episiotomy, and/or forceps or breech delivery) and postpartum care	\$1,210.30
59000	Amniocentesis, any method	\$105.48	59409	Vaginal delivery only (with or without episiotomy and/or forceps)	811.57
59012	Cordocentesis (intrauterine), any method	139.68	59410	Vaginal delivery only (with or without episiotomy, forceps or breech delivery) including in-hospital postpartum care (separate procedure)	858.24
59015	Chorionic villus sampling, any method	112.08	59412	External cephalic version, with or without tocolysis	200.16
59020	Fetal oxytocin stress test	63.92	59414	Delivery of placenta	193.52
59025	Fetal nonstress test	46.44	59425	Antepartum care only; 4-6 visits	164.54
59030	Fetal scalp blood sampling;	83.31	59426	7 or more visits	335.09
59050	Initiation and/or supervision of internal fetal monitoring during labor by consultant	52.57	59430	Postpartum care only (separate procedure)	49.58
59100	Hysterotomy, abdominal (eg. for hidatidiform mole, abortion)	325.02		CAESAREAN SECTION	
	EXCISION		59510	Routine obstetric care including antepartum care, caesarean delivery, and postpartum care	\$1,423.30
59120	Surgical treatment of ectopic pregnancy, tubal or ovarian, requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach	\$835.30	59514	Caesarean delivery only	1,032.90
59124	Surgical treatment of ectopic pregnancy; tubal or ovarian, without salpingectomy and/or oophorectomy	361.10	59515	Caesarean delivery only including postpartum care	1,079.40
59130	Abdominal pregnancy	511.21	59525	Subtotal or total hysterectomy after caesarean delivery	392.92
59135	Interstitial, uterine pregnancy requiring total hysterectomy	982.93		ABORTION	
59136	Interstitial, uterine pregnancy with partial resection of uterus	903.39	59812	Treatment of spontaneous abortion; any trimester, completed surgically	394.46
59140	Cervical, with evacuation	372.88	59820	Treatment of missed abortion; completed surgically; first trimester	380.47
59150	Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy	677.31			

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59824	Treatment of missed abortion, completed surgically; second trimester	452.38
59830	Treatment of septic abortion, completed surgically 2. Diagnostic Ultrasound PELVIS	267.26
74740	Pelvimetry, with or without placental localization	42.54
74775	Perineogram (eg, vaginogram, for sex determination or extent of anomalies)	42.17
76805	Echography, pregnant uterus, B-scan and/or real time with image documentation; complete (complete fetal and maternal evaluation)	93.22
76840	Complete (complete fetal and maternal evaluation), multiple gestation, after the first trimester	485.98
76845	Limited gestational age, heart beat, placental location, fetal position, or emergency in the delivery room)	62.18
76846	Follow-up or repeat	48.25
76848	Fetal biophysical profile	75.64
76825	Echocardiography, fetal, real time with image documentation (2D) with or without M-mode recording	90.85
76826	Follow-up or repeat study	50.84
76827	Doppler echocardiography, fetal, cardiovascular system, pulsed wave and/or continuous wave with special display; complete	66.36
76828	Follow-up or repeat study	37.32

VA.R. Doc. No. R98-319; Filed January 20, 2000, noon.

(See Calendar of Events section for additional information)

Basis: Section 36-137 of the Code of Virginia directs the board to establish training requirements for code officials and assistants and issue certificates of competence regarding the building and fire regulations promulgated by the board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections and to make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

Purpose: The purpose of the proposed amendments is to protect the safety of the residents of the Commonwealth by clarifying regulations for the issuance of competence certificates or the imposition of sanctions with regard to candidates and certificate holders seeking certification by the Board of Housing and Community Development to perform inspections under the Statewide Fire Prevention Code and inspections of structures based on the Uniform Statewide Building Code and the Virginia Amusement Device Regulations.

Substance: The new substantive provisions of the proposed amendments:

1. Clarify the requirements for combination inspectors to obtain a certificate of competence;
2. Permit the issuance of provisional certificates under certain conditions;
3. Permit the board to appoint an advisory peer review committee to advise the board concerning proposed sanctions against a certificate holder;
4. Allow the board to impose sanctions on certificate holders under certain conditions; and
5. Allow administrative appeals to the Technical Review Board to resolve disputes.

Issues: The primary advantage to the public of the proposed amendments is a more uniform application of the USBC and these standards across the Commonwealth. The primary advantage to the department is fewer questions due to the clarifying nature of the amendments.

There are no disadvantages to the public or the department.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, 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. The analysis presented below represents DPB's best estimate of these economic impacts.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: 13 VAC 5-21-10 et seq. Virginia Certification Standards (amending 13 VAC 5-21-10 and 13 VAC 5-21-20; adding 13 VAC 5-21-31, 13 VAC 5-21-41, 13 VAC 5-21-51, 13 VAC 5-21-61, and 13 VAC 5-21-71; repealing 13 VAC 5-21-30, 13 VAC 5-21-40, 13 VAC 5-21-50, and 13 VAC 5-21-60).

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Public Hearing Date: March 6, 2000 - 9:30 a.m.
Public comments may be submitted until April 14, 2000.

Summary of the Proposed Regulation. This regulation establishes the requirements for obtaining certificates of competence to be issued by the Virginia Board of Housing and Community Development (board) concerning the content, application and intent of specified subject areas of the building and fire regulations promulgated by the board to present or prospective personnel of local governments and to any other persons seeking to be qualified to perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia and any regulations adopted thereunder. The board proposes to amend the current regulation so that it can impose sanctions upon individuals who hold certificates of competence when warranted.

Estimated economic impact. The board proposes new language that would enable it to impose sanctions on certificate holders under certain specified conditions. Possible sanctions include a warning letter, mandatory attendance at a special training session, and suspension or revocation of certification. The warning letter could be issued if the certificate holder were found to have committed any act prohibited by this regulation. The board may require attendance at a special training session if the certificate holder were found inadequately knowledgeable or trained to practice in the specific area of certification. A probationary period could be imposed upon completion of the training.

A certificate could be revoked or suspended by the board if it is determined that the certificate holder has committed any of the following acts: failed to maintain a minimally acceptable level of competence; engaged in any conduct that demonstrates incompetence or dishonesty; obtained or renewed a certificate by fraud or misrepresentation; aided or abetted a noncertified person to practice as a certificate holder; fraudulently or deceitfully practiced as a certificate holder; been grossly negligent or engaged in misconduct in the performance of any duties under the board's regulations; failed to report an offer of a bribe; failed to comply with any order issued by the board, the Department of Housing and Community Development (department), or the State Building Code Technical Review Board (TRB); made a false or misleading written statement to the board, department, or TRB; violated or failed to enforce the provisions of the board's regulations; or been convicted of a crime or an offense concerning his performance as a certificate holder.

If the board uses the proposed new power to assess sanctions judiciously, then there is potential for some net economic benefit. The imposition of sanctions allowed under this proposed regulation could potentially result in the termination of incompetent or unscrupulous certificate holders and, hopefully, their replacement with competent and scrupulous certificate holders. The certificate holders are employed by localities. Thus, the board is not directly involved in hiring or firing decisions. But, localities would likely terminate employment for individuals that have their certification revoked when the certification is necessary for their job. Sanctions less severe than certification revocation could also potentially affect employment decisions by localities. Additionally, the mandatory re-education of current certificate holders could result in their more properly enforcing the relevant regulations. For example, if an incompetent building official has been improperly delaying or denying the

issuance of building permits, then the replacement or re-education of that official may put an end to improper delays or denials in building permits within that locality. The cost of building would be reduced and the value of builders' businesses may increase. If on the other hand, an incompetent or unscrupulous building official has been improperly issuing permits when the construction is faulty or unsafe, then their replacement or re-education could reduce faulty and unsafe construction within the locality. The cost of building would be increased, but the value and safety of the buildings would increase as well.

Businesses and entities affected. The proposed changes to the regulation potentially affect the following certificate holders: 282 amusement device inspectors, 768 building inspectors (1- and 2-family), 556 building inspectors (general), 2,804 building officials, 294 building plan examiners, 182 certified building officials, 245 building maintenance code officials, 512 code officials, 97 combination general inspectors, 460 combination inspectors, 582 electrical inspectors (1- and 2-family), 324 electrical inspectors (general), 187 electrical plan examiners, 154 elevator inspectors (general), 424 fire inspectors (general), 1,177 fire officials, 237 fire plan examiners, 189 fire prevention inspectors, 654 mechanical inspectors (1- and 2-family), 398 mechanical inspectors (general), 92 mechanical plan examiners, 637 plumbing inspectors (1- and 2-family), 370 plumbing inspectors (general), 174 plumbing plan examiners, 203 professional code administrators, 27 solid fuel inspectors, and 115 VACT fire officials. Building owners and individuals involved in the construction industry could also be affected.

Localities particularly affected. The proposed changes to the regulation affect localities throughout the Commonwealth.

Projected impact on employment. As mentioned earlier, some incompetent or unscrupulous certificate holders may lose their jobs due to the imposition of sanctions that the board can issue under this proposed regulation.

Effects on the use and value of private property. Since the imposition of sanctions allowed under this proposed regulation could potentially result in the termination of incompetent or unscrupulous certificate holders and, hopefully, their replacement with competent and scrupulous certificate holders, then there could potentially be some impact on the use and value of private property. Also, the re-education of current certificate holders could result in more effective and consistent enforcement of the relevant regulations. The cost of building could potentially be reduced and the value of builders' businesses may increase. The amount of building could also increase. If, on the other hand, an incompetent or unscrupulous building official has been improperly issuing permits when the construction is faulty or unsafe, then their replacement or re-education could delay and reduce construction within the locality. The cost of building would be increased, but the value and safety of the buildings would increase as well.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Housing and Community Development concurs with the economic impact analysis prepared by the Department of Planning and Budget.

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Summary:

The proposed regulation consists of most of the existing technical provisions of the 1996 Virginia Certification Standards and contains most of the administrative provisions and formatting of the 1993 standards. The proposed amendments (i) clarify the requirements for combination inspectors to obtain a certificate of competence; (ii) permit the issuance of provisional certificates under certain conditions; (iii) permit the board to appoint an advisory peer review committee to advise the board concerning proposed sanctions against a certificate holder; (iv) allow the board to impose sanctions on certificate holders under certain conditions; and (v) allow administrative appeals to the Technical Review Board to resolve disputes.

13 VAC 5-21-10. Definitions.

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

"Active certificate holder" means any certificate holder who has attended the required DHCD-designated periodic training courses and is classified by DHCD as active.

"Applicant" or "candidate" means any person seeking to become qualified to provide enforcement or perform inspections or reviews under the applicable BHCD regulation by obtaining a certificate from the BHCD.

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate holder" means any person certified by the BHCD under this chapter and classified by DHCD as active or inactive.

"Code Academy" means the Virginia Building Code Academy established pursuant to under § 36-139 of the Code of Virginia.

"Code enforcement agency" means the agency or agencies to which responsibility for enforcement of the USBC, VADR, or SFPC has been assigned.

"Code inspection agency" or "code review agency" means any department, division, company, individual or agency to which inspection or construction document review responsibility under the applicable USBC, VADR, or SFPC has been assigned or delegated and, in addition, shall include such entities whose reports of inspection or review will be the basis of approvals under the applicable USBC, VADR, or SFPC.

"DFP" means the Virginia Department of Fire Programs.

"DHCD" means the Virginia Department of Housing and Community Development's Training and Certification Office Development.

"Inactive certificate holder" means any certificate holder who has not attended the required DHCD-designated periodic training courses and is classified by DHCD as inactive.

"SFPC" means the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.).

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.).

"TRB" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.

"VADR" means the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).

13 VAC 5-21-20. Purpose.

The purpose of this chapter is to establish categories of and requirements for obtaining certificates of competence to be issued by the Virginia Board of Housing and Community Development BHCD concerning the content, application and intent of specified subject areas of the building and fire regulations promulgated by the board USBC, VADR and SFPC to present or prospective personnel of local governments and to any other persons seeking to be qualified to perform inspections pursuant to under Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia and any regulations adopted thereunder.

13 VAC 5-21-30. Certificates of competence and training requirements relating to the USBC. (Repealed.)

A. ~~Building code official. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.~~

B. ~~Building maintenance code official. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to the maintenance of existing buildings and structures. Completion of the core and existing building modules of the code academy is required for obtaining the certificate.~~

C. ~~Combination inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures. Completion of the core, building code, plumbing code, electrical code, and mechanical code modules of the code academy is required for obtaining the certificate.~~

D. ~~Building inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures except for the plumbing, electrical and mechanical systems. Completion of the core and building code modules of the code academy is required for obtaining the certificate.~~

E. ~~Fire protection inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspections of buildings and structures for compliance with fire-resistant materials and construction, fire protection system and means of egress requirements of the USBC. Completion of the core module of the code academy is required for obtaining the certificate.~~

F. ~~Building plans examiner.~~ The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with the USBC except for the plumbing, electrical and mechanical systems. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.

G. ~~Fire protection plans examiner.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with fire-resistant materials and construction, fire protection system and means of egress requirements of the USBC. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.

H. ~~Electrical inspector.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of electrical systems in buildings and structures. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.

I. ~~Electrical plans examiner.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with electrical system requirements of the USBC. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.

J. ~~Plumbing inspector.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of plumbing systems in buildings and structures. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.

K. ~~Plumbing plans examiner.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with plumbing system requirements of the USBC. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.

L. ~~Mechanical inspector.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of mechanical systems in buildings and structures. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.

M. ~~Mechanical plans examiner.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with mechanical system requirements of the USBC. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.

N. ~~Combination inspector for one and two-family dwellings.~~ The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two-family dwelling building, plumbing, electrical, and mechanical modules of the code academy is required for obtaining the certificate.

O. ~~Building inspector for one and two-family dwellings.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of the construction of buildings as either Use Group R-3 or R-4 under the USBC, except for the plumbing, electrical and mechanical systems. Completion of the core and one and two-family dwelling building modules of the code academy is required for obtaining the certificate.

P. ~~Electrical inspector for one and two-family dwellings.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of electrical systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two-family dwelling electrical modules of the code academy is required for obtaining the certificate.

Q. ~~Plumbing inspector for one and two-family dwellings.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of plumbing systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two-family dwelling plumbing modules of the code academy is required for obtaining the certificate.

R. ~~Mechanical inspector for one and two-family dwellings.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of mechanical systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two-family dwelling mechanical modules of the code academy is required for obtaining the certificate.

S. ~~Elevator inspector.~~ The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspection of elevators. Completion of the core module of the code academy is required for obtaining the certificate.

13 VAC 5-21-40. Certificates of competence and training requirements relating to the SFPC. (Repealed.)

A. ~~Fire prevention code official.~~ The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.

B. ~~Fire prevention inspector.~~ The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC relating to on-site inspection of buildings, structures and property. Completion of the core module of the code academy and the 1031 school

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administered by the Virginia Department of Fire Programs is required for obtaining the certificate.

13 VAC 5-21-50. Certificate and training requirements relating to the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.). (Repealed.)

The certificate of competence as an amusement device inspector evidences competence concerning the content, application and intent of all subject areas of the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.). Completion of the core and basic amusement device modules of the code academy is required for obtaining the certificate.

13 VAC 5-21-60. Proof of completion of examination and application for certificate. (Repealed.)

In addition to the training requirements established by this chapter, applicants for a certificate of competence shall provide proof of successful completion of examinations determined necessary by DHCD for each type of certificate sought and other information as required. DHCD maintains a list of examinations and approved testing agencies for each examination. Application forms are available from DHCD.

13 VAC 5-21-31. Proof of qualifications for certificate and examination.

A. Applicants for a BHCD certificate shall provide proof of qualifications for certification as required in the USBC, SFPC or VADR as applicable for each type of certificate sought. Such proof of qualifications shall be provided to and approved by DHCD prior to BHCD certification.

B. In addition to the training requirements established by this chapter, applicants shall provide proof of successful completion of approved examinations for each type of certificate sought. The following is the list of approved testing agencies and examinations for each type of certificate:

1. All categories of BHCD certificates except amusement device inspector:

The BOCA Certification Program/1999, First Edition, published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

2. Amusement device inspector:

Exerior Assessments, 3813 Gaskins Road, Richmond, VA 23233, toll free number 1-800-356-3381.

C. Upon written request by the applicant, the DHCD may approve alternate testing agencies and examinations or may approve any combination of education and experience which would in other ways demonstrate adequate knowledge for the type of certificate sought.

Note: Future amendments to the list of approved testing agencies and examinations do not automatically become part of this chapter; however, the DHCD shall consider such amendments in deciding whether a requested alternate should be granted.

13 VAC 5-21-41. Categories and requirements.

Categories of BHCD certificates, Code Academy training and subject area requirements are as provided for in the following table:

Categories of BHCD certificates	Code Academy training requirements	Subject area requirements
	Core and " _____ " modules	Content, application and intent of all subject areas of the " _____ "
Building code official	Advanced	USBC
Fire prevention code official	Advanced and the 1031 school administered by the DFP	SFPC
Building maintenance code official	Advanced and property maintenance	USBC - existing structure maintenance
Building plans examiner	Building plan review	USBC - structure plans and specifications review, except plumbing, electrical and mechanical
Fire protection plans examiner	Building plan review	USBC - fire-resistant materials and construction, fire protection system and means of egress plans and specifications review
Building inspector	Building code	USBC - structure inspections, except plumbing, electrical and mechanical
Fire prevention inspector	The 1031 school administered by the DFP	SFPC - structure and property inspections
Fire protection inspector	"only core module"	USBC - fire-resistant materials and construction, fire protection system and means of egress
Building maintenance inspector	Property maintenance	USBC relating to existing structure maintenance inspections
Plumbing plans examiner	Plumbing	USBC - plumbing system plans and specifications review

Plumbing inspector	Plumbing	USBC - plumbing system inspections
Electrical plans examiner	Electrical	USBC - electrical system plans and specifications review
Electrical inspector	Electrical	USBC - electrical system inspections
Mechanical plans examiner	Mechanical	USBC - mechanical system plans and specifications review
Mechanical inspector	Mechanical	USBC - mechanical system inspections
Combination inspector	BHCD certification as a building, plumbing, electrical, and mechanical inspector	USBC - structure inspections, except Use Group R-3 or R-4
Building inspector 1- & 2-family dwellings	1- & 2-family dwelling building	USBC - Use Group R-3 or R-4 structure inspections, except plumbing, electrical and mechanical
Plumbing inspector 1- & 2-family dwellings	1- & 2-family dwelling plumbing	USBC - Use Group R-3 or R-4 plumbing inspections
Electrical inspector 1- & 2-family dwellings	1- & 2-family dwelling electrical	USBC - Use Group R-3 or R-4 electrical inspections
Mechanical inspector 1- & 2-family dwellings	1- & 2-family dwelling mechanical	USBC - Use Group R-3 or R-4 mechanical inspections
Combination inspector 1- & 2-family dwellings	BHCD certification as a 1- & 2-family dwelling building, plumbing, electrical, and mechanical inspector	USBC - Use Group R-3 or R-4 structure inspections
Elevator inspector	"only core module"	USBC - elevator inspections
Amusement device inspector	Basic amusement device	VADR

inactive shall be deemed not to meet the certification requirements of the applicable USBC, VADR, or SFPC. Such inactive certificate holder may attend DHCD-designated training and become an active certificate holder.

C. Candidates seeking a BHCD certificate in accordance with this chapter may be issued a provisional certificate under the following conditions:

1. The candidate has satisfactorily completed the Code Academy core module.
2. The candidate has complied with the proof of examination completion and application for certification requirements.
3. An appropriate code official, county, city or town manager or other code inspection agency official certifies the candidate is trained and competent to perform the candidate's assigned code enforcement duties.
4. Such certification is nonrenewable and shall expire one year from the date of issuance.

Exception: Such certification is renewable and shall not expire one year from the date of issuance when the DHCD has not provided or offered the required Code Academy training technical module.

D. A certification under this chapter may be denied when the BHCD determines a candidate has not complied with the applicable provisions of this chapter.

13 VAC 5-21-61. Sanctions; peer review; petition.

A. The BHCD may impose any of the following sanctions on a certificate holder:

1. A warning letter under this chapter may be issued when the BHCD determines a certificate holder committed any act prohibited by this chapter. The documentation that serves as the basis for such letter shall be made a part of the certification file on the certificate holder.
2. Attendance at special training under this chapter may be ordered when the BHCD determines a certificate holder is inadequately knowledgeable or trained to practice in the specific area of certification. A probation period may also be imposed by the BHCD upon completion of all such training.

3. A certificate issued under this chapter may be revoked or suspended when the BHCD determines that a certificate holder has committed any of the following acts:

- a. Failed to maintain a minimally acceptable level of competence;
- b. Engaged in any conduct that demonstrates incompetence or dishonesty;
- c. Obtained or renewed a certificate by fraud or misrepresentation;
- d. Aided or abetted a noncertified person to practice as a certificate holder;

13 VAC 5-21-51. Certification.

A. A certification under this chapter may be issued when the BHCD determines a candidate has complied with the applicable provisions of this chapter.

B. All certificate holders certified by the BHCD since June 1978 are still certified unless revoked and shall be classified as active or inactive. Any certificate holder classified as

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- e. *Fraudulently or deceitfully practiced as a certificate holder;*
- f. *Been grossly negligent or engaged in misconduct in the performance of any duties under the BHCD's regulations;*
- g. *Failed to report an offer or bribe in an application of the provisions of the BHCD's regulations;*
- h. *Failed to comply with any order issued by the BHCD, DHCD or TRB;*
- i. *Made a false or misleading written statement to the BHCD, DHCD or TRB;*
- j. *Violated or failed to enforce the provisions of the BHCD's regulations; or*
- k. *Been convicted of a crime or an offense concerning his performance as a certificate holder.*

B. *An advisory review committee may be appointed by the BHCD to advise the department concerning the appropriateness of sanctions proposed against a certificate holder who has allegedly committed any act prohibited by this chapter. The advisory review committee shall serve and meet only when requested by the BHCD and comply with the following:*

1. *The advisory review committee shall consist of five certificate holders.*
2. *The advisory review committee shall annually select one of its members to serve as chairman.*
3. *A member shall not take part in a review in which that member has any personal, professional or financial interest.*
4. *The Director of DHCD shall designate a qualified staff person to serve as secretary to the advisory review committee and shall provide necessary staff support. The secretary shall file a detailed record of all meetings and recommendations with the BHCD.*
5. *There shall be no compensation of members, except for reimbursement of travel expenses as provided for by law.*
6. *The advisory review committee shall meet within 10 days upon notice from the chairman.*

C. *Following a certification denial, warning letter, special training order, or revocation or suspension of a certificate, the candidate or certificate holder may petition the BHCD for issuance of certification, dismissal of such warning or order, or for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached by the BHCD.*

D. *The BHCD shall cause an examination, investigation or review of the evidence and respond to the candidate or certificate holder regarding such petition.*

13 VAC 5-21-71. Appeal.

Decisions of the BHCD regarding a candidate or certificate holder shall be final if the candidate or certificate holder

makes no appeal. Such candidate or certificate holder may present an appeal from the BHCD's decision directly to the TRB under § 36-114 of the Code of Virginia. All BHCD negative responses shall contain the following statement:

"Upon receipt of the BHCD's decision, the candidate or certificate holder may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 30 calendar days. Application forms are available from the Office of the TRB, 501 N. 2nd St., Richmond, VA 23219, (804) 371-7150."

V.A.R. Doc. No. R98-273; Filed January 26, 2000, 11:54 a.m.

* * * * *

Title of Regulation: 13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code (amending 13 VAC 5-51-130, 13 VAC 5-51-150, and 13 VAC 5-51-170; adding 13 VAC 5-51-11 through 13 VAC 5-51-121 and 13 VAC 5-51-181 through 13 VAC 5-51-200; repealing 13 VAC 5-51-10 through 13 VAC 5-51-120).

Statutory Authority: § 27-97 of the Code of Virginia.

Public Hearing Date: March 6, 2000 - 9:30 a.m.

Public comments may be submitted until April 14, 2000.
(See Calendar of Events section for additional information)

Basis: The statutory authority for the Board of Housing and Community Development to promulgate a Statewide Fire Prevention Code is found in § 27-97 of the Code of Virginia.

Purpose: The purpose of the proposed amendments is to protect the safety of the residents of the Commonwealth by clarifying regulations which provide safeguards to life and property from fire or explosion with regard to: (i) the maintenance of smoke detectors in certain dwellings; (ii) the installation of fire extinguishers and smoke detectors and required fire exit drills in state regulated care facilities; (iii) a potential safety problem with an already installed fire sprinkler device; and (iv) provisions allowing storage of motor fuels in aboveground tanks at public service stations.

Substance: The new substantive provisions of these proposed amendments:

1. Require the fire code official to enforce the provision of the USBC regarding maintenance of smoke detectors in certain dwellings to ensure their proper operation;
2. Require the fire code official to enforce the provision of the USBC regarding installation of fire extinguishers and smoke detectors in state regulated care facilities;
3. Comport with state law regarding the appointment of local assistant fire marshals;
4. Address a potential safety problem with an already installed fire sprinkler device which may not function properly during a fire situation;
5. Add a requirement to conduct fire exit drills at state regulated care facilities;

6. Delete references regarding regulation of transportation of explosive materials and add a reference to 9 VAC 20-110-10 et seq., Regulations Governing the Transportation of Hazardous Materials;

7. Amend the definition of fireworks in the SFPC to better comport with §§ 59.1-142, 59.1-146 and 59.1-147 of the Code of Virginia; and

8. Allow the storage of motor fuels in aboveground tanks at public service stations.

Issues: The primary advantages and disadvantages to the public and to the agency of implementing the new regulations are as follows:

1. The primary advantages to the public are more uniform application of the USBC.
2. The primary advantages to the agency or the Commonwealth are fewer questions.
3. The other pertinent matters of interest to the regulated community are more uniform application of the USBC.
4. The other pertinent matters of interest to government officials are that the exempt code officials and technical assistants will be required to attend DHCD update training.
5. The other pertinent matters of interest to the public are none.
6. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Housing and Community Development amends the Statewide Fire Prevention Code every three years. The proposed changes to the regulation include: permitting the storage of motor fuels in aboveground tanks at public service stations when the installation meets the National Fire Protection Association (NFPA) standard, a clarification that fire code officials are not empowered to inspect and assess fees in regard to the transport of explosive materials, and a new requirement that malfunctioning fire sprinkler devices be repaired or replaced.

Estimated economic impact. One of the proposed amendments to the regulation would allow the storage of motor fuels in aboveground tanks at public service stations when the installation meets the National Fire Protection

Association (NFPA) standard. According to the Virginia Petroleum Marketers and Convenience Store Association, very few Virginia service stations are likely to use aboveground storage tanks even with this new language.¹ The NFPA standards make aboveground tanks feasible only on very large lots. Plus, aboveground tanks are more expensive than underground tanks. The disadvantages of underground tanks are problems with leaking and the necessity of testing for leaking. This proposed regulation change may prompt a few owners of rural service stations (where the lots may be very large) to store motor fuels aboveground, but most, if not all, service stations will continue to store their motor fuel underground.

For those few rural service station owners for whom the extra cost of aboveground tanks is deemed worthwhile, there is some benefit to this proposed change. A possible negative effect of the proposed change is a reduction in safety. Due to the restrictiveness of the NFPA standards, it appears that under the circumstances when aboveground tanks are permitted, the safety risk will be relatively low. Thus, both the potential benefits and costs of this proposed change appear to be small.

The Board of Housing and Community Development proposes to delete all references in this regulation regarding the transportation of explosive materials and to add a reference to the "Regulations Governing the Transportation of Hazardous Materials." The board has been informed that at least one fire code official has, in at least one instance, inspected a truck with explosive materials and required the payment of a fee. This proposed change to the regulation is meant to clarify that fire code officials are not empowered to inspect and assess fees in regard to the transport of explosive materials. Under "Regulations Governing the Transportation of Hazardous Materials," law-enforcement officers enforce the regulations concerning hazardous materials, including explosive materials. Though this proposed change in language does not represent a change in policy or any requirements, it should help reduce the misinterpretation of this regulation. This proposed change to the regulation would produce a small economic benefit to the transporters of explosive materials by reducing the burden of the rare improper time-consuming inspection by a fire code official and fee imposed. If we presume that the transport of explosive materials is satisfactorily inspected by law-enforcement officers and that the rare inspections by fire code officials have not added to safety, then we can say that there will likely be a small net economic benefit to the Commonwealth if the proposed language change is adopted.

The current regulation does not include language regarding the malfunctioning of already installed fire sprinkler devices. According to the Department of Housing and Community Development, this is because until problems occurred with the Omega sprinkler model a couple of years ago, sprinkler devices had been consistently reliable. The board proposes to add language stating that when a certain model of sprinkler device is found to be faulty in a minimum number of

¹ This information is from a 12/9/99 conversation with Frank Bedell, of the Virginia Petroleum Marketers and Convenience Store Association.

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instances, that the code official shall order that the sprinkler equipment be rendered safe. The benefits (saved lives and property) of requiring functioning fire sprinkler devices likely outweigh the costs. Once a specific model of sprinkler is found to be faulty, insurance companies will almost surely require their replacement or repair. Thus, owners of insured buildings would likely repair or replace faulty sprinklers on their own. The addition of the proposed language may make it more likely that owners of uninsured buildings replace or repair their faulty sprinklers. The Department of Housing and Community Development is not aware of a problem with any specific model of sprinkler that is currently used in Virginia.

Businesses and entities affected. The 69 local fire code officials in the Commonwealth, the transporters of explosive materials, and some rural gas station owners are affected by the proposed regulatory changes. Building owners may become affected if at some time the model of sprinklers installed in their buildings is deemed faulty.

Localities particularly affected. The proposed regulation affects localities throughout the Commonwealth.

Projected impact on employment. The proposed changes to this regulation are not expected to significantly influence employment.

Effects on the use and value of private property. A small number of rural service stations may choose to store motor fuels aboveground. Explosive material transporters are somewhat less likely to encounter improper delays and fees. Some owners of uninsured buildings may be more likely to replace malfunctioning fire sprinkler devices.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Housing and Community Development concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments (i) require the fire code official to enforce the provision of the building code regarding maintenance of smoke detectors in certain dwellings; (ii) require the fire code official to enforce the provision of the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) regarding installation of fire extinguishers and smoke detectors in state regulated facilities (Use Groups R-2, R-3 and R-4 only); (iii) amend the provision concerning the appointment of local assistant fire marshals to conform with state law; (iv) address a potential safety problem with an already installed fire sprinkler device that may not function properly during a fire situation; (v) add a requirement for fire exit drills to be conducted at state regulated care facilities at least 12 times per year with not less than six of the drills being unannounced; (vi) delete all references regarding regulation of transportation of explosive materials and add a reference to Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.); (vii) amend the definition of fireworks to conform with the Code of Virginia; and (viii) allow the storage of motor fuels in aboveground tanks at public

service stations when the installation meets the National Fire Protection Association standard.

13 VAC 5-51-10. Incorporation by reference. (Repealed.)

A. ~~The following document is adopted and incorporated by reference to be an enforceable part of this chapter:~~

~~The BOCA National Fire Prevention Code/1996, Tenth Edition, hereinafter referred to as "BNFPC," published by Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.~~

B. ~~The following changes shall be made to the BNFPC for its use as an incorporated document in this chapter.~~

13 VAC 5-51-20. BNFPC Section F-101.0 General. (Repealed.)

A. ~~Change subsection F-101.1 to read:~~

~~F-101.1. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code, hereinafter referred to as "this code." This code contains provisions of the BNFPC as published by BOCA International, Inc., and provisions developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development which change provisions of the BNFPC. Where conflicts occur between unchanged and changed provisions of the BNFPC, the changed provisions shall govern.~~

~~Note: The Virginia Statewide Fire Prevention Code as on file with the Virginia Code Commission sets out the changed sections of the BNFPC using Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNFPC section numbering. Replacement pages for the BNFPC containing the changed sections marked in the margin with a double line may be obtained from DHCD.~~

B. ~~Change subsection F-101.2 to read:~~

~~F-101.2. Scope: These regulations provide for statewide standards to be complied with to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, wherever located. This code also prescribes regulations for the handling, storage and use of explosives and blasting agents.~~

~~The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision. When any provision of this code is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid. Wherever the words "building code" appear they shall mean the applicable USBC.~~

C. ~~Change subsection F-101.3 to read:~~

~~F-101.3. Relationship to USBC: The USBC shall not supersede provisions of this code to be complied with in existing structures, provided such provisions of this code shall not impose requirements that are more restrictive than those of the USBC under which the structures were constructed. Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of such structures shall be subject to the USBC.~~

~~Inspections of structures other than state-owned structures under construction and the review and approval of construction documents for these structures for enforcement of the USBC shall be the sole responsibility of the appropriate local building inspectors. Upon completion of such structures, responsibility for fire safety protection shall pass to the code official in those localities which enforce this code or to the State Fire Marshal in those localities which do not enforce this code.~~

~~D. Add subsection F-101.3.1 to read:~~

~~F-101.3.1. Inspections for USBC requirements: The code official shall require that buildings subject to the requirements of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.7, 3402.10, 3402.12, 3402.13 and 3402.14 comply with the provisions of those subsections.~~

~~13 VAC 5-51-30. BNFPC Section F-102.0 Applicability. (Repealed.)~~

~~A. Change subsection F-102.1 to read:~~

~~F-102.1. General: The provisions of this code shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F-101.0.~~

~~B. Change subsection F-102.3 to read:~~

~~F-102.3. Application to structures: Structures which were constructed prior to regulation under the USBC shall comply with the maintenance requirements of this code to the extent that equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, which were provided when constructed, or required or regulated under a code in effect at the time of construction of the structure, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986 (Virginia Public Building Safety Regulations, VR 394-01-05), shall also be maintained in accordance with these regulations.~~

~~Structures which were constructed under any edition of the USBC shall comply with the maintenance requirements of this code to the extent that the equipment, systems, devices, and safeguards required or regulated under the code which governed the construction of the structure shall be maintained.~~

~~C. Add subsection F-102.3.1 to read:~~

~~F-102.3.1. State structures: This code shall be applicable to all state-owned buildings and structures. Every agency, commission or institution of this Commonwealth shall permit, at all reasonable hours, the~~

~~code official reasonable access to existing structures or a structure under construction or renovation, for the purposes of performing an informational and advisory fire safety inspection. The code official may submit, subsequent to performing such inspection, any findings and recommendations including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the code official of the corrective measures taken to eliminate the hazards reported by the code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in Section F-105.0.~~

~~The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any code official to enforce this section and to take immediate enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.~~

~~13 VAC 5-51-40. BNFPC Section F-105.0 Enforcement Authority. (Repealed.)~~

~~A. Change subsection F-105.1 to read:~~

~~F-105.1. Local and state enforcement: Any local government may enforce this code. The State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal shall also have the authority to enforce this code in those jurisdictions in which the local governments do not enforce this code. The local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. It shall be the duty and responsibility of the designated code official to enforce the provisions of this code.~~

~~B. Change subsection F-105.2 to read:~~

~~F-105.2. Appointment: The code official shall be appointed by the chief appointing authority of the jurisdiction, and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.~~

~~C. Add subsection F-105.2.1 to read:~~

~~F-105.2.1. Certification: The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.~~

~~D. Add subsubsection F-105.2.2 to read:~~

~~F-105.2.2. Training: A code official that has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual~~

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or regional training academy accredited by the DHCD within 90 days after appointment.

E. Add subsection F-105.2.3 to read:

~~F-105.2.3. Notification of appointment: The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.~~

F. Add subsection F-105.3.1 to read:

~~F-105.3.1. Certification: The inspector or technical assistant having enforcement responsibility under this code shall obtain a certificate of competence in the appropriate subject areas from the DHCD within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.~~

G. Delete subsection F-105.5.

H. Add subsection F-105.9 to read:

~~F-105.9. Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.~~

13 VAC 5-51-50. BNFPC Section F-106.0 Duties and Powers of the Code Official. (Repealed.)

A. Change subsection F-106.4 to read:

~~F-106.4. Inspections: The code official may make all of the required inspections or the code official may accept reports of inspections by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise subject to the approval of the appointing authority.~~

B. Change subsection F-106.6 to read:

~~F-106.6. Authority: The code official shall have authority as necessary in the interest of public health, safety and general welfare to implement the provisions of this code to secure the intent thereof, and to designate requirements applicable because of local and climatic or other conditions.~~

C. Change subsection F-106.7 to read:

~~F-106.7. Department records: The code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Ten available from the Library of Virginia.~~

13 VAC 5-51-60. BNFPC Section F-107.0 Permits. (Repealed.)

A. Change subsection F-107.2 to read:

~~F-107.2. Permits required: Permits may be required by the code official as permitted under this code except that the code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing this code. Annual permits for the manufacturing, storage, handling, use, and sale of explosives shall be issued to any state regulated public utility. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the code official.~~

B. Add subsection F-107.2.4 to read:

~~F-107.2.4. Fees: Fees may be levied by the local governing body in order to defray the cost of enforcement of this code and appeals under Section F-113.0. Fees for permits issued by the State Fire Marshal's Office shall be as follows:~~

- ~~1. \$50 per year to possess, store and dispose of explosives and blasting agents.~~
- ~~2. \$75 per year to use explosives and blasting agents.~~

C. Change subsection F-107.7 to read:

~~F-107.7. Revocation of permit: The code official may revoke a permit or approval issued under the provisions of this code if, upon inspection, any violation of the code exists, or if conditions of a permit have been violated, or if there has been any false statement or misrepresentation as to material fact in the application, data or construction documents on which the permit or approval was based.~~

D. Add exception to subsection F-107.8 to read:

~~Exception: The code official is permitted to authorize delayed payment of fees.~~

13 VAC 5-51-70. BNFPC Section F-108.0 Inspection. (Repealed.)

A. Change subsection F-108.1 to read:

~~F-108.1. Inspection: The code official may inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety.~~

~~Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the code official from inspecting for hazardous materials pursuant to § 27-98.2 of the Code of Virginia.~~

B. Change subsection F-108.3 to read:

~~F-108.3. Right to entry: The code official is authorized to enter any structure or premises at any reasonable time to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused~~

or not obtained, the code official is authorized to pursue recourse as provided by law.

Note: ~~Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through 27-98.5 of the Code of Virginia and shall be taken into consideration.~~

13 VAC 5-51-80. BNFPC Section F-109.0 Fire Investigation. (Repealed.)

Delete section F-109.0.

13 VAC 5-51-90. BNFPC Section F-110.0 Unsafe Conditions. (Repealed.)

Delete subsection F-110.3.1. Special equipment.

13 VAC 5-51-100. BNFPC Section F-111.0 Emergency Measures. (Repealed.)

Change subsection F-111.2 to read:

~~F-111.2. Unlawful continuance: Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.~~

13 VAC 5-51-110. BNFPC Section F-112.0 Violations. (Repealed.)

A. Change subsection F-112.1 to read:

~~F-112.1. Notice of violation: When the code official discovers a violation of a provision of this code or other codes or ordinances under the code official's jurisdiction, the code official shall prepare a written notice of violation citing the section violated, describing the condition deemed unsafe and specifying time limitations for the required repairs or improvements to be made to render the structure or premises safe and secure. Such order shall reference the section of this code that serves as the basis of the violation.~~

B. Change subsection F-112.2 to read:

~~F-112.2. Failure to correct violations: If the notice of violation is not complied with within the time specified by the code official, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of any order or direction made pursuant thereto.~~

C. Change subsection F-112.3 to read:

~~F-112.3. Penalty for violations: Penalties for violations of this code shall be as set out in § 27-100 of the Code of Virginia.~~

D. Add subsection F-112.5 as follows:

~~F-112.5. Issuing summons for violation. When certified in accordance with § 27-34.2 of the Code of Virginia, the~~

~~code official may issue a summons in lieu of a notice of violation.~~

13 VAC 5-51-120. BNFPC Section F-113.0 Means of Appeal. (Repealed.)

A. Change subsection F-113.1 to read:

~~F-113.1. Application for appeal: Appeals concerning the application of this code by the code official shall first lie to the board of appeals established in Section F-113.2 and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in § 36-108 et seq. of the Code of Virginia. The appeal shall be submitted within 14 days of the application of this code.~~

B. Change subsection F-113.2 to read:

~~F-113.2. Board of appeals: There shall be established a board of appeals which shall consist of at least five members appointed by the chief appointing authority.~~

C. Change subsection F-113.2.1 to read:

~~F-113.2.1. Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines:~~

- ~~1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~2. Registered design professional with structural engineering or architectural experience.~~
- ~~3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~The code official, technical assistants, inspectors, or other employees of the enforcement agency shall not serve as members of the board of appeals.~~

D. Change subsection F-113.2.2 to read:

~~F-113.2.2. Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

E. Delete subsection F-113.2.6.

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~~F. Change subsection F-113.5 to read:~~

~~F-113.5. Postponed hearing: When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~G. Change subsection F-113.6 to read:~~

~~F-113.6 Board decision: The board shall rule by a concurring vote of a majority of members present.~~

~~H. Change subsection F-113.6.1 to read:~~

~~F-113.6.1. Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.~~

~~I. Change subsection F-113.7 to read:~~

~~F-113.7. Appeal to the TRB: Appeals to the TRB from a decision of the board of appeals shall be made within 21 days of receipt of the resolution of the board of appeals.~~

13 VAC 5-51-11. Chapter 1, Administration, Section F-101.0. Scope.

A. F-101.1. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code (SFPC), hereinafter referred to as "this code" or "SFPC." The term "chapter" means a chapter in the SFPC. The SFPC was cooperatively developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development.

B. F-101.2. Scope: The SFPC prescribes regulations to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage and use of explosives or blasting agents, and provides for the administration and enforcement of such regulations. The SFPC requires manufacturers of explosives to register and report information concerning their manufacturing facilities and methods of operation within this Commonwealth in accordance with the SFPC. The SFPC also establishes regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of explosives. Inspections under the SFPC are a governmental responsibility.

C. F-101.3. Purpose: The purposes of the SFPC are to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, including explosives and blasting agents, wherever located.

D. F-101.4. Validity: To the extent that any provisions of the SFPC or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be invalid. When any provision of the SFPC is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid.

E. F-101.5. Local regulations: Any local governing body may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction or materials to be used in the erection, alteration, repair, or use of a building or structure.

F. F-101.6. Exemption: Farm structures not used for residential purposes are exempt from the SFPC.

Exception: Inspections or reinspections of farm buildings, structures, property, or premises under search warrants issued pursuant to § 27-98.2 of the Code of Virginia are not exempt from the SFPC. When they are based upon a demonstration that, for the protection of life and property from the hazards of fire or explosion, the alleged unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, are probably occurring on such premises.

13 VAC 5-51-21. Section F-102.0. Applicability.

A. F-102.1. General: The provisions of the SFPC shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F-101.0. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

B. F-102.2. Application to pre-1973 structures: Structures constructed prior to the USBC (1973) shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were required, provided and approved when constructed shall be maintained. Such structures, if subject to the state fire and public building regulations (Virginia Public Building Safety Regulations, VR 394-01-05) in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations.

C. F-102.3. Application to post-1973 structures: Structures constructed under any edition of the USBC shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were required, provided and approved when constructed shall be maintained.

D. F-102.4. Subsequent alteration: Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of structures shall be subject to the current USBC.

E. F-102.5. State structures: The SFPC shall be applicable to all state-owned structures.

F. F-102.6. Relationship to USBC: Construction inspections of structures, other than state-owned structures, and the review and approval of their construction documents for enforcement of the USBC shall be the sole responsibility of the local building department.

G. F-102.7. Existing structures: Upon the completion of structures, responsibility for fire safety protection shall pass to the local fire code official or to the State Fire Marshal, who shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal

shall also have authority to enforce this code in those jurisdictions in which the local governments do not enforce this code.

H. F-102.8. Inspections for USBC requirements: The fire code official shall require that existing structures subject to the requirements of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.6.1, 3402.7, 3402.10, 3402.12, 3402.13, 3402.14 and 3402.15 comply with the provisions of those subsections.

13 VAC 5-51-31. Section F-103.0. Incorporation by Reference.

A. F-103.1. General: The following document is adopted and incorporated by reference to be an enforceable part of the SFPC:

The BOCA National Fire Prevention Code/1996, Tenth Edition, hereinafter referred to as "BNFPC," published by Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

B. F-103.1.1. Deletion: Delete BNFPC Chapter 1.

C. F-103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing structures, certification of compliance, approval of construction documents and all other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the SFPC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the SFPC.

D. F-103.2.1. Other amendments: The SFPC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which delete, change or amend provisions of the BNFPC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNFPC and referenced standards, the provisions changed by the BHCD shall govern.

Note: The BNFPC and its referenced standards contain some areas of regulation outside of the scope of the SFPC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNFPC and its referenced standards to bring it within the scope of authority; however, in some areas, judgment will have to be made as to whether the provisions of the BNFPC and its referenced standards are fully applicable.

13 VAC 5-51-41. Section F-104.0. Enforcement.

A. F-104.1. Local enforcement: Any local governing body shall be permitted to enforce the SFPC following official action by such body. The official action shall (i) require compliance with any or all the provisions of the SFPC and (ii) assign enforcement responsibility to the local agency or agencies of its choice. The terms "enforcing agency" and "fire code official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been

assigned. The terms "building code official" or "building department" are intended to apply only to the local building code official or local building department.

B. F-104.1.1. Procedures: Any local governing body shall be permitted to establish such procedures or requirements as may be necessary for the administration and enforcement of this code. It shall be the duty and responsibility of the designated fire code official to enforce the provisions of the SFPC.

C. F-104.2. State enforcement: The State Fire Marshal shall have the authority to enforce the SFPC as follows:

1. In cooperation with any local governing body;
2. In those jurisdictions in which the local governments do not enforce the SFPC; and
3. In all state-owned buildings and structures.

D. F-104.3. State structures: Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire code official reasonable access to existing structures or a structure under construction or renovation, for the purpose of performing an informational and advisory fire safety inspection. The fire code official is permitted to submit, subsequent to performing such inspection, his findings and recommendations, including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire, to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the fire code official of the corrective measures taken to eliminate the hazards reported by the fire code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in § 27-98 of the Code of Virginia. The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any local enforcement agency that enforces the SFPC to enforce this section and to take immediate enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.

13 VAC 5-51-51. Section 105.0. Enforcing Agency.

A. F-105.1. Code official: Each enforcing agency shall have an executive official in charge, hereinafter referred to as the "fire code official" or "code official."

B. F-105.1.1. Appointment: The fire code official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, the fire code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. F-105.1.2. Notification of appointment: The appointing authority of the local governing body shall notify the DHCD of the appointment of a fire code official within 30 days after such appointment.

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D. F-105.2. *Certification:* The fire code official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years after appointment.

Exception: A fire code official appointed prior to April 1, 1994, continuously employed by the same local governing body as the fire code official shall comply with required DHCD training under the Virginia Certification Standards (13 VAC 5-21-10 et seq.).

E. F-105.2.1. *Noncertified:* After appointment, a non-BHCD certified fire code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy or its equivalent in a DHCD accredited academy.

F. F-105.3. *Assistant:* The local governing body or its designee may appoint one or more assistants who, in the absence of the fire code official, shall have the powers and perform the duties of the fire code official.

G. F-105.3.1. *Certification:* Any person employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject areas in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years after appointment.

Exception: Any person continuously employed by or continuously under contract to the same enforcing agency for enforcing the SFPC since before April 1, 1994, shall be exempt from the provisions of this subsection; however, such exempt person shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-10 et seq.).

H. F-105.4. *Continuing education:* Code officials and assistants enforcing the SFPC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

I. F-105.5. *Control of conflict of interest:* The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

13 VAC 5-51-61. Section F-106.0. Duties and Powers of the Code Official.

A. F-106.1. *General:* The fire code official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board (TRB) in accordance with § 36-118 of the Code of Virginia.

B. F-106.2. *Delegation of duties and powers:* The fire code official may delegate duties and powers subject to any limitations imposed by the local governing body. The fire code official shall be responsible that any powers and duties delegated are carried out in accordance with this code.

C. F-106.3. *Inspections:* The fire code official may make all of the required inspections or may accept reports of

inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by an agency officer or the individual. The code official may engage, subject to any limitations imposed by the local governing body, such expert opinion as deemed necessary to report upon unusual technical issues that arise.

D. F-106.3.1. *Observations:* When, during an inspection, the fire code official or an authorized representative observes an apparent or actual violation of another law, ordinance or code not within the official's authority to enforce, such official shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

E. F-106.4. *Alternatives:* The SFPC provisions are not intended to prevent the use of any safeguards used to protect life and property from the hazards of fire or explosion that are not specifically prescribed by the SFPC, provided that such alternative safeguards comply with the intent of the SFPC. The alternative safeguard offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

F. F-106.5. *Modifications:* The fire code official may grant modifications to any provision of the SFPC upon application by the owner or the owner's agent provided the spirit and intent of the SFPC are observed and public health, welfare, and safety are assured.

G. F-106.5.1. *Supporting data:* The fire code official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire code official shall approve the use of such alternative subject to the requirements of this code. The fire code official may require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

H. F-106.5.2. *Records:* The application for modification and the final decision of the fire code official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

I. F-106.5.3. *Supporting data:* The fire code official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire code official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire code official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.

J. F-106.6. *Notices and orders:* The fire code official shall issue all necessary notices or orders to ensure compliance with the SFPC.

K. F-106.7. *Department records:* The fire code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections,

and notices and orders issued. Such records shall be retained in the official records or disposed of in accordance with General Schedule Number Ten available from The Library of Virginia.

13 VAC 5-51-71. Section F-107.0. Fees.

A. F-107.1. Local: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

B. F-107.2. State: Fees for permits issued by the State Fire Marshal's office shall be as follows:

1. \$50 per year per site to possess, store and dispose of explosives and blasting agents.
2. \$75 per year per city or county to use explosives and blasting agents.
3. No fee for the manufacture and sale of fireworks.

C. F-107.3. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

D. F-107.4. Payment of fees: A permit shall not be issued until the designated fees have been paid.

Exception: The fire code official may authorize delayed payment of fees.

13 VAC 5-51-81. Section F-108.0. Permits.

A. F-108.1. Prior notification: The fire code official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. F-108.2. Permits required: Permits may be required by the code official as permitted under the SFPC except that the fire code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire code official is made annually by the Chief Arson Investigator listing all storage locations.

C. F-108.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

D. F-108.4. Issuance of permits: Before a permit is issued, the fire code official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

E. F-108.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for

such period as specified on the permit. Permits are not transferable.

F. F-108.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations.

G. F-108.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

Exception: Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

H. F-108.8. Approved plans: Plans approved by the fire code official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

I. F-108.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

J. F-108.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

K. F-108.11. Revocation of permit: The fire code official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

13 VAC 5-51-91. Section F-109.0. Inspection.

A. F-109.1. Inspection: The fire code official may inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life, or any violations of the provisions or intent of the SFPC.

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the code official from inspecting for hazardous materials pursuant to § 27-98.2 of the Code of Virginia.

B. F-109.1.1. Right to entry: The code official may enter any structure or premises at any reasonable time to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official may pursue recourse as provided by law.

Note: Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through 27-

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98.5 of the Code of Virginia and shall be taken into consideration.

C. F-109.1.2. *Credentials:* The fire code official and assistants shall carry proper credentials of office when inspecting in the performance of their duties under the SFPC.

D. F-109.2. *Coordinated inspections:* The fire code official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate those inspections required by the USBC for new construction when involving provisions of the amended BNFFPC, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The USBC requires the building code official to coordinate such inspections with the fire code official.

E. F-109.3. *Other inspections:* The State Fire Marshal shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency; (ii) adult care residences licensed or subject to licensure under Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia which are not inspected by a local fire marshal; (iii) student residence facilities owned or operated by the public institutions of higher education in the Commonwealth; and (iv) public schools in the Commonwealth which are not inspected by a local fire marshal. In the event that any such facility or residence is found nonconforming to the SFPC, the State Fire Marshal may petition any court of competent jurisdiction for the issuance of an injunction.

13 VAC 5-51-101. Section F-110.0. Unsafe Conditions.

A. F-110.1. *General:* The fire code official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure, or to endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, which are liable to interfere with the egress of occupants or the operation of the fire department in case of fire.
4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.
5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.
6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.
7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

B. F-110.2. *Maintenance:* The owner shall be responsible for the safe and proper maintenance of any structure, premises or lot. In all structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

C. F-110.3. *Occupant responsibility:* If a building occupant creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, such occupant shall be held responsible for the abatement of said hazardous conditions.

D. F-110.4. *Unsafe structures:* All structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe structures. A vacant structure, or portion of a structure, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe structures shall be reported to the building code or building maintenance code official who shall take appropriate action under the provisions of the USBC to secure abatement.

E. F-110.5. *Evacuation:* When, in the fire code official's opinion, there is actual and potential danger to the occupants or those in the proximity of any structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire code official may order the immediate evacuation of the structure or premises. All notified occupants shall immediately leave the structure or premises and no person shall enter until authorized by the fire code official.

F. F-110.6. *Unlawful continuance:* Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order shall be in violation of this code.

Exception: Any person performing work directed by the fire code official to be performed to remove an alleged violation or unsafe condition.

13 VAC 5-51-111. Section F-111.0. Violations.

A. F-111.1. *Notice:* When the fire code official discovers an alleged violation of a provision of the SFPC or other codes or ordinances under the fire code official's jurisdiction, the code official shall prepare a written notice citing the section allegedly violated, describing the condition deemed unsafe

and specifying time limitations for the required abatements to be made to render the structure or premises safe and secure.

B. F-111.2. *Service:* The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access. Such procedure shall be deemed the equivalent of personal notice.

C. F-111.3. *Failure to correct violations:* If the notice of violation is not complied with within the time specified, the fire code official shall request the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation.

D. F-111.4. *Penalty:* Penalties upon conviction of violating the SFPC shall be as prescribed in § 27-100 of the Code of Virginia.

E. F-111.5. *Summons:* When certified in accordance with § 27-34.2 of the Code of Virginia, the fire code official shall, subject to any limitations imposed by the local governing body, be permitted to issue a summons in lieu of a notice of violation. Fire code officials not certified in accordance with § 27-34.2 of the Code of Virginia may request the law-enforcement agency of the local governing body to make arrests for any alleged violations of the SFPC or orders affecting the immediate public safety.

13 VAC 5-51-121. Section F-112.0. Appeals.

A. F-112.1. *Application for appeal:* Appeals concerning the application of the SFPC by the fire code official shall first lie to the local board of fire prevention code appeals (BFPCA) and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. The appeal shall be submitted within 14 calendar days of the application of the SFPC.

B. F-112.1.1. *Local Board of Fire Prevention Code Appeals (BFPCA):* Each local governing body which enforces the SFPC shall have a BFPCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality, with some other agency, or with a state agency approved by the DHCD to act on appeals. An appeal case decided by some other approved agency shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

C. F-112.2. *Membership:* The BFPCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate

members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

D. F-112.2.1. *Chairman:* The BFPCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

E. F-112.2.2. *Secretary:* The local governing body shall appoint a secretary to the BFPCA to maintain a detailed record of all proceedings.

F. F-112.3. *Qualifications of members:* BFPCA members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall, to the extent possible, represent different occupational or professional fields relating to building construction or fire prevention. At least one member should be an experienced builder and one member a licensed professional engineer or architect. Employees or officials of the local governing body shall not serve as members of the BFPCA.

G. F-112.4. *Disqualification of member:* A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639 et seq.) of Title 2.1 of the Code of Virginia.

H. F-112.5. *Application for appeal:* The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance (Part B) of the structure may appeal a decision of the code official concerning the application of the USBC or the code official refusal to grant modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that structure. The applicant shall submit a written request for appeal to the BFPCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the code official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

I. F-112.6. *Notice of meeting:* The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

J. F-112.7. *Hearing procedures:* All hearings before the BFPCA shall be open to the public. The appellant, the appellant's representative, the local governing body's

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representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

K. F-112.7.1. *Postponement:* When a quorum of the BFPCA is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BFPCA shall reschedule the appeal within 30 calendar days of the postponement.

L. F-112.8. *Decision:* The BFPCA shall have the power to uphold, reverse or modify the decision of the code official by a concurring vote of a majority of those present. Decisions of the BFPCA shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

M. F-112.8.1. *Resolution:* The BFPCA's decision shall be by resolution signed by the chairman and retained as part of the record by the BFPCA. The following wording shall be part of the resolution: "Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 21 calendar days. Application forms are available from the Office of the TRB, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170." Copies of the resolution shall be furnished to all parties.

N. F-112.9. *Appeal to the TRB:* After final determination by the BFPCA, any person who was a party to the local appeal may appeal to the TRB. Appeals from the decision of the code official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BFPCA's resolution or code official's decision.

O. F-112.9.1. *Information to be submitted:* Copies of the code official's decision and the resolution of the BFPCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the BFPCA shall submit a copy of all pertinent information from the record of the BFPCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the code official's decision and other relevant information.

P. F-112.9.2. *Decision of TRB:* Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

13 VAC 5-51-130. BNFPC Section F-202.0. General Definitions.

A. Add the following definitions:

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government: The governing body of any county, city, or town in this Commonwealth.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Use Groups R-2, R-3 and R-4 only).

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

B. Change the following definition to read:

Code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code, the term "code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

13 VAC 5-51-133. BNFPC Section F-506.0. Water-Based Fire Protection Systems.

Add exception to subsection F-506.1 to read:

Exception: When the code official determines through investigation or testing or reports by a nationally recognized testing agency that specific, required water sprinkler or water-spray extinguishing equipment has been identified as failing to perform or operate through not less than 30 randomly selected sprinkler heads at four or more building sites anywhere in the nation, the code official shall order all such equipment to be rendered safe.

13 VAC 5-51-135. BNFPC Section F-701.0. General.

Add subsection F-701.1.1 to read:

F-701.1.1. State Regulated Care Facilities: SRCF shall comply with this section and the provisions of section F-704.0.

13 VAC 5-51-136. BNFPC Section F-704.0. Use Group I-1-Residential Care.

Add subsection F-704.3.1 to read:

F-704.3.1. State Regulated Care Facilities: Fire exit drills for SRCF shall be conducted not less than 12 times per year. Not less than six of the drills are required to be unannounced.

13 VAC 5-51-150. BNFPC Section F-3001.0. General.

A. Change subsection F-3001.1 to read:

F-3001.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, ~~transportation~~, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this code, except that the year edition of NFPA 495 referenced shall be 1996.

B. ~~Add exception~~ Change exceptions to subsection F-3001.1 to read:

Exception: This chapter shall not apply to the following:

- 1. The use of explosives by federal or state military agencies or federal, state or municipal agencies while engaged in normal or emergency performance of duties.*
- 2. The manufacture and distribution of explosive materials to or storage of explosive materials by military agencies of the United States.*
- 3. The use of explosive materials in medicines and medicinal agencies in the forms prescribed by the U.S. Pharmacopeia or the National Formulary.*
- 4. Pyrotechnics such as flares, fuses and railway torpedoes.*
- 5. Common fireworks in accordance with Chapter 31.*
- 6. The possession and use of not more than 15 pounds (7 kg) of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use.*
- 7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.*

Note: Enforcement of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Department of Environmental Quality, Waste Management Board, is provided by the Department of State Police together with all law-enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportation in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials.

C. Change subsection F-3001.2 to read:

F-3001.2. Approval required: Approval shall be required for the following conditions or operations:

- 1. The manufacture, possession, storage, sale or other disposition of explosive materials.*
- 2. The use of explosive materials.*
- 3. The operation of a terminal for handling explosive materials.*

4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.

~~G.~~ D. Add exception to subsection F-3001.3 to read:

Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

13 VAC 5-51-170. BNFP Section F-3003.0. General Requirements.

A. Add subsection F-3003.5 to read:

F-3003.5. Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be certified as a restricted or unrestricted blaster by the DHCD or shall be supervised on-site by a person properly certified by DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD. The applicant for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.
2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD. Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

F-3003.5.1. Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30.

C. Add subsection F-3003.5.2 to read:

F-3003.5.2. Renewal of certificate: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years.

D. Add subsection F-3003.6 to read:

F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this

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code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

E. Add subsection F-3003.7 to read:

F-3003.7. Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official where there is local enforcement of this code and to the State Fire Marshal.

F. Delete Section F-3005.0. *Transportation of Explosives.*

F. G. Add subsection F-3009.12 to read:

F-3009.12. Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;
2. Location and time of blast;
3. Name of certified blaster in charge;
4. Type of material blasted;
5. Number of holes bored and spacing;
6. Diameter and depth of holes;
7. Type and amount of explosives;
8. Amount of explosive per delay of 8 milliseconds or greater;
9. Method of firing and type of circuit;
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;
11. Weather conditions;
12. Whether or not mats or other precautions were used;
13. Type of detonator and delay period;
14. Type and height of stemming; and
15. Seismograph record where indicated.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.

13 VAC 5-51-181. BNFP Section F-3102.0. Definitions.

Change subsection F-3102.1 to read:

F-3102.1. General: The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this code, have the meanings shown herein.

Fireworks: Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, is intended or commonly known as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks.

The term "fireworks" shall not include items such as sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels, commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of such property.

13 VAC 5-51-182. BNFP Section F-3103.0. Sale and Discharge.

A. Change subsection F-3103.1 to read:

The rules and regulations for fireworks shall be in accordance with NFPA 1123 and 1124 listed in Chapter 44. The rules and regulations for pyrotechnics shall be in accordance with NFPA 1126 listed in Chapter 44.

B. Change subsection F-3103.2 to read:

F-3103.2. Violations: A person shall not manufacture, store, offer or expose for sale, sell at retail or discharge any fireworks, except for the approved supervised display of fireworks and legal fireworks on private property with the consent of the owner of such property.

13 VAC 5-51-190. BNFP Section F-3207.0. Aboveground Storage Tanks.

A. Change subsection F-3207.5 to read:

F-3207.5. Automotive service stations (nonpublic): Aboveground tanks utilized for the storage of motor fuels at automotive service stations to which the public does not have access shall be installed in accordance with this section and the requirements for fire-resistant tanks or tanks in vaults specified in NFPA 30A listed in Chapter 44.

B. Add subsection F-3207.6 to read:

F-3207.6. Automotive service stations (public): Aboveground tanks utilized for the storage of motor fuels at automotive service stations to which the public does have access shall be installed in accordance with the requirements for aboveground tanks at automotive service stations specified in NFPA 30A listed in Chapter 44.

13 VAC 5-51-200. BNFP Chapter 44 Referenced standards.

Add the following referenced standard to "NFPA" to read:

<i>Standard reference number</i>	<i>Title</i>	<i>Referenced in code section number</i>
1126-96	<i>Use of Pyrotechnics before a Proximate Audience</i>	F-3103.1

VA.R. Doc. No. R98-270; Filed January 26, 2000, 11:51 a.m.

Title of Regulation: 13 VAC 5-61-10 et seq. **Virginia Uniform Statewide Building Code (amending 13 VAC 5-61-200, 13 VAC 5-61-220, 13 VAC 5-61-290, 13 VAC 5-61-310, 13 VAC 5-61-340, 13 VAC 5-61-360, 13 VAC 5-61-390, 13 VAC 5-61-400, 13 VAC 5-61-410, 13 VAC 5-61-430, 13 VAC 5-61-440, and 13 VAC 5-61-450; adding 13 VAC 5-61-11, 13 VAC 5-61-15, 13 VAC 5-61-21, 13 VAC 5-61-25, 13 VAC 5-61-31, 13 VAC 5-61-35, 13 VAC 5-61-41, 13 VAC 5-61-45, 13 VAC 5-61-51, 13 VAC 5-61-55, 13 VAC 5-61-61, 13 VAC 5-61-65, 13 VAC 5-61-71, 13 VAC 5-61-75, 13 VAC 5-61-81, 13 VAC 5-61-85, 13 VAC 5-61-91, 13 VAC 5-61-95, 13 VAC 5-61-101, 13 VAC 5-61-105, 13 VAC 5-61-111, 13 VAC 5-61-115, 13 VAC 5-61-121, 13 VAC 5-61-125, 13 VAC 5-61-131, 13 VAC 5-61-135, 13 VAC 5-61-141, 13 VAC 5-61-145, 13 VAC 5-61-151, 13 VAC 5-61-155, 13 VAC 5-61-161, 13 VAC 5-61-165, 13 VAC 5-61-171, 13 VAC 5-61-225, 13 VAC 5-61-245, 13 VAC 5-61-255, 13 VAC 5-61-315, 13 VAC 5-61-317, 13 VAC 5-61-345, 13 VAC 5-61-395, 13 VAC 5-61-415, 13 VAC 5-61-447, and 13 VAC 5-61-460; repealing 13 VAC 5-61-10 through 13 VAC 5-61-190).**

Statutory Authority: § 36-98 of the Code of Virginia.

Public Hearing Date: March 6, 2000 - 9:30 a.m.

Public comments may be submitted until April 14, 2000.
(See Calendar of Events section for additional information)

Basis: Section 36-98 of the Code of Virginia empowers the board to adopt and promulgate a Uniform Statewide Building Code and to repeal or amend such code when necessary.

Purpose: The purpose of the proposed amendments is to protect the health, safety and welfare of the residents of the Commonwealth by clarifying regulatory provisions which prescribe generally accepted nationally recognized performance standards for the construction and maintenance of buildings and structures and the administration and enforcement procedures of those standards.

Substance: The new substantive provisions of the proposed amendments:

1. Add "telecommunications" transmission equipment to the list of exemptions from the USBC;
2. Require officials and technical assistants who are exempt from certification to attend DHCD required update training;
3. Require that persons under contract to a local building department for enforcement of the USBC be certified and attend periodic training courses as designated by the

DHCD and such other training as designated by the local governing body in the same manner as required for employees;

4. Require the building code officials to enforce the USBC as interpreted by the State Building Code Technical Review Board (TRB);

5. Exempt the filing of duplicate construction documents when the already submitted construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans;

6. Clarify that the code official's approval of construction documents is limited to only those items that are within the scope of the USBC;

7. Subject all new detached one- or two-family dwellings and one-family townhouses not more than three stories in height to the "Protection Against Radon" section of the CABO One- and Two-Family Dwelling Code, which requires measures to help reduce the possible build up of "radon gas" located in certain areas of Virginia;

8. Add an exception that in localities having implemented an expansive soil test policy, additions to one- and two-family dwellings or slab-on-grade accessory structures and decks are allowed without testing for expansive soils in areas where there is no indication of a shrink-swell soil condition;

9. Allow, when it can be done safely, temporary electrical service to be granted for electrical power in order to finish construction;

10. Codify the recommendations in the board's 1998 report to the Governor and the General Assembly (HD 29, 1998) regarding exterior insulation and finish systems (EIFS);

11. Modify the USBC criteria for accessibility for housing renovation projects to comport with the federal Fair Housing Amendments Act;

12. Require the installation of fire extinguishers and smoke detectors in state-regulated care facilities;

13. Implement "expedited plan review" as recommended by the board's ad hoc committee;

14. Require, in new construction, the marking of fire walls, fire separation assemblies, fire partitions, and smoke barriers by signage no more than eight feet apart above ceilings and at all ceiling access doors;

15. Add two additional exceptions (certain bathrooms and closets) to a required NFPA 13, fire sprinkler systems, in new buildings used as: multiple-family dwellings having more than two dwelling units (except multiple single-family dwelling units), boarding houses and similar buildings in which the occupants are primarily not transient, and dormitories with more than five persons older than 2-1/2 years of age;

16. Provide, in new construction, that separate sex toilet facilities are not required in 5,000-square-foot-or-less

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mercantile occupancies and that customer toilet facilities are not required when there are less than 150 customers and no food or beverages are served;

17. Require, in the construction of buildings four stories or more, that an elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life);

18. Provide the code official the authority to ensure the proper maintenance of smoke detectors or require replacement of existing nonfunctioning smoke detectors with detectors that require less maintenance, as recommended by the board's ad hoc committee;

19. Permit any building or structure, which in the code official's judgment is old, to be deemed dangerous and dilapidated and therefore determined to be a public nuisance and required to be abated by alteration, repair, rehabilitation, demolition or removal; and

20. Prohibit smoking in high-rise buildings having inter-connecting dwelling unit air distribution systems that are used as: multiple-family dwellings having more than two dwelling units (except multiple single-family dwelling units), boarding houses and similar buildings in which the occupants are primarily not transient, and dormitories with more than five persons older than 2-1/2 years of age.

Issues: The primary advantage of the proposed amendments to the public is a more uniform application of the USBC. The primary advantage to the department is fewer questions due to the clarifying nature of the amendments. There are no disadvantages to the public or the department.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Housing and Community Development amends the Uniform Statewide Building Code (USBC) every three years. The proposed changes to the regulation include the following: (i) a new requirement that persons under contract to a local building department for enforcement of the USBC be certified and attend periodic training courses as designated by the Department of Housing and Community Development (department) and such other training as designated by the local governing body in the same manner as required for employees; (ii) an allowance for exceptions to filing duplicate construction documents when the already submitted

construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans; (iii) a clarification that the code official's approval of construction documents is limited to only those items that are within the scope of the USBC; (iv) a new requirement that certain measures be taken in the construction of one- and two-family homes in counties or cities with an average residential radon level greater than four picoCuries per liter; (v) a requirement that building officials ensure that exterior insulation and finish systems are installed correctly; (vi) a clarification that building code officials are allowed to accept third party reviews of construction documents; (vii) a new requirement that for new construction, fire walls, fire separation assemblies, fire partitions, and smoke barriers are to be marked with language warning against the creation of holes, and that the warnings must be no more than eight feet apart above ceilings and at all ceiling access doors; (viii) an exemption for the requirement of fire sprinkler systems in certain types of closets; (ix) an exemption from the requirement that a toilet be provided when the structure or tenant space has an occupant load less than 150 and food and beverages are neither served nor consumed on the premises; (x) an exemption from a requirement that separate sex toilet facilities be provided when the mercantile space is less than 5,000 square feet; and (xi) a requirement that, in new construction of buildings four stories or more, at least one elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life).

Economic impact. To the extent that individuals under contract to local building departments for enforcement of the USBC have not been certified and been attending periodic training courses held by the department, the new requirement that such individuals do so will have an impact. Certification and training sessions are intended to ensure that the individuals who are enforcing the code are doing so properly and that the enforcement of the code is more uniform across the Commonwealth. According to the department, training sessions typically last three days and cost \$450 per individual if meals and lodging are included and \$250 per individual if meals and lodging are not included. There are also costs associated with travel and time away from work. Taking into account training fees, meals and lodging, travel and valuing time away from work at the pay rate for three days, the costs for training should be under \$2,000 per individual. The costs of incorrect enforcement of the USBC could conceivably be many thousands of dollars per incident. Improperly requiring that a builder do additional work or improperly denying a building permit entirely can easily cost that much. Also, allowing faulty or unsafe construction could potentially cost well over \$2,000 per incident in reduced building values and safety. If we had evidence that individual training sessions reduced the incidence of incorrect enforcement that led to savings of more than \$2,000, we could say that the proposed change would produce a net economic benefit. But since we do not have data available for estimating the effectiveness of courses in preventing inspection errors or to estimate the average cost of such errors that do occur, we can not conclusively say whether the proposed new requirement would produce net economic benefit.

There appears to be a small net economic benefit to allowing for exceptions to filing duplicate construction documents when the already submitted construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans. The permit applicants will save on both fees and the time and costs involved in document preparation and delivery. Since the documents appear to be for structures essentially identical to ones already approved under similar conditions, there appears to be no benefit from additional review and no costs associated with this proposed change.

The clarification that the code official's approval of construction documents is limited to only those items that are within the scope of the USBC should produce some economic benefit. The new language is intended to reduce the problem of code officials being drawn into conflicts between owners and contractors when no code required items are involved. Code officials ensure that construction meets the requirements of the USBC, but are not empowered to require that contractors meet all the elements of construction involved in their contract with the owner. In the past, owners have pressured code officials to require the contractor to perform actions unrelated to requirements within the USBC. At times the pressure has been successful, but subsequently overturned on appeal. The proposed language should make clear to all parties that code officials are not empowered to be involved in matters unrelated to the USBC. The reduction in confusion may result in some cost savings associated with the unproductive use of time. There are no apparent costs associated with the proposed language.

We cannot say whether the new requirement that certain measures be taken in the construction of one- and two-family structures in counties or cities with an average residential radon level greater than four picoCuries per liter would have a positive net economic benefit. In the Commonwealth there are 45 counties and 17 cities that are affected by this requirement¹, accounting for 43% of the state's population. New homes in the affected areas would be required to include a passive submembrane depressurization system. Such systems would add from \$251 to \$294 to the cost of construction.² Houses built entirely on a crawl space foundation are exempted. A National Research Council study³ estimates that indoor radon contributes to 10% to 14% of all U.S. lung cancer deaths each year. Applying that percentage range to the approximately 4,085 annual lung cancer cases in Virginia⁴, implies that there are perhaps from 408 to 572 lung cancer cases in Virginia each year that are partially attributable to radon exposure. While the inclusion of a passive submembrane depressurization system should reduce radon exposure, we cannot say by how much that will

reduce the incidence of lung cancer. Thus, while we can approximately measure the additional costs of this proposed new requirement, and while it seems likely that there would be a benefit of reduced incidence of lung cancer, we cannot accurately approximate the benefit and thus cannot come to a conclusion as to whether there is a net economic benefit.

The requirement that building officials ensure that exterior insulation and finish systems (EIFS) are installed correctly may provide a net economic benefit. The improper installation of EIFS has caused thousands of dollars of damage to several homes. Adding a requirement that building officials check for proper installation before giving their approval should hopefully reduce the incidence of the problem.

The clarification that building code officials are allowed to accept third party reviews of construction documents should reduce the time involved in the permit application process in localities where building code officials have not been accepting third party reviews. Although in most Virginia localities building officials have been routinely accepting third party reviews, in at least two large counties building officials had refrained from accepting third party documents due to legal concerns. This new language should alleviate their concerns and streamline the permit application process in those areas.

It is not likely that the proposed requirement that, in new construction, fire walls, fire separation assemblies, fire partitions, and smoke barriers be marked with language warning against the creation of holes will produce a net economic benefit. The warnings would be required to be no more than eight feet apart above ceilings and at all ceiling access doors. The materials required for the markings, spray paint and stencils would be relatively inexpensive. The labor hours involved would often be quite significant. Whether the cost of requiring the markings is worthwhile would depend on the frequency that the signage would deter individuals from creating holes in building walls in improper places, times the frequency that the violation causes problems, times the expected loss. If this figure is large enough, then perhaps the proposed requirement could help provide a net economic benefit. There is some indirect evidence that the figure is not high enough to justify the proposed requirement. To our knowledge, insurance companies have not required such a procedure. If it did significantly help reduce fire damage, then insurance companies would likely require something similar.

We have insufficient information to determine whether the exemption for the requirement of fire sprinkler systems in certain types of closets would provide a net economic benefit. The exemption would apply to closets in multifamily buildings exceeding four stories in height, which do not exceed three feet in depth, do not contain any ignition sources, are not the walk-in type, and are adequately covered by sprinklers in the adjoining range. In their regulatory change petition to the Board of Housing and Community Development, IDI Lansdowne, L.C. of Lansdowne, Virginia, states that the "cost of these unnecessary and redundant sprinkler heads can exceed \$500 per multifamily unit." If sprinklers under these conditions do not add significantly to the safety of lives and property, then it appears that the proposed exemption would

¹ Based on data from "Virginia – EPA Map of Radon Zones," U.S. EPA.

² Virginia-specific cost estimate provided by the U.S. Environmental Protection Agency on August 19, 1998, to Robert B. Stroube, M.D., M.P.H., Director of Health Services, Fairfax County Health Department.

³ From a February 1998 National Research Council article entitled "Health Effects of Exposure to Radon (BEIR V1)."

⁴ Figure for 1994 from "Estimated Prevalence and Incidence of Lung Diseases by Lung Association Territory," American Lung Association, May 1997.

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provide a net economic benefit. But we do not have any data to inform us as to how much risk to lives and property would result from fewer sprinklers. Thus, we cannot determine whether this proposed exemption would produce a net economic benefit.

The exemption from the requirement that a toilet be provided when the structure or tenant space has an occupant load less than 150 and food and beverages are neither served or consumed on the premises would clearly have some negative impact in that fewer toilet facilities would be available to the public. But the savings in construction costs would be substantial. In his regulatory change petition to the Board of Housing and Community Development, Anthony Rounds of Falls Church, Virginia, estimates that the exemption "would result in savings for new construction, including the toilet, tap fees, fixtures and incoming utilities infrastructure, of between \$12,000 and \$15,000 per tenant." Not requiring a toilet could also allow for more available retail space which could perhaps aid in sales. The value of a publicly available toilet in a small store without food service is subjective. It is therefore not known whether the substantial reduction in costs associated with the proposed exemption outweighs loss in the benefits of having available toilets in small stores.

The exemption from the requirement that separate sex toilet facilities be provided when the mercantile space is less than 5,000 square feet produces less of a negative impact to the public in that a single unisex toilet would still be available. The cost savings would likely be substantial, while in most smaller mercantile spaces one toilet facility would likely be sufficient to satisfy demand at most times. While it might seem reasonable to conclude that this proposed change would likely produce a net economic benefit, particularly in mercantile spaces without food or drink service, there is no empirical data available to confirm this conclusion.

The requirement that in new construction of buildings four stories or more at least one elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life) would produce tangible benefits. Having an elevator available to all floors that can accommodate a stretcher would seem likely to aid in the speed and safety at which people with emergency medical situations are transported to hospitals. The presence of the emergency medical services international symbol (star of life) would clearly be inexpensive and would also aid emergency medical personnel in speeding the arrival of the patient in question to a hospital. But we do not have information on the additional cost of requiring a larger elevator when the building plans do not already include an elevator of sufficient size for a stretcher. Additionally, we cannot quantify the benefit since we do not know how often stretchers are needed for medical emergencies in buildings of four stories or more. Plus, even if we had that information, we do not know how much time would be saved and how much the saved time would improve the patient's prognosis. Thus, we cannot determine whether the cost of the proposed requirement is justified by the benefit.

Businesses and entities affected. Building code officials, persons under contract to a local building department for

enforcement of the USBC, contractors, building owners, persons with medical emergencies, emergency medical technicians, purchasers of new homes, tenants in small mercantile spaces, and anyone who shops in small mercantile spaces will all be affected by this proposed regulation. There is insufficient information available to estimate the number of individuals in each of these groups.

Localities particularly affected. The proposed regulation affects localities throughout the Commonwealth. The radon provision specifically affects the counties of Alleghany, Amelia, Appomattox, Augusta, Bath, Bland, Botetourt, Brunswick, Buckingham, Campbell, Chesterfield, Clarke, Craig, Cumberland, Dinwiddie, Fairfax, Fluvanna, Frederick, Giles, Goochland, Henry, Highland, Lee, Louisa, Montgomery, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Pulaski, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Spotsylvania, Stafford, Tazewell, Warren, Washington, and Wythe and the cities of Bristol, Buena Vista, Clifton Forge, Covington, Danville, Fairfax, Falls Church, Fredericksburg, Harrisonburg, Lexington, Martinsville, Radford, Roanoke, Salem, Staunton, Waynesboro, and Winchester.

Projected impact on employment. The proposed changes to this regulation are not expected to produce a significant change in the amount of employment.

Effects on the use and value of private property. The allowance of exceptions to filing duplicate construction documents, the exemption for the requirement of fire sprinkler systems in certain types of closets, and the exemptions from providing toilets under certain circumstances would all reduce the cost of construction and perhaps increase the value of the property to those that are building. The requirement to take measures to reduce radon exposure in new homes in high radon areas, the requirement for the marking of walls, etc., with language barring the creation of holes, and the requirement that elevators be of a sufficient size to accommodate stretchers would all add to construction costs and perhaps have some negative effect to the value of the property to those that are building.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Housing and Community Development concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments (i) require that persons under contract to a local building department for enforcement of the USBC be certified and attend periodic training courses as designated by the Department of Housing and Community Development and such other training as designated by the local governing body in the same manner as required for employees; (ii) allow for exceptions to filing duplicate construction documents when the already submitted construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans; (iii) clarify that the code official's approval of construction documents is limited to only those items that

are within the scope of the USBC; (iv) require that certain measures be taken in the construction of one- and two-family homes in counties or cities with an average residential radon level greater than four picoCuries per liter; (v) require that building officials ensure that exterior insulation and finish systems are installed correctly; (iv) clarify that building code officials are allowed to accept third party reviews of construction documents; (vii) require that, for new construction, fire walls, fire separation assemblies, fire partitions, and smoke barriers are to be marked with language warning against the creation of holes, and that the warnings must be no more than eight feet apart, above ceilings and at all ceiling access doors; (viii) provide an exemption for the requirement of fire sprinkler systems in certain types of closets; (ix) provide an exemption from the requirement that a toilet be provided when the structure or tenant space has an occupant load of less than 150 and food and beverages are neither served nor consumed on the premises; (x) provide an exemption from a requirement that separate sex toilet facilities be provided when the mercantile space is less than 5,000 square feet; and (xi) require that, in new construction of buildings four stories or more, at least one elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life).

13 VAC 5-61-10. Incorporation by reference. (Repealed.)

A. The following document is adopted and incorporated by reference to be an enforceable part of this chapter:

The BOCA National Building Code/1996, Thirteenth Edition hereinafter referred to as "BNBC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795.

B. The following changes shall be made to the BNBC for its use as an incorporated document in this chapter.

13 VAC 5-61-20. BNBC Section 101.0 Scope. (Repealed.)

A. Change subsection 101.1 to read:

101.1. Title: These regulations shall be known as the Virginia Uniform Statewide Building Code, hereinafter referred to as "this code." This code contains provisions of the BNBC as published by BOCA International, Inc. and provisions adopted by the Virginia Board of Housing and Community Development which change provisions of the BNBC. Where conflicts occur between unchanged and changed provisions of the BNBC, the changed provisions shall govern.

Note: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) as on file with the Virginia Code Commission sets out the changed sections of the BNBC using the Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNBC section numbering. Replacement pages for the BNBC containing the changed sections marked in the margin with a double line may be obtained from DHCD.

B. Change subsection 101.2 to read:

~~101.2. Scope: This code prescribes building regulations to be complied with in the construction and maintenance of structures and the equipment therein including provisions for administration and enforcement. To the extent that any provisions of this code are not within this scope, those provisions are considered to be invalid.~~

~~Note: The BNBC and its referenced standards contain some areas of regulation outside of the scope of this code, as established under state law. Examples are certain worker protection requirements, private sewage disposal system criteria and certain functional design considerations. Where conflicts have been readily noted, changes have been made to the BNBC to bring it within the scope of authority, however, in some areas, judgement will have to be made as to whether the provisions of the BNBC and its referenced standards are fully applicable. Code officials may request the TRB to give guidance in these areas and should consider precedent established through appeal decisions rendered by the TRB.~~

C. Add subsection 101.2.1 to read:

101.2.1. State structures: This code shall be applicable to all state-owned structures, with the exception that §§ 2.1-514 through 2.1-521.1 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of this code, shall remain subject to the provisions of this code that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such structures shall be subject to the pertinent provisions of this code.

Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the code official for state-owned buildings as prescribed by § 36-98.1 of the Code of Virginia.

D. Delete subsection 101.4.

13 VAC 5-61-30. BNBC Section 102.0 Applicability. (Repealed.)

A. Change subsection 102.2 to read:

102.2. When applicable; existing structures: Construction for which a permit application is submitted to the code official after April 15, 1997, shall comply with the provisions of this code, except when construction documents for proposed construction were substantially complete prior to the above date and a permit application is submitted to the code official within one year after the above date. In such cases, construction shall comply with either the provisions of this code or the provisions of this code in effect immediately prior to April 15, 1997.

All structures shall comply with the applicable requirements of this code for the maintenance of existing structures.

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B. Change subsection 102.3 to read:

102.3. Exemptions: The following are exempt from this code.

1. Equipment controlled by a publicly regulated utility service and located on property by established rights.

2. Manufacturing and processing machines including the following service equipment associated with the manufacturing or processing machines:

a. Electrical equipment connected after the last disconnecting means;

b. Plumbing piping and equipment connected after the last shutoff valve or backflow device or before the equipment drain trap; and

c. Gas piping and equipment connected after the outlet shutoff valve.

3. Parking lots and sidewalks which are not part of an accessible route.

4. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is not regulated by the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).

5. Industrialized buildings; however, applicable requirements of this code affecting site preparation, utility connections and maintenance of the unit remain in full force and effect.

6. Manufactured homes; however, applicable requirements of this code affecting site preparation, utility connections, skirting installation, and maintenance of the manufactured home remain in full force and effect.

13 VAC 5-61-40. BNBC Section 103.0 Validity. (Repealed.)

A. Change section 103.0 title to "Enforcement."

B. Change subsection 103.1 to read:

103.1. Responsibility for enforcement: Enforcement of the provisions of this code governing construction is the responsibility of the department of building inspection. Whenever a county or a municipality does not have such a department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce this code, the county in which the town is situated shall administer and enforce this code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce this code within their respective boundaries.

C. Change subsection 103.2 to read:

103.2. Authority to defray cost; fee levy: Fees may be levied by the local governing body in order to defray the

cost of enforcement and appeals pursuant to this code. The department of building inspection shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities which maintain individual or regional training academies accredited by the DHCD shall retain such levy.

D. Change subsection 103.3 to read:

103.3. Existing structures: The local governing body may inspect and enforce the provisions of this code for the maintenance of existing structures, whether occupied or not. The local governing body shall inspect and enforce the provisions of this code for the maintenance of existing elevators except for elevators in single and two-family homes and townhouses. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body. However, upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that the structure is unsafe, the local building department shall enforce the provisions of this code relating to unsafe structures.

13 VAC 5-61-50. BNBC Section 104.0 Department of Building Inspection. (Repealed.)

A. Add subsection 104.1.1 to read:

104.1.1. Code official for existing structure provisions: A separate department of building inspection may be created for enforcement of the provisions of this code for the maintenance of existing structures and the executive official in charge thereof shall also be known as the code official.

B. Add subsection 104.2.1 to read:

104.2.1. Certification: The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within one year after appointment unless appointed prior to April 1, 1983, with continued appointment or appointed prior to April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.

C. Add subsection 104.2.2 to read:

104.2.2. Training: A code official who has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.

D. Add subsection 104.2.3 to read:

104.2.3. Notification of appointment: The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.

E. Add subsection 104.3.1 to read:

~~104.3.1. Certification: The inspector or technical assistant shall obtain a certificate of competence in the appropriate subject areas from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to March 1, 1988, with continued appointment or appointed prior to April 1, 1995, with continued appointment for enforcement of the provisions of this code for the maintenance of existing structures.~~

F. Change subsection 104.5 to read:

~~104.5. Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.~~

G. Delete subsection 104.7

13 VAC 5-61-60. BNBC Section 105.0 Duties and Powers of the Code Official. (Repealed.)

A. Change subsection 105.6 to read:

~~105.6. Delegation of duties and powers: The code official is permitted to delegate duties and powers subject to any limitations imposed by the appointing authority and shall be responsible for assuring that delegated duties and powers are carried out in accordance with this code.~~

B. Change subsection 105.7 to read:

~~105.7. Department records: The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.~~

13 VAC 5-61-70. BNBC Section 106.2 Modifications. (Repealed.)

Change subsection 106.2 to read:

~~106.2. Modifications: When there are practical difficulties involved in carrying out provisions of this code, the code official shall have the right to modify such provisions upon application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.~~

13 VAC 5-61-80. BNBC Section 107.0 Application for Permit. (Repealed.)

A. Add exceptions to subsection 107.1 to read:

Exceptions:

1. Installation of wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum or penetrating an assembly required to have a fire-resistance rating.

2. Construction of detached utility sheds not exceeding 150 square feet (14 m²) of building area and 102 inches

(2591 mm) in wall height and when accessory to any use group building except Use Group F or H.

3. Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.

4. Replacement of plumbing and electrical fixtures, fixture fittings, appurtenances, plumbing and electrical appliances including electric water heaters, fans, humidifiers, dehumidifiers, air cleaners and similar mechanical equipment, windows and doors with that of similar capacity in the same location in Use Groups R-2 (four stories or less), R-3 and R-4. Changes to duct systems, plumbing supply, drain, waste and vent piping, electrical circuits, appliance vent systems and gas piping, other than reconnection to replacement equipment, appliances and fixtures require a permit.

5. Application or notice to the code official is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repair include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

6. Work which the code official has authorized pending receipts of an application.

B. Delete subsection 107.1.1.

C. Change subsection 107.3 to read:

~~107.3. By whom application is made: Application for a permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the registered design professional employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant, and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process permit applications through the mail.~~

D. Add subsection 107.3.1 to read:

~~107.3.1. Application by contractors: The code official shall require the applicant for a permit to furnish, prior to the issuance of the permit, that person's license or certification number issued pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or evidence of being exempt from the provisions of that chapter.~~

E. Add exception to subsection 107.6 to read:

~~Exception: The code official is permitted to waive or modify the requirement for a site plan when the~~

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application for permit is for alteration or repair or when otherwise warranted.

F. Delete subsection 107.6.1.

G. Change subsection 107.7 to read:

~~107.7. Engineering details: The code official shall require to be filed adequate details of structural, mechanical, plumbing, and electrical work, which may include computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1.~~

13 VAC 5-61-90. BNBC Section 108.0 Permits. (Repealed.)

A. Change subsection 108.2 to read:

~~108.2. Suspension of permit: Any permit issued shall become invalid if the authorized work on the site is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work. The burden of proof that the authorized work on the site has not been suspended or abandoned shall be on the permit holder, owner of the property or other person affected by such determination of the code official. The code official may grant one or more extensions to the six-month time period, not to exceed six months per extension.~~

B. Change subsection 108.3 to read:

~~108.3. Separate, combined and annual permits: The code official is permitted to require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. The code official is permitted to issue an annual permit for alterations to an existing structure. The holder of the annual permit or the owner of the structure for which the annual permit is issued shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the department of building inspection if requested by the code official.~~

C. Change subsection 108.9 to read:

~~108.9. Mechanics' lien agent designation: A building permit issued for any one or two-family residential dwelling unit shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the permit shall at the time of issuance state that none has been designated with the words "None Designated."~~

D. Add subsection 108.10 to read:

~~108.10. Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a building permit allowing a building for which an~~

~~initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.~~

~~To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor. The provisions of Section 108.10 shall not apply to single-family dwellings or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of Section 108.10 shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.~~

~~An abatement area shall not be reoccupied until the code official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).~~

13 VAC 5-61-100. BNBC Section 109.0 Temporary Structures. (Repealed.)

A. Change subsection 109.1 to read:

~~109.1. General: The code official may issue a permit for temporary construction. Such permit shall be limited as to time of service, but such temporary construction shall not be permitted for more than one year.~~

B. Change subsection 109.3 to read:

~~109.3. Termination of approval: The code official is hereby authorized to terminate such special approval and~~

to order the demolition of any such construction at his discretion.

13 VAC 5-61-110. ~~BNBC Section 112.0 Fees. (Repealed.)~~

A. ~~Add exception to subsection 112.1 to read:~~

~~Exception: The code official is permitted to authorize delayed payment of fees.~~

B. ~~Change subsection 112.3 to read:~~

~~112.3. Fee schedule: The code official shall establish a fee schedule for fees to be charged for enforcement activities under this code. The fee schedule shall be subject to approval of the local governing body and shall be based on square footage, cubic footage, cost of construction or other appropriate criteria.~~

C. ~~Delete subsection 112.3.1.~~

D. ~~Delete subsection 112.4.~~

13 VAC 5-61-120. ~~BNBC Section 113.0 Inspections. (Repealed.)~~

A. ~~Change subsection 113.2 to read:~~

~~113.2. Inspections: The permit holder shall assure that the following inspections have been conducted and approved by the code official when applicable to the construction:~~

- ~~1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.~~
- ~~2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.~~
- ~~3. Inspection of preparatory work prior to the placement of concrete.~~
- ~~4. Inspection of structural members and fasteners prior to concealment.~~
- ~~5. Inspection of electrical, mechanical and plumbing materials and systems prior to concealment.~~
- ~~6. Inspection of energy conservation material prior to concealment.~~

~~The code official is permitted to designate additional inspections to be conducted during the construction of a structure and shall so notify the permit holder, person in charge of the work or other appropriate person. The code official shall be notified when the construction reaches the stage of completion for an inspection. The person requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct the requested inspection. A record of all such examinations and inspections and of all violations of this code shall be maintained by the code official and shall be communicated promptly in writing to the permit holder, person in charge of the work or other appropriate person. The owner shall provide for special inspections in accordance with Section 1705.0.~~

~~Exception: Where the construction cost is less than \$2,500, the inspection shall be permitted, at the discretion of the code official, to be waived.~~

B. ~~Change subsection 113.2.2 to read:~~

~~113.2.2. Plant inspection: Where required by the provisions of this code or where determined necessary by the code official, materials or assemblies shall be inspected at the point of manufacture or fabrication in accordance with Section 1703.3.~~

C. ~~Change subsection 113.3 to read:~~

~~113.3. Final inspection: Upon completion of the building or structure, and before issuance of the certificate of occupancy required by Section 118.0, a final inspection shall be made and approved. All violations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.~~

13 VAC 5-61-130. ~~BNBC Section 114.0. (Repealed.)~~

~~Change subsection 114.1 to read:~~

~~114.1. General: Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth where required by law. In the case where construction documents are not required under law or by the code official to be prepared by a registered design professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.~~

13 VAC 5-61-140. ~~BNBC Section 116.0 Violations. (Repealed.)~~

A. ~~Change subsection 116.2 to read:~~

~~116.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 116.1 if the violation has not been remedied within a reasonable time. The notice shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to Section 121.1.~~

B. ~~Add subsection 116.2.1 to read:~~

~~116.2.1. Limitation of notice: When a violation relating to construction is discovered more than two years after either (i) the certificate of occupancy is issued, or the~~

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date of initial occupancy, whichever is later, or (ii) the final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from legal counsel to the jurisdiction that action may be taken to compel correction of the violation. The code official shall document violations of the applicable edition of the USBC once compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia.

C. Change subsection 116.4 to read:

116.4. Violation penalties: Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia.

13 VAC 5-61-150. ~~BNBC Section 117.0 Stop Work Order. (Repealed.)~~

Delete subsection 117.2.

13 VAC 5-61-160. ~~BNBC Section 118.0 Certificate of Occupancy. (Repealed.)~~

A. Change subsection 118.1 to read:

118.1. General: A certificate of occupancy, indicating completion of the work for which a permit was issued, shall be obtained prior to any occupancy of a structure except as provided for in Section 118.2. Final inspection approval or approvals shall be permitted to serve as the certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.

B. Change subsection 118.2 to read:

118.2. Temporary occupancy: Upon the request of the holder of a permit, a temporary certificate of occupancy shall be permitted to be issued before the completion of the entire work covered by the permit provided that such portion or portions shall be occupied safely prior to full completion of the structure without endangering life or public welfare.

C. Change subsection 118.3 to read:

118.3. Existing structures: Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure provided the structure is in substantial compliance with applicable provisions of this code. The code official is not permitted to require the removal, alteration or abandonment of, or prevent the continuance of, the occupancy of an existing structure except under conditions provided for in this code.

D. Change subsection 118.4 to read:

118.4. Contents of certificate: When a structure is entitled thereto, the code official shall issue a certificate of occupancy within 10 days after written application. Upon completion of the final inspection in accordance with Section 113.3 and correction of the violations and discrepancies, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following:

1. The edition of the code under which the permit is issued.

2. The use group and occupancy in accordance with the provisions of Chapter 3.

3. The type of construction as defined in Chapter 6.

4. If an automatic sprinkler system is provided, whether the sprinkler system is required.

5. Any special stipulations and conditions of the building permit.

E. Add subsection 118.5 to read:

118.5. Posting structures: Structures classified in Use Groups B, F, H, M or S shall be posted with a sign approved by the code official stating the use group and occupancy, live load, occupant load, and date of posting.

F. Add subsection 118.6 to read:

118.6. Street numbers: Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public way.

13 VAC 5-61-170. ~~BNBC Section 119.0 Conditions. (Repealed.)~~

Change subsection 119.1 to read.

119.1. Conditions: All structures or existing equipment which, during construction, are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. All unsafe structures shall be taken down and removed or made safe, as the code official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

13 VAC 5-61-180. ~~BNBC Section 120.0 Emergency Measures. (Repealed.)~~

A. Change subsection 120.1 to read:

120.1. Imminent danger: When, during construction, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when, during construction, any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the code official is hereby authorized and empowered to order and require the occupants to vacate the same forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or of demolishing the same.

~~B. Delete subsection 120.5.~~

13 VAC 5-61-190. BNBC Section 121.0 Means of Appeal. (Repealed.)

~~A. Change subsection 121.1 to read:~~

~~121.1. Application for appeal: Appeals from the local building department concerning application of this code or refusal to grant a modification to the provisions of this code covering the manner of construction or materials to be used in the erection, alteration or repair of a structure shall first lie to the local board of building code appeals established in this section. Appeals relating to construction shall be submitted within 30 days and appeals relating to maintenance shall be submitted within 21 days.~~

~~121.1.1. State-owned buildings: Appeals by the involved state agency from the decision of the code official for state-owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.~~

~~B. Change subsection 121.2 to read:~~

~~121.2. Board of appeals: There shall be established within each department of building inspection a board of appeals. A separate board of appeals may be established for different areas of enforcement of this code provided each board of appeals complies with this section. The board of appeals shall consist of at least five members appointed by the chief appointing authority. Whenever a county or a municipality does not have a board of building code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such appeals.~~

~~C. Change subsection 121.2.1 to read:~~

~~121.2.1. Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines.~~

~~1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~2. Registered design professional with structural engineering or architectural experience.~~

~~3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~The code official, technical assistants, inspectors or other employees of the department of building inspection shall not serve as members of the board of appeals.~~

~~D. Change subsection 121.2.2 to read:~~

~~121.2.2. Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

~~E. Delete subsection 121.2.6.~~

~~F. Change subsection 121.3 to read:~~

~~121.3. Notice of meeting: The board shall meet upon notice from the chairman, within 30 days of the filing of an appeal, or at stated periodic meetings.~~

~~G. Change subsection 121.5 to read:~~

~~121.5. Postponed hearing: When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~H. Change subsection 121.6 to read:~~

~~121.6. Board decision: The board shall rule by a concurring vote of a majority of members present.~~

~~I. Change subsection 121.6.1 to read:~~

~~121.6.1. Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.~~

~~J. Change subsection 121.7 to read:~~

~~121.7. Appeal to the TRB: No appeal to the TRB shall lie prior to a final determination by the board of appeals. Application shall be made to the TRB within 21 days of receipt of the resolution of the board of appeals.~~

~~Exception: Appeals by the involved state agency from the decision of the code official for state-owned buildings shall be made directly to the TRB within 21 days of the application of this code or the refusal to grant a modification to the provisions of this code.~~

*PART I.
GENERAL.*

13 VAC 5-61-11. Section 101.0 Designation of Chapter 1, Administration; scope.

A. 101.1. Title: These regulations shall be known as the Virginia Uniform Statewide Building Code (USBC), hereinafter

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referred to as "this code" or "USBC." The term "chapter" means a chapter in the USBC. Chapter 1, Administration, of the USBC is comprised of Parts I (13 VAC 5-61-11), II (13 VAC 5-61-15 et seq.), and III (13 VAC 5-61-121 et seq.) of this code.

B. 101.2. *Scope:* The USBC prescribes mandatory building regulations for the construction and local option building regulations in the maintenance of structures and the equipment therein including provisions for administration and enforcement. To the extent that any provisions of this code or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be invalid. Inspections under the USBC are a governmental responsibility.

C. 101.3. *General:* The USBC is divided into four parts: Part I sets forth the general scope of the USBC, Part II sets forth the scope, administration and enforcement procedures for the mandatory enforcement of the construction provisions of the USBC, Part III sets forth the scope, administration and enforcement procedures for the local option enforcement of the maintenance provisions of the USBC, and Part IV (13 VAC 5-61-200 et seq.) sets forth the technical amendments to the model codes and standards referenced in Parts II and III of this code.

PART II. CONSTRUCTION.

13 VAC 5-61-15. Section 102.0 Purpose.

102.1. *Purpose:* The purpose of this part of the USBC is to ensure safety to life and property from all hazards incident to structure design, construction, occupancy, repair, removal or demolition. Structures shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia), the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of structures and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, alteration or repair of a structure.

13 VAC 5-61-21. Section 103.0 Applicability.

A. 103.1. *General:* The provisions of this part of the USBC shall apply to the construction of all structures. Subsequent changes of occupancy, reconstruction, renovation, repair or demolition of existing structures shall comply with the USBC.

B. 103.2. *When applicable:* Any structure for which a building permit has been issued or on which construction has commenced or for which working drawings have been prepared in the year prior to the effective date of the USBC, shall remain subject to the building regulations in effect at the

time of such issuance or commencement of construction. In such cases, proposed construction may comply with either this edition of the USBC or the previous edition of the USBC. This provision shall also apply to subsequent amendments to the USBC based on the effective dates of such amendments.

C. 103.3. *Exemptions:* The following are exempt from this code:

1. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio, telecommunications and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the structures, including their service equipment, housing such public service agencies shall be subject to the USBC.

2. Manufacturing and processing machines, including the following service equipment associated with the manufacturing or processing machines:

- a. Electrical equipment connected after the last disconnecting means;
- b. Plumbing piping and equipment connected after the last shutoff valve or backflow device and before the equipment drain trap; and
- c. Gas piping and equipment connected after the outlet shutoff valve.

3. Surface parking lots and sidewalks, which are not parts of an accessible route.

4. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is not regulated by the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).

5. Industrialized buildings; except, the applicable requirements of this code affecting local option maintenance (Part III (13 VAC 5-61-121 et seq.) of this code), site preparation, footings, foundations, proper anchoring and utility connections of the unit remain in full force and effect, including issuing permits and certificates of occupancy.

6. Manufactured homes; except, the applicable requirements of this code affecting local option maintenance (Part III of this code), site preparation, skirting installation, footings, foundations, proper anchoring and utility connections of the manufactured home remain in full force and effect, including issuing permits and certificates of occupancy.

7. Farm buildings and structures not used for residential purposes, located on property where farming operations take place, and used primarily for any of the following uses or combination thereof:

- a. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;

- b. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;
- c. Business or office uses relating to the farm operations;
- d. Use of farm machinery or equipment, or maintenance or storage of vehicles, machinery or equipment on the farm;
- e. Storage or use of supplies and materials used on the farm; or
- f. Implementation of best management practices associated with farm operations.

Exception: Farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.

D. 103.4. *Nonrequired equipment: Building owners may install partial or full fire alarms or other safety equipment that was not required by the USBC in effect at the time a structure was constructed without meeting current USBC requirements, provided the installation does not create a hazardous condition. Permits for such installations shall be obtained in accordance with the USBC.*

E. 103.5. *State-owned structures: In accordance with § 36-98.1 of the Code of Virginia the USBC shall be applicable to all state-owned structures, with the exception that §§ 2.1-514 through 2.1-521.1 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped. Any state-owned building or structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of the USBC.*

13 VAC 5-61-25. Section 104.0 Incorporation by reference.

A. 104.1. *Adoption: The following document is adopted and incorporated by reference to be an enforceable part of the USBC:*

The BOCA National Building Code/1996, Thirteenth Edition, hereinafter referred to as "BNBC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103. Included in the BNBC as major referenced standards are the following:

1995 ICC International Plumbing Code - with 1996 Supplement; 1996 ICC International Mechanical Code; 1996 National Electrical Code; and 1995 CABO One- & Two-Family Dwelling Code

B. 104.1.1. *Deletion: Delete BNBC Chapter 1.*

C. 104.2. *Amendments: All requirements of the referenced codes and standards that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing structures, certification of compliance, approval of construction documents and all other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 (Parts I, II, and III) of the USBC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of this part of the USBC.*

D. 104.2.1. *Other amendments: The USBC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which change or amend provisions of the BNBC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNBC and referenced standards, the provisions changed by the BHCD shall govern.*

Note: The BNBC and its referenced standards contain some areas of regulation outside the scope of the USBC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNBC and its referenced standards to bring it within the scope of authority; however, in some areas, judgments will have to be made as to whether the provisions of the BNBC and its referenced standards are applicable.

13 VAC 5-61-31. Section 105.0 Enforcement.

A. 105.1. *Enforcement responsibility: Enforcement of the provisions of the USBC governing construction is mandatory and the responsibility of the local building department. Whenever a county or a municipality does not have such department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however, where the town does not elect to administer and enforce the USBC, the county in which the town is situated shall administer and enforce the USBC for the town. In the event, such town is situated in two or more counties; those counties shall administer and enforce the USBC within their respective boundaries.*

B. 105.1.1. *Existing structures: Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit which is the subject of such complaint, that such structure is unsafe, the local building department shall enforce the provisions of Part III (13 VAC 5-61-121 et seq.) of this code relating to unsafe existing structures. The local governing body shall inspect and enforce the provisions of Part III of this code relating to the maintenance of existing elevators except for elevators in single and two-family homes and townhouses.*

Exception: Following official action by the local governing body, enforcement of the provisions of this section shall be permitted to be the responsibility of the local enforcing agency designated to enforce Part III, the maintenance provisions of the USBC.

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C. 105.1.2. *Retrofitting:* The local building department shall enforce the applicable provisions mandated in the BHCD technical amendments (Part IV (13 VAC 51-61-200 et seq.) of this code) to Chapter 34 (Section 3402.0) relating to specific existing structures.

D. 105.2. *State buildings:* Acting through the Division of Engineering and Buildings, the Virginia Department of General Services (DGS) shall function as the code official for state-owned buildings as prescribed by § 36-98.1 of the Code of Virginia.

E. 105.2.1. *Review and approval:* The Virginia Department of General Services (DGS) shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement the USBC. The DGS shall provide for the inspection of state-owned buildings and enforcement of the USBC and standards for access by the physically handicapped by delegating inspection and USBC enforcement duties to the State Fire Marshal's Office, to other appropriate state agencies having needed expertise, and to local building departments, all of which shall provide such assistance within a reasonable time and in the manner requested. State agencies and institutions occupying buildings shall pay to the local building department the same fees as would be paid by a private citizen for the services rendered when such services are requested by the DGS. The DGS may alter or overrule any decision of the local building department after having first considered the local building department's report or other rationale given for its decision. When altering or overruling any decision of a local building department, the DGS shall provide the local building department with a written summary of its reasons for doing so.

13 VAC 5-61-35. Section 106.0 Department of Building Inspection.

A. 106.1. *Building code official:* Each local building department shall have an executive official in charge, hereinafter referred to as the "code official" or "building code official."

B. 106.1.1. *Appointment:* The building code official shall be appointed in a manner selected by the local governing body. After appointment, the building code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. 106.1.2. *Notification:* The local governing body shall notify the DHCD within 30 days of the appointment or release of the building code official

D. 106.3. *Qualifications:* The building code official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The building code official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of

fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

E. 106.3.1. *Certification:* The building code official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within one year after appointment.

Exception: Continuous employment by the same local governing body as the building code official since before April 1, 1983; however, such exempt building code officials shall comply with required DHCD training under the Virginia Certification Standards (13 VAC 5-21-10 et seq.).

F. 106.3.2. *Noncertified:* After appointment, a non-BHCD certified building code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy, or its equivalent in a DHCD accredited academy.

G. 106.4. *Technical assistants:* The building code official shall, subject to any limitations imposed by the local governing body, appoint such number of technical assistants as are necessary for the administration and enforcement of the USBC.

H. 106.4.1. *Qualifications:* A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

I. 106.4.2. *Certification:* Any person employed by, or under contract to, a local building department for enforcement of the USBC shall be certified in the appropriate subject areas in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years from the date of employment.

Exception: If continuously employed or under contract to such department since before March 1, 1988; however, such exempt persons shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-10 et seq.).

J. 106.5. *Continuing education:* Any person employed by, or under contract to, a local building department for enforcement of the USBC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

K. 106.7. *Control of conflict of interest:* The minimum standards of conduct for code officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-41. Section 107.0 Duties and powers of the code official.

A. 107.1. *General:* The building code official shall enforce the provisions of the USBC as provided herein, and as interpreted by the State Building Code Technical Review Board (TRB).

B. 107.2. *Modifications:* Upon application by the owner or the owner's agent, the code official shall be permitted to grant modification to any of the provisions of the USBC, provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the USBC. Future amendments to such codes and standards do not automatically become part of the USBC; however, the code official should consider such amendments in deciding whether a modification request should be granted.

C. 107.2.1. *Supporting data:* The code official is authorized to require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The code official is permitted to require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

D. 107.2.2. *Records:* The application for modification and the final decision of the code official shall be in writing and shall be recorded with the certificate of occupancy in the permanent records of the local building department.

E. 107.3. *Delegation of duties and powers:* The code official is permitted to delegate duties and powers subject to any limitations imposed by the local governing body and shall be responsible for assuring that delegated duties and powers are carried out in accordance with the USBC.

F. 107.4. *Department records:* The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices, modifications and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

13 VAC 5-61-45. Section 108.0 Fees.

A. 108.1. *Fees and fee levy:* Fees shall be permitted to be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to the USBC. The local building department shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities, which maintain a DHCD accredited training academy, shall retain such levy.

B. 108.2. *Fee schedule:* The local governing body shall establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

C. 108.3. *When payable:* A permit shall not be issued until the fees prescribed by the local governing body have been paid to the authorized agency, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local governing body may authorize delayed payment of fees.

D. 108.4. *Refunds:* In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local governing body shall provide fee refunds for the portion of the work that was not completed, when requested in writing by the permit holders.

13 VAC 5-61-51. Section 109.0 Application for permit.

A. 109.1. *When required:* Written application for permit shall be made to the code official and an approved permit issued by the code official before any of the following actions may be commenced:

1. Constructing, enlarging, altering, or demolishing a structure.
2. Changing the use of a structure either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.
3. Installing or altering any equipment which is regulated by the USBC.
4. Removing or disturbing any asbestos or lead containing materials during demolition, alteration, renovation or additions to structures.
5. Moving a lot line which affects an existing structure.

Exceptions:

1. Installation of wiring and equipment which operates at less than 50 volts, except when the installation is located in a noncombustible plenum or penetrates a fire-resistance rated assembly.
2. Detached utility sheds not exceeding 150 square feet (14 m²) of building area and 102 inches (2591 mm) in wall height, except when accessory to Use Group F or H structures.
3. Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.
4. Work which the code official has authorized pending receipt of an application.
5. Ordinary repairs which include, but are not be limited to, the following:
 - a. Replacement of mechanical or plumbing equipment and appliances, except those fueled by gas, within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.

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b. Replacement of roof coverings not exceeding 100 square feet (9.3 m²).

c. Installation of cabinets in residential occupancies and replacement of floor coverings and porch flooring in all occupancies.

e. Painting any portion of a structure, repair of plaster, interior tile and other wall coverings in all occupancies.

f. Replacement of windows and doors and electrical switches, outlets, light fixtures and ceiling fans, within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.

Ordinary repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or loadbearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

C. 109.2. Permit applicant: Application for a permit shall be made by the owner or lessee of the structure or agent of either, or by the licensed architect, professional engineer, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a contractor or subcontractor (or any of their respective agents), the code official shall verify that the applicant is either licensed and certified to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process applications for permit through the mail. The code official shall not require the permit applicant to appear in person.

Note: Information on the types of construction exempted from the requirement for a architect's or professional engineer's seal and signature is included in the "Related Laws Package" available from DHCD.

D. 109.2.1. One- and two-family dwelling option: The permit applicant shall have the option to select the amended one- and two-family dwelling code listed in Chapter 35 as an acceptable alternative standard to the BNBC for design and construction of detached one- or two-family dwellings not more than three stories in height, and the accessory structures as indicated in such one- and two-family dwelling code.

E. 109.2.2. Mechanics' lien agent designation: At the request of the applicant, an application for a permit for a one- or two-family residential dwelling unit shall contain, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by

the applicant, the application for permit shall state "None Designated."

F. 109.3. Form of application: The application for permit shall be submitted on forms supplied by the code official.

G. 109.4. Description of work: The application for permit shall contain a general description of the proposed work, its location and such additional information as required by the code official.

H. 109.5. Construction documents: The application for permit shall be accompanied by not less than two sets of construction documents.

Exceptions:

1. The code official may waive the requirement for filing construction documents when the work involved is of a minor nature.

2. Duplicate construction documents shall not be required where identical structures will be constructed in a particular development, provided the accompanying site plan is approved and the approved construction documents, in compliance with the USBC, are on file in the local building department.

3. The code official shall accept construction documents for one- and two-family dwellings with reverse floor plans, provided the accompanying site plan is approved.

I. 109.5.1. Site plan: When required by the code official, the application for permit shall also be accompanied by a site plan showing to scale the size and location of all the proposed new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades. The code official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site. In the case of alterations, renovations, repairs and installation of equipment, the code official shall be permitted to waive submission of the site plan or any parts thereof.

J. 109.5.2. Engineering details: The code official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. For buildings more than two stories in height, the code official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems when required. The construction documents shall show the materials and methods for protecting such openings, in order to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

K. 109.5.3. Construction document review: The code official shall cause to be examined all construction documents, site plans and applications for permits within a reasonable time after filing. If the application, site plan or the

construction documents do not conform to the requirements of the USBC, the code official shall reject such application in writing, stating the reasons for rejection. Any construction document review comments requiring additional information, engineering details, or stating reasons for rejection of construction documents, shall be made in writing to the permit applicant.

L. 109.5.3.1. Expedited construction document review: The code official may accept reports from an approved person or agency that the construction documents have been examined and conform to the requirements of the USBC and may establish requirements for the person or agency submitting such reports. In addition, where such reports have been submitted, the code official may expedite the issuance of the permit.

M. 109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.

N. 109.5.4.1. Approval of partial construction documents: The code official may issue a permit for the construction of foundations or any other part of a structure before the construction documents for the entire structure have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a structure shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire structure will be granted.

O. 109.5.4.2. Construction document approval limited: The code official's approval of construction documents shall be limited only to those items within the scope of the USBC.

P. 109.6. Existing structures continued use: Following an inspection and provided there are no violations of Part III (13 VAC 5-61-121 et seq.) of this chapter and the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.) and the structure's use has not changed, such structure shall not be prevented from continued use and the code official shall issue a certificate of occupancy upon written request from the owner or his agent.

Q. 109.6.1. Change in use: The owner or his agent shall, in writing, apply to and obtain from the code official a new certificate of occupancy prior to a change of occupancy of a structure. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new occupancy, the owner or his agent shall, in writing, apply and obtain a permit from the code official. When it is impractical to achieve compliance with the USBC, the code official shall issue, upon application, modifications as provided in the USBC.

R. 109.6.2. Reconstruction, alteration or repair: Reconstruction, alteration or repair shall not adversely affect the performance of, or cause the structure to become unsafe and shall not be used as justification for requiring any other

part of the structure to be brought into compliance with the current USBC. Work shall be done in such a way so as not to lower existing levels of health and safety. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. Used material and equipment may be used as approved by the code official.

S. 109.7. Functional design approval: Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The code official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the local governing body may require reports to the code official by other departments as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package" which is available from DHCD.

T. 109.8. Amendments to application: Amendments to the application, construction documents or other records accompanying the application for permit shall be filed at any time before completion of the work for which the permit is sought or issued. Such amendments shall be considered part of the original application and shall be filed as such.

U. 109.9. Time limitation of application: An application for a permit shall be considered to have been abandoned six months after notification by the code official that the application is defective, unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the code official shall grant one or more extensions of time.

13 VAC 5-61-55. Section 101.0 Permits.

A. 110.1. Issuance of permits: For the purpose of establishing USBC compliance, the code official shall cause to be examined all applications for permit, construction documents and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws and ordinances, the code official shall reject such application in writing, stating the reasons therefor. If the code official is satisfied that the proposed work conforms to the requirements of the USBC, and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The code official may authorize work to commence prior to the issuance of the permit. Any special requirements relating to inspections shall be determined by the code official prior to the issuance of the building permit, and the permit applicant so informed.

B. 110.1.1. Separate and combined permits: The code official may require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. Permits for two or more

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structures on the same lot may be combined. Separate permits may be required for special construction considered appropriate by the local governing body.

C. 110.1.2. Annual permits: The code official may issue an annual permit for alterations to an existing structure. The annual permit holder shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the local building department if requested by the code official.

D. 110.1.3. Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto. To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor. The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units, unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously. An abatement area shall not be reoccupied until the code official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

E. 110.2. Signature on permit: The signature of the code official or authorized representative shall be attached to every permit.

F. 110.3. Posting of permit: A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

G. 110.4. Previous permits: No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended.

H. 110.5. Revocation of permit: The code official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement, misrepresentation of fact or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

I. 110.6. Suspension of permit: Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the code official that work has not been suspended or abandoned. Upon written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

J. 110.7. Compliance with code: The approved permit shall be a license to proceed with the work in accordance with the USBC, the application for permit and any approved amendments thereto. The approved permit shall not be construed as authority to omit or amend any of the provisions of the USBC, except when modification is granted in accordance with this chapter.

13 VAC 5-61-61. Section 111.0 Professional engineering and architectural services.

A. 111.1. General: Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth where required by law. In the cases where construction documents are not required to be prepared by a registered design professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in the "Related Laws Package" available from DHCD.

B. 111.2. Special inspections: Special inspections shall be made in accordance with Section 1705.0.

C. 111.2.1. Permit requirement: This special inspection requirement shall be determined prior to the issuance of the

permit and shall be a requisite for the permit issuance as described in this chapter.

D. 111.2.2. Attendant fees and costs: All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

13 VAC 5-61-65. Section 112.0 Approval of materials and equipment.

A. 112.1. Performance: Where practical, under § 36-99 of the Code of Virginia, provisions of the USBC have been stated in terms of required level of performance, to facilitate the prompt acceptance of new building materials and methods. The provisions of the USBC are not intended to prohibit the use of any material or method of construction not specifically prescribed by the USBC, provided any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of the USBC, and that the material, method or work offered is, for the purpose intended, substantially the equivalent of that prescribed by the USBC in quality, strength, effectiveness, fire-resistance, durability and safety.

B. 112.2. Basis and approval of materials: The building code official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the code official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the code official shall approve items listed by nationally recognized independent testing laboratories or may consider the recommendations of architects and engineers licensed in this Commonwealth.

C. 112.3. Used materials and equipment: Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the code official.

D. 112.4. Approved materials and equipment: All materials, equipment, devices and assemblies approved for use by the code official shall be constructed and installed in accordance with the conditions of such approval.

13 VAC 5-61-71. Section 113.0 Execution of work.

A. 113.1. Performance: All construction work shall be performed and completed to secure the results intended by the USBC.

B. 113.2. Responsibility: It shall be the duty of every person who performs work regulated by the USBC, including but not limited to the construction, installation or repair of a structure or equipment, to comply with the USBC.

13 VAC 5-61-75. Section 114.0 Inspections.

A. 114.1. Right of entry: The code official and technical assistants may inspect structures for the purpose of enforcing the USBC in accordance with the authority granted by § 36-

105 of the Code of Virginia. The code official and technical assistants shall carry proper credentials of office when inspecting structures in the performance of their duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, when enforcing the USBC, that any structure may be inspected at any time before completion. It also permits a local governing body to provide for the reinspection of existing structures (see Part III (13 VAC 5-61-121 et seq.) of this chapter).

B. 114.2. Waived inspections: At the discretion of the inspecting authority, inspection may be waived, when the construction cost is less than \$2,500.

C. 114.3. Preliminary inspection: Before issuing a permit, the building code official may examine all structures and sites for which an application for a permit has been filed.

D. 114.4. Minimum inspections: The permit holder shall assure that the following minimum inspections have been conducted and approved by the building code official when applicable to the construction or permit:

1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
3. Inspection of preparatory work prior to the placement of concrete.
4. Inspection of structural members and fasteners prior to concealment.
5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.
6. Inspection of energy conservation material prior to concealment.

E. 114.5. Additional inspections: The building code official may designate additional inspections and tests to be conducted during the construction of a structure and shall so notify the permit holder. The code official shall be notified by the permit holder when construction reaches a stage of completion, which requires an inspection. The permit holder requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct the requested inspection.

F. 114.6. Special inspections: Special inspections required by the USBC shall be limited to only those required by Section 1705.0.

G. 114.7. In-plant inspections: When required by the provisions of the USBC, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The code official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being

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evaluated, test results, and other data as necessary for the code official to determine conformance with the USBC.

H. 114.7.1. *Factory inspection:* An identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made, shall be accepted instead of a written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

I. 114.8. *Coordination with other agencies:* The building code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities. The building code official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to issuance of a certificate of occupancy.

J. 114.9. *Reports of inspections:* The building code official shall either approve the work in writing or give written notice of defective work to the permit holder. Such defects shall be corrected and reinspected before any work proceeds that would conceal such defects. A record of all reports of inspections, tests, examinations, discrepancies and approvals with the USBC, shall be maintained by the code official and shall be communicated promptly in writing to the permit holder.

K. 114.9.1. *Approved inspection agencies:* The building code official may accept reports of inspections and tests from approved individuals or approved inspection agencies, which satisfy qualifications and reliability requirements. Under circumstances where the building code official is unable to make the inspection or test within 48 hours of a request or an agreed upon date, the building code official shall accept such reports. Such reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency.

L. 114.9. *Final inspection:* Upon completion of the structure, and before issuance of the certificate of occupancy, a final inspection shall be made to ensure that any defective work or discrepancies have been corrected and all work conforms with the USBC and is approved.

13 VAC 5-61-81. Section 115.0 Temporary structures.

A. 115.1. *General:* The building code official may approve and issue a permit for temporary construction. Such permit shall be limited as to time, but such temporary construction shall not be permitted for more than one year. Upon the permit holder's written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

B. 115.2. *Termination of approval:* The building code official may terminate such approval and order the demolition or removal of any such temporary construction.

13 VAC 5-61-85. Section 116.0 Moved structures.

A. 116.1. *General:* Any structure moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation:

1. No change has been made in the use of the structure.
2. The structure complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The structure did not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

B. 116.2. *Certificate of occupancy:* Any moved structure shall not be used until a certificate of occupancy is issued for the new location.

13 VAC 5-61-91. Section 117.0 Demolition of structures.

A. 117.1. *General:* Demolition permits shall not be issued until the code official receives certification from the owner or the owner's agent that the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building or structure stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

B. 117.2. *Hazard prevention:* When a structure is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of this code.

13 VAC 5-61-95. Section 118.0 Certificate of occupancy.

A. 118.1. *General:* A certificate of occupancy, indicating completion of the work for which a permit was issued, in accordance with this code and any pertinent laws and ordinances, shall be obtained prior to any occupancy of a structure except as provided for in this section. Final inspection approval or approvals may serve as the certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.

B. 118.2. *Temporary occupancy:* Upon the request of the permit holder, a temporary certificate of occupancy may be issued before the completion of the entire work covered by the permit provided that such portion or portions may be occupied safely prior to full completion of the structure without endangering life or public welfare.

C. 118.3. *Existing structures:* Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure as provided for in the USBC.

D. 118.4. *Contents of certificate:* When a structure is entitled thereto, the code official shall issue a certificate of

occupancy within five days after written application. Upon completion and approval of the final inspection, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The use group and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided, whether the sprinkler system is required.
5. Any special stipulations and conditions of the building permit.

E. 118.5. Posting structures: Structures classified in Use Groups B, F, H, M or S shall be posted with an approved sign stating the use group and occupancy, live load, occupant load, and date of posting.

F. 118.6. Street numbers: Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public way.

G. 118.7. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy or the temporary certificate of occupancy for failure to correct repeated violations in disregard for the provisions of the USBC.

13 VAC 5-61-101. Section 119.0 Stop work order.

A. 119.1. Notice to owner: When the code official finds that work on any structure is being executed contrary to the provisions of the USBC or any pertinent laws and ordinances or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

B. 119.2. Application of order limited: The stop work order shall apply only to the work that was being performed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

13 VAC 5-61-105. Section 120.0 Unsafe structures.

A. 120.1. Right of condemnation before completion: Any structure under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe structure. Any such unsafe structure shall be made safe through compliance with the USBC or shall be taken down and removed, as the code

official may deem necessary, according to authority granted by the local governing body.

B. 120.1.1. Inspection of unsafe structures; records: The code official shall examine every structure under construction reported as unsafe, and shall prepare a report to be filed in the records of the local building department. In addition to a description of unsafe conditions found, the report shall include the use of the structure, and nature and extent of damages, if any, caused by a collapse or failure.

C. 120.1.2. Notice of unsafe structure: If a structure under construction is found to be unsafe the code official shall serve a written notice of unsafe structure on the owner and the permit holders, describing the unsafe condition and specifying the required repairs or improvements to be made to render the structure safe, or requiring the unsafe structure or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare immediately to the code official the acceptance or rejection of the terms of the notice.

D. 120.1.3. Posting of unsafe structure notice: If the persons named in the notice of unsafe structure, under construction, cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

E. 120.1.4. Disregard of notice: Upon refusal or neglect of the persons served with a notice of unsafe structure to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the local governing body shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

F. 120.1.5. Vacating structure: When during construction, in the opinion of the code official, there is actual and immediate danger of failure or collapse of a structure, or any part thereof, which would endanger life, or when any structure or part of a structure has fallen and life is endangered by occupancy of the structure, the code official may order the occupants to vacate the structure forthwith. The code official shall cause a notice to be posted at each entrance to such structure reading as follows: "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Code Official." No person shall thereafter enter such structure except for one of the following purposes: (i) to make the required repairs; (ii) to take the structure down and remove it; or (iii) to make inspections authorized by the code official.

G. 120.1.6. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a structure under construction or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants; the code official shall cause the necessary work to be done to the extent permitted by the local governing body to render such structure or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

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H. 120.2. *Right of condemnation after completion:* Authority to condemn unsafe structures on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, is permitted to be exercised after official action by the local governing body under § 36-105 of the Code of Virginia (see Part III (13 VAC 5-61-121 et seq.) of this chapter).

I. 120.3. *Abatement or removal:* Whenever the owner, of a structure under construction that has been deemed to be a public nuisance or unsafe, under Section 120.1 or Section 120.2, fails to comply with the requirements of the notice to abate, the code official may cause the structure to be razed or removed, according to authority granted to the building code official by the local governing body.

Note: A local governing body may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the local governing body may abate, raze, or remove such public nuisance, and the local governing body may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-111. Section 121.0 Violations.

A. 121.1. *Unlawful acts:* It shall be unlawful for any person, firm or corporation to construct, alter, remove, demolish or occupy any structure or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

B. 121.2. *Notice of violation:* The code official shall serve a notice of violation to the responsible party as determined by Section 121.1 if (i) the defective work has not been remedied within a reasonable time following an inspection report or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice shall reference the USBC section that serves as the basis for such notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to the appeals section.

C. 121.2.1. *Copies of notice:* A copy of the notice shall be delivered to the owner and the permit holders under which the alleged violation falls, when not the cited responsible party, as applicable.

D. 121.2.2. *Limitation of notice:* When an alleged violation relating to construction is discovered more than two years after either (i) the certificate of occupancy is issued or the date of initial occupancy, whichever is later, or (ii) the final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from legal counsel to the

local governing body that action may be taken to compel correction of the violation. The code official shall document alleged violations of the applicable edition of the USBC once compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia.

E. 121.3. *Prosecution of violation:* If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the provisions of the USBC. Compliance with a notice of violation notwithstanding, the code official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

F. 121.3.1. *Civil penalties:* Under § 36-106 of the Code of Virginia, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the USBC which are not abated or remedied promptly after receipt of notice of violation from the code official.

G. 121.4. *Violation penalties:* Penalties, upon conviction, for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia.

H. 121.5. *Abatement of violation:* Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

13 VAC 5-61-115. Section 122.0 Appeals.

A. 122.1. *Local Board of Building Code Appeals (BBCA):* Each local governing body shall have a BBCA to hear appeals as authorized herein; or it shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD, to act on appeals. The BBCA shall be permitted to also hear appeals under Part III (13 VAC 5-61-121 et seq.) of this chapter, if the local governing body has elected to enforce such part, or the local governing body may have a separate BBCA provided that each BBCA complies with this section. An appeal case decided by a BBCA or a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

B. 122.2. *Membership of BBCA:* The BBCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

C. 122.2.1. *Chairman:* The BBCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

D. 122.2.2. *Secretary:* The local governing body shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

E. 122.3. *Qualifications of BBCA members:* BBCA members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder and one member a licensed architect or professional engineer. Employees or officials of the local governing body shall not serve as members of the BBCA.

F. 122.4. *Disqualification of member:* A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.1-639 et seq. of the Code of Virginia).

G. 122.5. *Application for appeal:* The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance of the structure pursuant to Part III of this chapter may appeal the code official's decision concerning application of the USBC or refusal to grant modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration, repair or maintenance (pursuant to Part III) of that structure. The applicant shall submit a written request for appeal to the BBCA within 90 (21 calendar days for maintenance Part III) calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

H. 122.6. *Notice of meeting:* The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

I. 122.7. *Hearing procedures:* All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

J. 122.7.1. *Postponement:* When a quorum of the BBCA is not present to hear an appeal, either the appellant or the

appellant's representative shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement.

K. 122.8. *Decision:* The BBCA shall have the power to uphold, reverse or modify the decision of the code official by a concurring vote of a majority of those present. Decisions of the BBCA shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

L. 122.8.1. *Resolution:* The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendar days. Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7180."

Copies of the resolution shall be furnished to all parties.

M. 122.9. *Appeal to the TRB:* After final determination by the BBCA, any person who was a party to the BBCA appeal may appeal to the TRB. Appeals from the decision of the code official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or code official's decision.

N. 122.9.1. *Information to be submitted:* Copies of the code official's decision and the resolution of the BBCA shall be submitted with the application for appeal to the TRB. Upon request by the Office of the TRB, the BBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of state-owned buildings, the involved state agency shall submit a copy of the code official's decision and other relevant information.

O. 122.9.2. *Decision of TRB:* Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

PART III.

MAINTENANCE OF EXISTING STRUCTURES.

13 VAC 5-61-121. Section 123.0 Scope.

A. 123.1. *General:* The provisions of this part of this chapter of the USBC prescribe building maintenance regulations to be complied with in the maintenance and repair of existing structures and equipment. Such provisions are only enforceable following official action by the local governing body. The official action shall (i) require compliance with "any or all maintenance provisions of this part of this chapter of the USBC " and (ii) assign enforcement responsibility to the local agency or agencies of its choice. The terms "local enforcing agency" and "building maintenance

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code official" are intended to apply to the agency or agencies to which responsibility for enforcement of this part has been assigned. The terms "building code official" or "local building department" apply only to the local building code official or local building department.

B. 123.2. Purpose: The purpose of this part of this chapter is to ensure public safety, health and welfare through proper building maintenance, repair, use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance and repair shall be deemed to include the maintenance, repair, testing and inspection of equipment as defined by the Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

13 VAC 5-61-125. Section 124.0 Applicability.

A. 124.1. Effect on other codes: This part of Chapter 1 of the USBC shall apply to all existing structures as defined in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia). This part of Chapter 1 of the USBC supersedes all building maintenance codes and regulations of the counties, municipalities, political subdivisions and state agencies that have been or may be enacted or adopted. However, this will not prevent adoption in accordance with Title 15.2 of the Code of Virginia or other special or general legislation, other requirements by a local governing body which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a structure.

B. 124.2. Pre-USBC structures: Following official action by the local governing body, existing structures or portions thereof constructed, altered or occupancy converted prior to September 1, 1973, shall be maintained in compliance with the provisions of this part of this chapter. No provisions of this part of this chapter shall require alterations to structures or equipment unless an unsafe or unhealthy condition exists.

C. 124.2.1. Post-USBC structures: Following official action by the local governing body, existing structures or portions thereof and equipment, subject to the USBC when constructed, altered or occupancy converted shall be maintained and repaired in compliance with this part of this chapter and the USBC edition in effect when constructed, altered or converted.

D. 124.3. Limitation of application: No provision of this part of this chapter and the standards referenced therein may be used to require alterations to the design or equipment or any portion of a structure that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC.

E. 124.4. Exemptions: Exemptions from application of this part of this chapter of the USBC shall be in accordance with the exemptions from application of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC.

Exceptions: Industrialized buildings and manufactured homes.

13 VAC 5-61-131. Section 125.0 Incorporation by reference.

A. 125.1. Adoption: The following document is adopted and incorporated by reference to be an enforceable part of the USBC:

The BOCA National Property Maintenance Code/1996, Fifth Edition, hereinafter referred to as "BNPMC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

B. 125.1.1. Deletion: Delete BNPMC Chapter 1.

C. 125.2. Administrative and enforcement amendments: All requirements of the BNPMC and the standards referenced therein that relate to administrative and enforcement and all other procedural matters are deleted and replaced by this part of this chapter of the USBC. The provisions of this part of this chapter shall be used by enforcement personnel. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of this part of the USBC.

Note: The BNPMC and its referenced standards contain some areas of regulation outside of the scope of the USBC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNPMC its referenced standards to bring it within the scope of authority; however, in some areas, judgments will have to be made as to whether the provisions of the BNPMC and its referenced standards are applicable.

D. 125.3. Other amendments: The USBC amendments (Part IV (13 VAC 5-61-200 et seq.) of this code) noted in BNBC, Chapter 34, Existing Structures, shall be made to the BNPMC and its referenced standards for use as part of this part. The USBC contains provisions adopted by the BHCD, some of which change or amend provisions of the BNPMC and its referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNPMC and its referenced standards, the provisions changed by the BHCD shall govern.

13 VAC 5-61-135. Section 126.0 Enforcement.

A. 126.1. General: Following official action by the local governing body, enforcement of the provisions of the USBC governing maintenance is the responsibility of the local enforcing agency.

B. 126.2. Interagency coordination: When enforcement of any portion of this part of this chapter is assigned to an agency other than the local building department, that local enforcing agency shall coordinate its reports of inspection with the local building department.

C. 126.3. Permits: Alterations, repairs, installations, construction or demolition shall be subject to the building permit, certificate of occupancy and other provisions of Part II of this chapter of the USBC.

D. 126.4. Fees: Section 36-105 of the Code of Virginia provides that fees are permitted to be levied by the local

governing body in order to defray the cost of enforcement and appeals.

13 VAC 5-61-141. Section 127.0 Local enforcing agency.

A. 127.1. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the "building maintenance code official" or "code official."

B. 127.1.1. Appointment: The building maintenance code official shall be appointed in a manner selected by the local governing body. After appointment, the building maintenance code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. 127.1.2. Notification: The local governing body shall notify the DHCD within 30 days of the appointment or release of the building maintenance code official

D. 127.1.2. Qualifications: The building maintenance code official shall have at least five years of experience as a licensed professional engineer, building inspector, fire inspector, housing inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The code official shall have general knowledge with respect to the design and construction of buildings, the basic principles of fire prevention, plumbing, electrical and mechanical systems, building safety, and other accepted requirements for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

E. 127.1.3. Certification: The building maintenance code official shall be certified in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within one year from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

F. 127.1.4. Noncertified: After appointment, a non-BHCD certified building maintenance code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy, or its equivalent in a DHCD accredited academy.

G. 127.2. Technical assistants: The building maintenance code official shall, subject to any limitations imposed by the local governing body, appoint such number of building maintenance technical assistants as are necessary for the administration and enforcement of the USBC.

H. 127.2.1. Qualifications: A building maintenance technical assistant shall have at least three years in general building construction, building, fire or housing inspections, and general knowledge of plumbing, electrical and mechanical systems. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

I. 127.2.2. Certification: Any person employed by, or under contract to, a local enforcing agency for determining compliance with the USBC shall be certified in the appropriate subject areas, in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

J. 127.3. Continuing education: Building maintenance code officials and technical assistants enforcing the USBC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

K. 127.4. Control of conflict of interest: The minimum standards of conduct for officials and employees of the local enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-145. Section 128.0 Duties and powers of the code official.

A. 128.1. General: The building maintenance code official shall enforce the provisions of Part III of this chapter of the USBC as provided herein and as interpreted by the TRB.

B. 128.1.2. Right of inspection: The building maintenance code official may inspect existing structures and equipment to enforce this part of this chapter as authorized by § 36-105 of the Code of Virginia. The building maintenance code official and assistants shall carry proper credentials of office when inspecting structures and equipment in the performance of duties under the USBC.

C. 128.1.2.1. Records: The code official shall approve the maintenance or use in writing or give written notice of defective maintenance or use to the owner and the person responsible for maintenance or use of a structure. Such defects shall be corrected within a reasonable time and reinspected. Records of all reports of inspections, tests, examinations, discrepancies, notices, approvals, modifications and orders issued shall be communicated promptly in writing to the owner and the person responsible for maintenance or use of a structure.

D. 128.2. Modifications: The code official may grant modification to any provision of this part upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare, and safety are assured.

E. 128.2.1. Supporting data: The code official may also require and consider a statement from an architect, professional engineer or other competent person as to the equivalency of the proposed modification.

F. 128.2.2. Records: The application for modification and the final decision of the code official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

G. 128.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the local governing body, but shall be

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responsible that any such powers and duties are carried out in accordance with the USBC.

H. 128.4. *Enforcing agency records:* The code official shall keep records of; reports of inspections, tests, examinations, discrepancies, notices, approvals, fees collected, modifications and orders issued and such other matters as directed by the local governing body. Such records shall be retained in the official records or shall be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

I. 128.5. *Coordination with other agencies.* The building maintenance code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections. The building maintenance code official shall coordinate all reports of inspections for compliance with Part III of the USBC, with inspections of fire and health officials delegated such authority.

13 VAC 5-61-151. Section 129.0 Unsafe structures.

A. 129.1. *General:* This section shall apply to existing structures and equipment that fail to comply with this part of the USBC through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a hazard or public nuisance, or are otherwise dangerous to human life, health or safety, or the public welfare. All such structures declared by the code official to be a public nuisance or unfit for human habitation shall either: (i) be made safe through compliance with this code, or (ii) be vacated and secured against public entry, or (iii) be taken down and removed as determined by the building maintenance code official. Such work shall comply with the requirements of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC. A vacant structure, unsecured or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of this section.

B. 129.1.1. *Unsafe conditions not related to maintenance:* When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in an existing structure which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the building maintenance code official is permitted to order the minimum changes needed to remedy the hazardous condition. Such work shall comply with the requirements of Part II of this chapter of the USBC.

C. 129.1.2. *Retrofitting:* This part of this chapter of the USBC does not generally provide for retrofitting of an existing structure. However, conditions may exist in older structures, because of faulty design or equipment, which constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC (Part II). Only those changes that are needed to remedy the serious and dangerous hazards to

life or health may be required by the building maintenance code official.

D. 129.2. *Inspection of unsafe structures:* The code official shall examine any existing structure reported as unsafe, and shall prepare a report to be filed in the records of the local enforcing agency and a copy served to the owner. In addition to a description of unsafe conditions found, the report shall include the use of the structure, and nature and extent of damages, if any caused by a collapse or failure.

E. 129.3. *Notice of unsafe structures:* If an existing structure is found to be unsafe, the code official shall serve a notice on the owner, the owner's agent or person in control of the unsafe existing structure. The notice shall specify the required repairs or improvements to be made to the structure, or require the unsafe structure, or portion of the structure to be taken down and removed within a stipulated time. Such work shall comply with the requirements of Part II of this chapter of the USBC. Such notice shall require the owner to declare to the code official without delay acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe structure should also be given to the tenants of the unsafe structure.

F. 129.4. *Posting of unsafe structure notice:* If the person named in the notice of unsafe structure and the owner cannot be found, the notice shall be sent by registered or certified mail to the last known address of such persons. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

G. 129.5. *Disregard of notice:* If the person served with a notice of unsafe structure and the owner refuses or fails to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant structure, including one vacated through revocation of the certificate of occupancy, the code official may cause the structure to be closed through any available means, according to authority granted by the local governing body.

H. 129.6. *Authority to vacate structure:* When in the opinion of the code official, there is actual and immediate danger of failure or collapse of an existing structure or any part thereof which would endanger life; or when any structure or part thereof has fallen and life is endangered by occupancy of the structure; or when any other hazardous condition poses an immediate and serious threat to life; or when a structure is declared a public nuisance, or unfit for human habitation, the code official may order the occupants to vacate the structure. The code official shall post a notice at each entrance to such structure that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such structure except upon authorization by the code official for one of the following purposes: (i) to make the required repairs, (ii) to take the structure down and remove it, or (iii) to make inspections.

I. 129.7. *Temporary safeguards and emergency repairs:* When, in the opinion of the code official, there is immediate

danger of collapse or failure of an existing structure or any part thereof which would endanger life, or when a violation of this part of this chapter of the USBC results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local governing body to make such structure or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.. Such work shall comply with the requirements of Part II of this chapter of the USBC.

J. 129.8. Abatement or removal: Whenever the owner, of a structure that has been deemed to be a public nuisance under Section 129.1, fails to comply with the requirements of the notice to abate, the code official may cause the structure to be razed or removed, according to authority granted by the local governing body. Such work shall comply with the requirements of Part II of this chapter of the USBC. A local governing body may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the local governing body may abate, raze, or remove such public nuisance, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-155. Section 130.0 Demolition.

130.1. Procedures: Whenever a structure is to be demolished the work shall be carried out in compliance with the requirements of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC.

13 VAC 5-61-161. Section 131.0 Dangerous and dilapidated structures.

A. 131.1. General: The code official shall order the owner of any premises upon which is located any dangerous and dilapidated structure to repair and rehabilitate the structure in accordance with this code or to demolish and to remove such structure.

B. 131.2. Dangerous buildings as public nuisances: All dangerous or dilapidated structures as defined by this code are hereby determined to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified in this code.

C. 131.3. Failure to comply: If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be collected in a manner allowed by law.

13 VAC 5-61-165. Section 132.0 Violations.

A. 132.1. Unlawful acts: It shall be unlawful for any person, firm or corporation to use or not maintain any structure or equipment regulated by this part of this chapter of the USBC, or cause same to be done, in conflict with or in

violation of any of the provisions of this part of this chapter of the USBC.

B. 132.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 132.1 if (i) the defective maintenance or use has not been remedied within a reasonable time following the report or notice issued under Section 128.0 or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice of violation shall reference the code section that serves as the basis for the notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be served by either delivering a copy to the responsible party and the owner by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall state the right of appeal by reference to the appeals section.

C. 132.3. Prosecution of violation: If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the provisions of the USBC.

D. 132.3.1. Civil penalties: Civil penalties shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of this chapter for civil penalties.

E. 132.4. Violation penalties: Penalties upon conviction of violating the USBC shall be as required in § 36-106 of the Code of Virginia.

F. 132.5. Abatement of violation: Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

G. 132.6. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in disregard for the provisions of the USBC.

13 VAC 5-61-171. Section 133.0 Appeals.

133.1. General: Appeals arising from application of this part of this chapter of the USBC shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of this chapter for appeals.

Exception: The applicant shall submit a written request for appeal to the BBCA within 21 calendar days from the receipt of the decision to be appealed.

PART IV. TECHNICAL AMENDMENTS.

13 VAC 5-61-200. BNBC Section 202.0 General definitions.

A. Change the following definitions to read:

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Building: A combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property; ~~however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family and farm employees shall be exempt from this code, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. For application of this code, each portion of a building which is completely separated from other portions by fire walls complying with Section 707.0 shall be considered as a separate building.

Jurisdiction: The governing body of any city, county or town in this Commonwealth. See local governing body.

Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

Structure: An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. ~~Farm structures not used for residential purposes shall be exempt from the provisions of this code, but such structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "structure" shall be construed as though followed by the words "or part or parts thereof" and "or equipment" unless the context clearly requires a different meaning.

B. Add the following definitions to read:

Breezeway: See Section 1002.0.

Building regulations: Any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Code official:

Building code official: The officer or other designated authority charged with the administration and enforcement of the USBC or a duly authorized representative.

Building maintenance code official: The officer or other designated authority charged with the administration and enforcement of the maintenance provisions of the USBC for existing structures or a duly authorized representative.

Construction: The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn): See Section 1202.0.

DHCD: The Virginia Department of Housing and Community Development.

Equipment: Plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

~~**Farm structure:** A structure located on a farm utilized for either the storage, handling or production of agricultural, horticultural or floricultural products or the sheltering, raising or processing of farm animals or farm animal products, which products or animals are normally intended for sale to domestic or foreign markets. The term shall include structures used for the maintenance, storage or use of farm equipment.~~

Industrialized building: A combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes shall not be considered industrialized buildings for the purpose of this code.

Local building department: The agency or agencies of any local governing body charged with the administration, supervision or enforcement of ~~this code~~ the provisions of Part II (13 VAC 5-61-15 et seq.) of Chapter 1 of the USBC, including but not limited to approval of plans, inspection of ~~buildings~~ structures or issuance of permits, licenses, certificates, or similar documents. For application of ~~this code~~ the USBC, the term "department of building inspection" shall mean the local building department.

Local enforcing agency: The local agency or agencies charged by the local governing body with the administration, supervision or enforcement of the provisions of Part III (13 VAC 5-61-121 et seq.) of Chapter 1 of the USBC. The local governing body is permitted to assign "local enforcing agency" responsibility to the "local building department."

Local governing body: The governing body of any city, county or town in this Commonwealth. See jurisdiction.

Manufactured home: A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or

more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Skirting: A weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.

State-regulated care facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice (Use groups R-2, R-3 and R-4 only).

Sound transmission class (STC) rating: See Section 1202.0.

Technical assistant: Any person employed by, or under contract to, a local building department or local enforcing agency for enforcing the USBC, including but not limited to inspectors and plans reviewers.

TRB: The Virginia State Building Code Technical Review Board.

C. Delete the ~~definition~~ following definitions:

"Agricultural building."

"Approved rules."

"Structure, existing."

13 VAC 5-61-220. BNBC Section 310.0 Residential use groups.

A. Change subsection 310.1 to read:

310.1. General: All structures in which sleeping accommodations are provided, excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3 or R-4. The term "Use Group R" shall include Use Groups R-1, R-2, and R-3. Family day homes licensed or certified by the Virginia Department of Social Services shall be permitted to accommodate the numbers of children permitted under the licensing restrictions and shall be classified as a residential use group.

B. Change subsection 310.6 to read:

310.6. Use Group R-4 structures: This use group shall include all detached one- or two-family dwellings and one-family townhouses not more than three stories in height, and the accessory structures as indicated in the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code. All such structures shall be designed in accordance with the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code or in accordance with the requirements of this code applicable to Use Group R-3.

Exceptions:

~~1. Structures classified as Use Group R-4 shall comply with applicable requirements of Section 3107.0 of this code.~~

~~2. Structures classified as Use Group R-4 shall comply with the requirements of Section 1214.4 of this code, when applicable.~~

C. Add subsection 310.6.1 to read:

310.6.1. Amendments to the CABO Code: The following changes shall be made to the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code:

1. Delete the note in CABO subsection 114.1.

2. Change CABO subsection 115.1 to read:

115.1. General: Swimming pools, spas and hot tubs shall comply with the provisions in Appendix D.

3. Change CABO subsection 119.1 to read:

119.1. General: The provisions for energy conservation contained in Appendix E shall be part of this code.

4. Add exception to CABO subsection 301.2 to read:

Exception: Heating facilities shall be required in accordance with Section 303.6. The winter design temperature for heating facilities required or provided shall be established by the jurisdiction in accordance with this section.

5. Add CABO subsection 301.7 to read:

301.7. Airport noise attenuation standards: Following official action by the local governing body under § 15.2-2295 of the Code of Virginia, all structures to be located in areas affected by above average noise levels from aircraft due to their proximity to flight operations at nearby airports as determined by the governing body having jurisdiction shall have acoustical treatment measures in accordance with the provisions of Section 3107.0 of the BNBC.

6. Add CABO subsection 301.8 to read:

301.8. Floodproofing: All structures to be located in areas prone to flooding as determined by the local governing body shall be floodproofed in accordance with the provisions of Section 3107.0 of the BNBC.

~~5-~~ 7. Change CABO subsection 303.6 to read:

303.6. Required heating: Every dwelling unit or portion thereof which is to be rented, leased or let on terms either expressed or implied to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 4 15 to May 45 1 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm)

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from the exterior walls. The capability of the heating system shall be based on the winter design temperature for heating facilities established by the jurisdiction.

~~6-~~ 8. Add CABO subsection 303.7 to read:

303.7. Insect screens: Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

~~7-~~ 9. Add CABO subsection 306.5 to read:

306.5. Approval: Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health.

10. Change CABO subsection 310.2 to read:

310.2. *Emergency egress required: Every sleeping room shall have at least one openable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening, including an operable sash without the use of a key or tool. Where windows are provided as a means of egress or rescue, they shall have a sill height of not more than 44 inches (1118 mm) above the floor.*

~~8-~~ 11. Change CABO subsection 310.4 to read:

310.4. Type of lock or latch: All egress doors shall be readily openable from the inside without the use of a key unless the key cannot be removed from the lock when the door is locked from the inside.

~~9-~~ 12. Change CABO subsection 314.2 to read:

314.2. Treads and risers: The maximum riser height shall be ~~8~~ *eight* inches (210 203 mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2.0% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

~~10-~~ 13. Change CABO subsection 314.4 to read:

314.4. Winders: Winders are permitted, provided that the width of the tread at a point not more than 12 inches (305 mm) from the side where the treads are narrower is not less than nine inches (229 mm) and the minimum width of any tread is not less than six inches (153 mm). The continuous handrail required by Section 314.1 shall be located on the side where the tread is narrower.

~~14-~~ 14. Change CABO subsection 314.6 to read:

314.6. Circular stairways: Circular stairways shall have a minimum tread depth and a maximum riser height in accordance with Section 314.2 and the smaller radius shall not be less than twice the width of the stairway. The minimum tread depth of nine inches (229 mm) shall be measured from the narrower end.

~~12-~~ 15. Change subsection 315.2 to read:

315.2. Handrail grip size: The handgrip portion of the handrails shall not be more than 2-5/8 inches (66.7 mm) in cross-sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners.

~~13-~~ 16. Delete CABO subsection 316.1.1.

~~14-~~ Delete CABO Section 324 Protection Against Radon.

~~15-~~ 17. Change subsection 401.4 to read:

401.4. Soil tests: Localities having 20% and greater moderate and high shrink/swell potential of the jurisdictional land area shall implement an expansive soil test policy. Localities having less than 20% moderate and high shrink/swell potential of the jurisdictional land area may adopt a soil test policy. The policy shall establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. The policy shall be established in a manner selected by the local government having jurisdiction. All localities shall obtain and retain as a reference guide a copy of the applicable National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and the Virginia Polytechnic Institute and State University, where this survey is available. Figures 401.4a and 401.4b shall be used to determine the percentage of jurisdictional land area which has moderate or high shrink/swell potential.

Exception: For additions to one- and two-family dwellings or slab-on-grade accessory structures and decks where there is no indication of a shrink-swelling condition for the area.

18. Add CABO subsection 703.9 to read:

703.9. *Exterior insulation and finish systems (EIFS): Exterior insulation and finish systems (EIFS) shall comply with BNBC Section 1405.8.*

19. Add CABO subsection 3903.1.1 to read:

3903.1.1. *Electrical service equipment: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:*

1. *The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.*

2. The grounding electrode system shall be installed and terminated.
3. Grounding and grounded conductors shall be terminated in the service equipment.
4. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
5. Service equipment covers shall be installed.
6. The building roof covering shall be installed.

13 VAC 5-61-225. BNBC Section 312.0 Utility and miscellaneous use group.

Change subsection 312.1 to read:

312.1. General: Buildings and structures of an accessory character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Use Group U shall include fences over six feet (1829 mm) high, tanks, cooling towers, retaining walls and buildings such as private garages, carports, sheds and agricultural buildings.

13 VAC 5-61-245. BNBC Chapter 7 Fire-resistant Materials and Construction.

A. Add subsection 707.11 to read:

707.11. Marking of fire walls: Fire walls shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

B. Add subsection 709.8 to read:

709.8. Marking of fire separation assemblies: Vertical fire separation assemblies shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

C. Add subsection 711.8 to read:

711.8. Marking of fire partitions: Fire partitions shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

D. Add subsection 712.6 to read:

712.6. Marking of smoke barriers: Smoke barriers shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-

resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.

13 VAC 5-61-255. BNBC Section 906.0 Fire sprinkler system.

Add exception to subsection 906.2.1 to read:

3. In occupancies in Use Group R-2, sprinklers shall not be required in:

a. Bathrooms not exceeding 55 square feet (5.12 m²) in area. In new buildings, these bathrooms must have noncombustible bathtubs, bathtub enclosures, and shower enclosures to meet this exception.

b. Closets where the least dimension does not exceed three feet (914 mm) and which do not contain mechanical or electrical equipment, such as washers, dryers, hot water heaters, furnaces, or heat pumps.

13 VAC 5-61-290. BNBC Section 1014.0 Stairways.

A. Add exception to subsection 1014.11 to read:

7. Stairways connected to exit access breezeways complying with Section 1011.6 are not required to be enclosed.

B. Add exception to subsection 1014.12.2 to read:

4. When the open exterior side or sides of the stairs are at an angle of or greater than 180 degrees from the exterior wall of the building, protection shall not be required for the exterior wall.

13 VAC 5-61-310. BNBC Section 1103.0 Applicability.

A. Add exception to subsection 1103.1 to read:

6. Pulpit, choir, baptismal and similar areas in Use Group A-4 structures are not required to be accessible.

B. Add subsection 1103.1.1 to read:

1103.1.1. Identification of accessible parking spaces: In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.

13 VAC 5-61-315. BNBC Section 1104.0 Accessible route.

Change exception # 2 to subsection 1104.2 to read:

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2. In other than the offices of health care providers (Use Group B), passenger transportation facilities and airports (Use Group A-3), and Use Group M occupancies with five or more tenant spaces, buildings less than three stories in height or less than 3,000 square feet (279 m²) per floor are not required to have an accessible route to floors above or below the accessible entrance level.

13 VAC 5-61-317. BNBC Section 1110.0 Existing facilities.

Add exception to subsection 1110.2 to read:

2. Occupancies in Use Group R-2 containing four or more dwelling units and occupancies in Use Group R-3 where there are four or more dwelling units in a single structure.

13 VAC 5-61-340. BNBC Section 1214.0 Sound transmission control in residential buildings.

A. Add exception to subsection 1214.1 to read:

Exception: Section 1214.4 applies to the construction of the exterior envelope of residential structures and shall be enforced only after action by the local governing body of any county, city or town pursuant to under § ~~45.1-491.03~~ 15.2-2295 of the Code of Virginia.

B. Add subsection 1214.4 to read:

1214.4. Airport noise attenuation standards: Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table 1214.4. As an alternative to compliance with Table 1214.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by a registered design professional.

C. Add Table 1214.4 to read:

TABLE 1214.4.
AIRPORT NOISE ATTENUATION STANDARDS.

Ldn	STC of exterior walls and roof/ceiling assemblies	STC of doors and windows
65-69	39	25
70-74	44	33
75 or greater	49	38

13 VAC 5-61-345. BNBC Section 1405.0 Veneers.

Change subsection 1405.8 to read:

1405.8. Exterior insulation and finish systems (EIFS): Special inspections shall be required for EIFS applications in accordance with Section 1705.1. Exceptions 2 and 3 shall not apply.

Exceptions:

1. Special inspections shall not be required for EIFS applications installed over a water-resistive barrier with a

means of draining moisture to the exterior in accordance with Section 1403.3.

2. Special inspections shall not be required for EIFS applications installed over masonry or concrete walls.

13 VAC 5-61-360. BNBC Section 1705.0 Special inspections.

A. Change subsection 1705.1 to read:

1705.1. General: The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

B. Change subsection 1705.13 to read:

1705.13. Exterior insulation and finish systems (EIFS): Special inspections shall be based upon the information provided in the manufacturer's installation instructions and the construction documents. The manufacturer's installation instructions shall include criteria for the conditions of the substrate; foam plastic material and application; mesh application; base coat application, including thickness, ambient conditions and cure; sealant requirements; finish coat application; details for joints and flashing at windows, doors; joints in the system, eaves, corners, penetrations, and any other criteria necessary for the proper installation of the EIF system.

13 VAC 5-61-390. BNBC Section 2701.0 General.

Add subsection 2701.1.1 to read:

2701.1.1. Amendments to NFPA 70: The following change shall be made to NFPA 70 listed in Chapter 35 of this code:

Change subsection 336-5 (a) (1) to read:

(1). In any dwelling or structure exceeding four floors above grade.

13 VAC 5-61-395. BNBC Section 2705.0 Temporary use.

Add subsection 2705.1.1 to read:

2705.1.1. One- and two-family dwellings: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:

1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.

2. The grounding electrode system shall be installed and terminated.

3. Grounding and grounded conductors shall be terminated in the service equipment.

4. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.

- 5. *Service equipment covers shall be installed.*
- 6. *The building roof covering shall be installed.*

13 VAC 5-61-400. BNBC Section 2801.0 General.

- A. Add exception to subsection 2801.1 to read:

Exception: This code shall not govern the installation, alteration and repair of water heaters, boilers and pressure vessels to the extent which they are regulated by the Virginia Boiler and Pressure Vessel Regulations (16 VAC 25-50-10 et seq.). However, the code official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

- B. Add subsection 2801.1.1 to read:

2801.1.1. Heating facilities: Heating facilities shall be provided in structures as follows:

1. Every dwelling unit or portion thereof which is to be rented, leased or let on terms, either expressed or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperature at 65°F (18°C) during the period from October 4 15 to May 4 1 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the outside design temperature required for the locality by this code.
2. Every enclosed occupied work space in nonresidential structures shall be provided with heating facilities capable of producing sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The required room temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.

Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from these requirements.

- C. Add subsection 2801.2.1 to read:

2801.2.1. *Fuel gas equipment and systems: All fuel gas equipment and systems shall be constructed, installed and maintained in accordance with the fuel gas code listed in Chapter 35.*

13 VAC 5-61-410. BNBC Section 2901.1 General.

- A. Change subsection 2901.1 to read:

2901.1. Scope: The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings, shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35.

Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health. Plumbing fixtures shall be connected to an approved water supply source and to an approved sanitary sewer or private sewage disposal system. Approval of pumping and electrical equipment shall be the responsibility of the code official.

- B. Add subsection 2901.1.1 to read:

2901.1.1. *Amendments to the plumbing code: The following changes shall be made to the plumbing code listed in Chapter 35:*

Add exception to subsection 404.2 to read:

4. *Separate facilities shall not be required in mercantile occupancies in which the structure or tenant space is 5,000 square feet (466.6 m²) or less.*

Change subsection 404.5 to read:

404.5. *Customer facilities: Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces utilized as restaurants, nightclubs, places of assembly and mercantile occupancies. Customer toilet facilities shall be located not more than one story above or below the space required to be provided with customer toilet facilities and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). In covered mall buildings, required facilities shall be based on total square footage, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum travel distance to the central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space.*

Exception: Customer facilities are not required in structures or tenant spaces with a customer occupant load of less than 150 and which do not serve food or beverages to be consumed within the structure or tenant space.

13 VAC 5-61-415. BNBC Chapter 30 Elevators and Conveying Systems.

Add subsection 3007.8 to read:

3007.8. *Elevator car to accommodate ambulance stretcher: In buildings four stories in height or more, at least one elevator shall be provided for fire department emergency access to all floors. Such elevator car shall be of such a size and arrangement to accommodate a 24-inch by 76.5-inch (610-mm by 1943-mm) ambulance stretcher in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall be placed inside on both sides of the hoistway door frame.*

13 VAC 5-61-430. BNBC Section 3401.0 General.

~~A. Change subsection Delete subsections 3401.2 to read, 3401.3 and 3401.4.~~

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~~3401.2. Maintenance and repairs: The owner shall be responsible for the maintenance and repair of structures in accordance with the maintenance requirements of this code and the property maintenance code listed in Chapter 35 of this code. Equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, to the extent which were provided when constructed, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations. The provisions in the property maintenance code listed in Chapter 35 of this code for unsafe structures (Sections PM-108.0, PM-109.0 and PM-110.0) shall be considered part of the provisions of this code for the maintenance of existing structures.~~

B. Add subsection ~~3401.2.4~~ 3401.1.1 to read:

~~3401.2.4. 3401.1.1.~~ Amendments to the property maintenance code: *Under Part III (13 VAC 5-61-121 et seq.) of Chapter 1 of the USBC*, the following changes shall be made to the property maintenance code (BNPMC) listed in Chapter 35 of this code:

~~1. Change subsection PM-101.1 to read:~~

~~PM-101.1 Title and use: These regulations shall be known as the Property Maintenance Code hereinafter referred to as "this code." Any provisions of this code which are in conflict with, or exceed the scope of, the Virginia Uniform Statewide Building Code shall be invalid.~~

~~1. BNPMC Chapter 1 was deleted in Part III of Chapter 1 of the USBC.~~

~~2. Add the following definition to Section PM-202.0 General Definitions to read:~~

~~*Dangerous and dilapidated structure: A building or structure which has any of the following defects or conditions:*~~

~~1. Whenever any structure or part thereof, which in the code official's judgement is old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such structure or part thereof; or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure or parts thereof.~~

~~2. Whenever the code official determines that the cost of such repairs would exceed 100% of the true cash value of such structure, such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this definition that such structure is a public nuisance which shall be ordered razed without option on the part of the owner to repair in~~

~~accordance with the procedures set forth in this code.~~

~~3. Whenever any portion has been damaged by wind, flood or by any other cause in such manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this code.~~

~~4. Whenever any portion, member or appurtenance is likely to fall or become detached or dislodged, or to collapse, and thereby injure persons or damage property.~~

~~5. Whenever any portion has settled to such an extent that the walls or other structural portions have materially less resistance to wind than is required in the case of new construction by this code.~~

~~6. Whenever the building or structure or any part because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purposes of supporting such building or portion thereof, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.~~

~~7. Whenever for any reason whatsoever that the building or structure or any portion is manifestly unsafe for the purpose for which it is used.~~

~~8. Whenever the building or structure has been damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein or as to afford a harbor for disorderly persons.~~

~~9. Whenever a building or structure used or intended to be used for dwelling purposes because of dilapidation, decay, damage or faulty construction or arrangement or otherwise is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease, or is likely to work injury to the health, safety or general welfare of those living within.~~

~~10. Whenever any building becomes vacant, dilapidated and open at the doors or windows thereof, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.~~

~~11. Whenever a building or structure designed or zoned for use as a residence has remained vacant and boarded up for a period in excess of six continuous months and has been found to be unfit for human habitation after inspection by the code official.~~

~~12. Whenever the code official is able to establish that as to a particular dilapidated vacant structure there has existed a pattern where such structure has frequently remained open at the doors or windows~~

leaving the interior of the building accessible to entrance by trespassers.

~~2-~~ 3. Add the date "April 1" to the first bracketed DATE area and "December 1" to the second bracketed DATE area in *BNPMC* subsection PM-304.14.

~~3-~~ 4. Add the date "October 4 15" to the first bracketed DATE area and "May 4~~5~~ 1" to the second bracketed DATE area in *BNPMC* subsection PM-602.2.1.

~~4-~~ 5. Add the date "October 1" to the first bracketed DATE area and "May 15" to the second bracketed DATE area in *BNPMC* subsection PM-602.3.

~~5-~~ 6. Add *BNPMC* subsection PM-606.3 to read:

PM-606.3. Inspection standard: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8 of ~~this code~~ *the BNPMC*. The code official may also provide for such inspection by an approved agency or through agreement with other local certified elevator inspectors. An approved agency includes any individual, partnership or corporation who has met the certification requirements established by Virginia Certification Standards (13 VAC 5-21-10 et seq.).

13 VAC 5-61-440. BNBC Section 3402.0 General requirements.

A. *Change subsection 3402.1 to read:*

3402.1. Application: The requirements of this section shall be mandatory for existing structures.

B. *Change subsection 3402.2 to read:*

3402.2. Replacement glass: Any replacement glass installed in buildings constructed prior to the initial effective date of this code shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation.

~~B-~~ C. *Change subsection 3402.3 to read:*

3402.3. Smoke detectors in colleges and universities: College and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. All public and private college and university dormitories shall have installed and use due diligence in maintaining in good working order such detectors regardless of when the building was constructed.

The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~C-~~ D. *Change subsection 3402.4 to read:*

3402.4. Smoke detectors in certain juvenile care facilities: Battery-powered or AC-powered smoke detectors shall be installed and maintained in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles which are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation and maintenance of the smoke detector devices.

~~D-~~ E. *Change subsection 3402.5 to read:*

3402.5. Smoke detectors for the deaf and hearing impaired: Smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

~~E-~~ F. *Change subsection 3402.6 to read:*

3402.6. Smoke detectors in adult care residences, adult day care centers and nursing homes and facilities: Battery-powered or AC-powered smoke detector devices shall be installed in all adult care residences and adult day care centers licensed by the Virginia Department of Social Services, regardless of when the building was constructed. The location and installation of the smoke detectors shall be determined by the provisions of this code in effect on October 1, 1990.

The licensee shall obtain a certificate of compliance from the building official of the locality in which the residence or center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

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The licensee shall maintain the smoke detector devices in good working order.

Fire alarm or fire detector systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing homes and nursing facilities licensed by the Virginia Department of Health by August 1, 1994, and shall be maintained in good working order.

G. Add subsection 3402.6.1 to read:

3402.6.1. Smoke detectors in buildings containing dwelling units: AC-powered smoke detectors with battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke detector located in buildings containing one or more dwelling units or rooming houses offering to rent overnight sleeping accommodations, when it is determined by the code official that the responsible party of such building or dwelling unit is unwilling or unable to maintain battery-powered smoke detectors in working condition.

F. ~~H.~~ Change subsection 3402.7 to read:

3402.7. Fire suppression systems in nursing homes and facilities: Fire suppression systems as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed, and shall be maintained in good working order. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

G. ~~I.~~ Delete subsection 3402.9.

H. ~~J.~~ Add subsection 3402.10 to read:

3402.10. Fire suppression systems in hospitals: Fire suppression systems shall be installed in all hospitals licensed by the Virginia Department of Health as required by the edition of this code in effect on October 1, 1995, regardless of when such facilities were constructed, and shall be maintained in good working order.

I. ~~K.~~ Add subsection 3402.11 to read:

3402.11. Identification of handicapped parking spaces by above grade signs: All parking spaces reserved for the use of handicapped persons shall be identified by above grade signs, regardless of whether identification of such spaces by above grade signs was required when any particular space was reserved for the use of handicapped persons. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. Any parking space not identified by an above grade sign shall not be a parking space reserved for the handicapped within the meaning of this section.

All above grade handicapped parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above

the parking surface. Such signs shall be designed and constructed in accordance with the provisions of Chapter 11 of this code. *All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.*

J. ~~L.~~ Add subsection 3402.12 to read:

3402.12. Smoke detectors in hotels and motels: Smoke detectors shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, by the dates indicated, regardless of when constructed, and shall be maintained in good working order.

K. ~~M.~~ Add subsection 3402.13 to read:

3402.13. Sprinkler systems in hotels and motels: By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed, and shall be maintained in good working order.

L. ~~N.~~ Add subsection 3402.14 to read:

3402.14. Fire suppression systems in dormitories: An automatic fire suppression system shall be provided throughout all buildings having a Use Group R-2 fire area which are more than 75 feet (22,860 mm) or six stories above the lowest level of exit discharge and which are used, in whole or in part, as a dormitory to house students by any public or private institution of higher education, regardless of when such buildings were constructed, in accordance with the requirements of this code and Section 906.2.1. The automatic fire suppression system shall be installed by September 1, 1999. The chief administrative office of the college or university shall obtain a certificate of compliance from the code official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

Exceptions:

1. Buildings equipped with an automatic fire suppression system in accordance with Section 906.2.1 or the 1983 or later editions of NFPA 13.
2. Where the requirements of this section are modified by Section 3402.14.1.
3. Any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

O. Add subsection 3402.14.1 to read:

3402.14.1. Modifications to requirements of Section 3402.14: The application of the requirements of Section 3402.14 shall be modified in accordance with this section.

1. Building systems, equipment or components other than the fire suppression system shall not be required to be added or upgraded except as necessary for the installation of the fire suppression system and shall only be required to be added or upgraded where the installation of the fire suppression system creates an unsafe condition.

2. Residential sprinklers shall be used in all sleeping rooms. Other sprinklers shall be quick response or residential unless deemed unsuitable for a space. Standard response sprinklers shall be used in elevator hoist ways and machine rooms.

3. Sprinklers shall not be required in wardrobes in sleeping rooms which are considered part of the building construction or in closets in sleeping rooms, when such wardrobes or closets (i) do not exceed 24 square feet (2.23 m²) in area, (ii) have the smallest dimension less than 36 inches (914 mm), and (iii) comply with the following:

a. A single station smoke detector monitored by the building fire alarm system is installed in the room containing the wardrobe or closet which will activate the general alarm for the building if the single station smoke detector is not cleared within five minutes after activation;

b. The minimum number of sprinklers required for calculating the hydraulic demand of the system for the room shall be increased by two and the two additional sprinklers shall be corridor sprinklers where the wardrobe or closet is used to divide the room. Rooms divided by a wardrobe or closet shall be considered one room for the purpose of this requirement; and

c. The ceiling of the wardrobe, closet or room shall have a fire resistance rating of not less than hour.

4. Not more than one sprinkler shall be required in bathrooms within sleeping rooms or suites having a floor area between 55 square feet (5.12 m²) and 120 square feet (11.16 m²) provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.

5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system provided the water supply requirements of NFPA 13 listed in Chapter 35 are met.

6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.

7. Where a standby power system is required, a source of power in accordance with Section 701-11 (d) or 701-11 (e) of NFPA 70 listed in Chapter 35 shall be permitted.

P. Add subsection 3402.15 to read:

3402.15. Fire extinguishers and smoke detectors in state-regulated care facilities: On each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

The facility shall provide and maintain at least one approved properly installed smoke detector (i) in each bedroom hallway, (ii) at the top of each interior stairway, (iii) in each area designated for smoking and (iv) in or immediately adjacent to each room with a furnace or other heat source. Smoke detectors shall be tested each month and a record of the tests shall be maintained for two years.

Q. Add subsection 3402.16 to read:

3402.16. Smoking prohibited: Smoking shall be prohibited in all Use Group R-2 buildings having occupied floors located more than 75 feet (22860 mm) above the lowest level of fire department vehicle access and having inter-connecting dwelling unit air distribution systems.

13 VAC 5-61-447. BNBC Section 3405.0 Change of occupancy.

Add subsection 3405.1.1 to read:

3405.1.1. Application: The owner or his agent shall, in writing, apply to and obtain from the building code official a new certificate of occupancy prior to changing the occupancy of a structure. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new use, the owner or his agent shall, in writing, apply and obtain a permit from the building code official. When it is impractical to achieve compliance with the USBC, the building code official shall, upon application, issue modifications as provided in Part II of Chapter 1.

13 VAC 5-61-450. BNBC Section 3408.0 Compliance alternatives.

A. Change subsection 3408.2 to read:

3408.2. Applicability: The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Groups H or I.

B. Change subsection 3408.2.5 to read:

3408.2.5. Accessibility requirements: All portions of buildings altered shall conform to the accessibility provisions of Section 1110.2.

13 VAC 5-61-460. BNBC Chapter 35 Referenced Standards.

Add the following referenced standard to "CODES" to read:

Standard reference number	Title	Referenced in code section number
IFGC-97	International Fuel Gas Code	2801.3

VA.R. Doc. No. R98-270; Filed January 26, 2000, 11:51 a.m.

Proposed Regulations

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-60).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Summary:

The proposed amendment reduces the bonus points for selling a project to a qualified nonprofit organization or local housing authority from 60 points to 50 points if the applicant receives 20 points for having a nonprofit managing general partner.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540 or FAX (804) 783-6701.

13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools. The division of such pools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) which is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as he shall consider appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous and substantial involvement as determined by the executive director) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity thereof; (ii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iii) the executive director of the authority shall have determined that the

qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (iv) the executive director of the authority shall have determined that no staff member, officer or member of the board of directors of such qualified nonprofit organization will materially participate, directly or indirectly, in the proposed development as a for-profit entity.

In making the determinations required by the preceding subdivision 1 and clauses (ii), (iii) and (iv) of subdivision 2 of this section, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of paid staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis, and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools ("nonprofit pools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving credits in other pools, and any such applications in such nonprofit pools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools to make such reservations) shall be assigned to such other pool as shall be appropriate hereunder; provided, however, that if credits are

later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, rank the applications therein and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such nonprofit pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other pool or pools as the executive director shall designate reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications") or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit pools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or any combination of pools may receive a reservation or allocation of annual credits in an amount greater than \$500,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.

Notwithstanding anything to the contrary herein, applicants relying on the experience of a local housing authority for developer experience points described hereinbelow and/or using Hope VI funds from the U.S. Department of Housing and Urban Development (HUD) in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit pools.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

- a. Written evidence satisfactory to the authority of (i) preliminary approval by local authorities of the plan of development for the proposed development (30 points) or (ii) approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (40 points)
- b. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning or

special use permit for such site or (ii) that no zoning requirements or special use permits are applicable. (40 points)

c. Valid building permit(s) or letter dated within three months prior to the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. (20 points)

d. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit-by-unit work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)

2. Housing needs characteristics.

a. Submission of the letter in the form prescribed by the authority with the necessary attachments, addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. (10 points; failure to make timely submission, minus 50 points)

b. (1) A letter dated within three months prior to the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision b (1) above) nor opposition (as described in subdivision b (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development is not consistent with current zoning or other applicable land use regulations. (0 points)

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- c. Documentation from the local authorities that the proposed development is located in a Qualified Census Tract (QCT) or such other locally identified revitalization area, or determination by the authority that the proposed development is located in a Difficult Development Area as defined by HUD or in an Enterprise Zone designated by the state. (20 points)
- d. Commitment by the applicant to give leasing preference to individuals and families (i) on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant, or (ii) on section 8 (as defined in 13 VAC 10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points)
- e. Any of the following: (i) firm financing commitment(s) from the local government, housing authority, or the Rural Development of the U.S. Department of Agriculture or (ii) a resolution passed by the locality in which the proposed development is to be located committing a grant or below-market rate loan or a waiver of taxes and fees, donation of land or other similar support to the development or (iii) evidence from Rural Development that the development will remain subject to existing financing from Rural Development. In the case of (iii) above, if the applicant is, or has any common interests with, the current owner, directly or indirectly, the application will only qualify for these points if the applicant waives all rights to any developer's fee and any other fees associated with the acquisition and rehabilitation (or rehabilitation only) of the development unless permitted by the executive director for good cause. (The amount of such financing or value of local support will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)
3. Development characteristics.
- a. The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, (i) the quotient of the number of units of a given unit type divided by the total number of units in the proposed development, times (ii) the quotient of the average actual gross square footage per unit for a given unit type minus the lowest gross square footage per unit for a given unit type established by the executive director divided by the highest gross square footage per unit for a given unit type established by the executive director minus the lowest gross square footage per unit for a given unit type established by the executive director.)
- b. Rehabilitation of existing housing stock and adaptive reuse developments (points equal to (percentage of households at or below 60% of the Area Median Income (AMI) in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100) minus 10). Increase of housing stock attributable to new construction (points equal to 90 minus (percentage of households at or below 60% of the AMI in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100)). Developments involving both rehabilitation and new construction will be scored on a weighted average of the point calculations above. Proposed new construction developments to be located in the jurisdictions included in the rural pool established by the executive director will receive an additional 20 points; however, no applicant will receive more than 80 points under this subdivision. Notwithstanding the above, the applicant shall receive the maximum 80 points in this subdivision if the applicant provides a letter signed by the chief executive officer of the locality in which the proposed development is located requesting the authority to override the point calculations and provide the maximum points under this subdivision.
- c. Lower amount of credit request. (Fifty points multiplied by the percentage by which the total amount of the annual tax credits requested is less than \$1,000,000, including negative points using the percentage in which the total amount of annual credits requested is greater than \$1,000,000.)
- d. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:
- (1) The following points are available for any application:
 - (a) If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points)
 - (b) If all units have a washer and dryer. (7 points)
 - (c) If all units have a balcony or patio. (5 points)
 - (d) If all units have a washer and dryer hook-up only. (3 points)
 - (e) If all units have a dishwasher. (2 points)
 - (f) If all units have a garbage disposal. (1 point)
 - (g) If the development has a laundry room. (1 point)
 - (h) If a community/meeting room with a minimum of 800 square feet is provided. (5 points)
 - (i) If all units have a range hood above the stove. (1 point)
 - (j) If all metal windows have thermal breaks, and if insulating glass for windows and sliding glass doors have a 10-year warranty against breakage of the seal from date of delivery. (1 point)
 - (k) If all insulation complies with Virginia Power Energy Efficient Home Requirements, with a minimum R=30 insulation for roofs. (2 points)

(l) If all refrigerators are frost free, a minimum size of 14 cubic feet, and provide separate doors for freezer and refrigerator compartments. (1 point)

(m) If all exterior doors exposed to weather are metal. (1 point)

(n) Brick exterior walls. (15 points times the percentage of exterior walls covered by brick)

(2) The following points are available to applications electing to serve elderly and/or handicapped tenants as elected in subdivision 4 a of this section:

(a) If all cooking ranges have front controls. (1 point)

(b) If all units are adaptable for the handicapped in buildings with elevators. (2 points)

(c) If all units have an emergency call system. (3 points)

(d) If all bathrooms have grab bars and slip-resistant bottoms for bathtubs. (1 point)

(e) If all bathrooms have an independent or supplemental heat source. (1 point)

(f) If all corridors have a handrail on one side. (1 point)

(3) The following points are available to projects which rehabilitate or adaptively reuse an existing structure:

(a) If all bathrooms, including ones with windows, have exhaust fans ducted out. (1 point)

(b) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (2 points)

(c) If all apartments have a minimum of one electric smoke detector with battery backup. (1 point)

(d) If all bathrooms have ground fault interrupter electrical receptacles. (1 point)

(e) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)

(f) All buildings have a minimum insulation of R=30 for attics and R=19 for crawl spaces. (2 points)

(g) All public areas, such as community rooms, laundry rooms, and rental office are accessible to persons in wheelchairs. (1 point)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 d of this section is 45 points.

4. Tenant population characteristics.

a. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: (i) persons 55 years or older, (ii) homeless persons or families, or (iii) physically or mentally disabled persons. Applicants committing to serve physically disabled persons must meet the requirements of the federal Americans with Disabilities Act (42 USC § 12101 et seq.). Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 points)

b. Commitment by the applicant to creating a development in which 20% or more of the low-income units have three or more bedrooms. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 points)

c. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points)

5. Sponsor characteristics.

a. Evidence that the development team for the proposed development has the demonstrated experience, qualifications and ability to perform. (10 points)

b. Participation by a qualified nonprofit organization authorized to do business in Virginia and substantially based or active in the community of the development that acts as a managing general partner under the partnership agreement. (20 points) No staff member, officer or member of the board of directors of such qualified nonprofit organization may materially participate, directly or indirectly, in the proposed development through a for-profit entity.

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the standard per unit credit amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (If the per unit credit amount of the proposed development equals or exceeds the applicable standard per unit credit amount established by the executive director, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than the applicable standard per unit credit amount established by the executive director, the difference is calculated as a percentage of such standard per unit credit amount)

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established by the executive director, and then multiplied by 240 points.)

b. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the standard per unit cost amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. (If the per unit cost of the proposed development equals or exceeds the applicable standard per unit cost amount established by the executive director, the proposed development is assigned no points; if the per unit cost of the proposed development is less than the applicable standard per unit cost amount established by the executive director, the difference is calculated as a percentage of such standard per unit cost amount established by the executive director, and then multiplied by 110 points.)

The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount and the per unit cost amount in subdivision 6 above. For the purpose of calculating the points to be assigned pursuant to such subdivision 6 above, all credit amounts shall include any credits previously allocated to the development, and the per unit credit amount for any building documented by the applicant to be located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of 475 points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

7. Bonus points. For each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points, bonus points shall be assigned as follows:

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (The product of (i) 50 points multiplied by (ii) the percentage of low-income housing units restricted for occupancy to

households at or below 50% of the area median gross income.)

b. Commitment by the applicant to impose rent limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (The product of (i) 25 points multiplied by (ii) the percentage of low-income units restricted to the rents required for occupancy to households at or below 50% of the area median gross income.)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 30-year extended use period (as defined in the IRC). Applicants receiving points under this subdivision c may not receive bonus points under subdivision d below. (40 points for a 10-year commitment beyond the 30-year extended use period or 50 points for a 20-year commitment beyond the 30-year extended use period.)

d. Participation by a qualified nonprofit organization or local housing authority substantially based or active in the community with at least a 10% ownership interest in the general partnership interest of the partnership and a commitment by the applicant to sell the proposed development pursuant to an executed, recordable option or right of first refusal to such qualified nonprofit organization or to a wholly-owned subsidiary of such organization or authority, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for profit entity. The applicant must record such option or right of first refusal immediately after the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any refinancings of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. (60 points *or, if the applicant receives 20 points under subdivision 5 (b) of this section, 50 points*)

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and shall be ranked within such pool. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

In the event of a tie in the number of points assigned to two or more applications within the same pool, or, if none, within the state, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility

of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool or, if none, within the Commonwealth, select one or more of the applications with the most bonus points as described above, and each application so selected shall receive (in order based upon the number of such bonus points, beginning with the application with the most bonus points) a reservation of credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or, if none, in the Commonwealth. If two or more of the tied applications receive the same number of bonus points and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or, if none, in the Commonwealth.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The executive director may, if he deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review and establish any or all of the

foregoing items as to the larger development in making such determination for the development.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool, if applicable, until either substantially all credits therein are reserved or all qualified applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available credits, provided that the applicant's modified development produces at least 75% of the units and bedrooms described in the application for the proposed development, or (ii) move the proposed development and the credits available to another pool. Any modifications shall be subject to the approval of the executive director; however, in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to this section. If any credits remain in any pool after accepting any modifications to an applicant's proposed development or moving proposed developments and credits to another pool, the executive director may reserve the remaining credits to any proposed development(s) scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application. If necessary, the executive director may, for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. However, the reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of

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credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year.

Notwithstanding anything contained herein, the executive director shall not reserve more than \$1.2 million of credits to any general partner(s) or principal(s) of such general partner(s), directly or indirectly, in any credit year.

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development unless the transfer is consented to by the executive director. The written binding commitment shall further limit the developers' fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director. The executive director may, as a condition to the binding commitment, require each applicant to obtain a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development.

If credits are reserved to any applicants for developments which have also received an allocation of credits from prior years, the executive director may reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall

deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount. The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to this section). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether

before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

VA.R. Doc. No. R00-103; Filed January 27, 2000, 11:39 a.m.



FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-40, 13 VAC 10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-70).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: January 24, 2000.

Summary:

The amendments (i) prohibit existing tax credit developments from reapplying for additional credits during the 15-year compliance period; (ii) increase the minimum contractor costs for rehabilitation projects from \$5,000 to \$7,500; (iii) include tax and fee waivers, donations of land and other similar support by local governments as a source of funding eligible for points; (iv) permit points for new construction in the Northern Virginia pool; (v) increase the points for amenities from 30 to 45; (vi) delete the requirements for documenting developer experience relating to number of low-income housing units placed in service and reduce the points for developer experience to 10 points; (vii) delete the 10 points for material participation by a nonprofit; (viii) revise the method for calculating the points for the efficient use of credits; (ix) reduce the minimum threshold score for all projects to 475 points; (x) delete bonus points for a 30-year compliance period and provide bonus points for a 40-year compliance period and a 50-year compliance period; (xi) add 10 points for providing a right of first refusal or option to purchase to a qualified nonprofit or housing authority; and (xii) make other technical and clarification changes.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

13 VAC 10-180-40. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance

with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of this chapter in the qualified allocation plan. However, the authority may amend the qualified allocation plan without public approval if required to do so by changes to the IRC.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

No application for credits will be accepted for any [~~development~~ building] that has previously claimed credits and is still subject to the compliance period for such credits [after the year such building is placed in service].

13 VAC 10-180-50. Application.

Prior to submitting an application for reservation, applicants shall submit on such form as required by the executive director, the letter for authority signature by which the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located to provide such officers a reasonable opportunity to comment on the developments. When scoring the applications, the executive director will award points to those applications that submit the form within the deadlines established by the executive director and subtract points from those applications that fail to submit the form by such deadlines.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide

the proper documentation or information on the forms prescribed by the executive director.

The application should include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information, if applicable, needs to be included in the application to *determine the feasible credit amount*: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other costs and fees. All applications seeking credits for rehabilitation of existing units must provide for *contractor* construction costs of at least ~~\$5,000~~ [~~\$10,000~~ \$7,500] per unit.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site for a period extending at least four months beyond any application deadline established by the executive director, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. A contract that permits the owner to continue to market the property, even if the applicant has a right of first refusal, does not constitute the requisite site control required in clause (iii) above. No application shall be considered for a reservation or allocation of credits unless such evidence is submitted with the application and the authority determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence. In the case of acquisition and rehabilitation of developments funded by Rural Development of the U.S. Department of Agriculture, the site control document does not need to be approved by all partners of the seller if the general partner of the seller executing the site control document provides (i) an attorney's opinion that such general partner has the authority to enter into the site control document and such document is binding on the seller or (ii) a letter from the existing syndicator indicating a willingness to secure the necessary partner approvals upon the reservation of credits.

Each application shall include, in a form or forms required by the executive director, a certification of previous participation listing all residential real estate developments in which the general partner(s) or their affiliates has or had an ownership or participation interest, the location of such developments, the number of residential units and low-income housing units in such developments and such other information as more fully specified by the executive director.

Furthermore, the applicant must indicate, for developments receiving an allocation of tax credits under § 42 of the IRC, whether any such development has ever been determined to be out of compliance with the requirements of the IRC by the appropriate state housing credit agency, and if so, an explanation of such noncompliance and whether it has been corrected. The executive director may reject any application from consideration for a reservation or allocation of credits unless the above information is submitted with the application. If, after reviewing the above information or any other information available to the authority, the executive director determines that the general partner(s) do not have the experience, financial capacity and predisposition to regulatory compliance necessary to carry out the responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development or the ability to fully perform all the duties and obligations relating to the proposed development under law, regulation and the reservation and allocation documents of the authority or if an applicant is in substantial noncompliance with the requirements of the IRC, the executive director may reject applications by the applicant.

The application should include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

In any situation in which the executive director deems it appropriate, he may treat two or more applications as a single application.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions may be indicated on the application form, instructions or other communication available to the public.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of

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credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations. If the executive director determines that an applicant for a reservation of credits has failed to submit one or more mandatory attachments to the application by the reservation application deadline, he may allow such applicant an opportunity to submit such attachments within a certain time established by the executive director with a ten-point scoring penalty per item.

After receipt of the applications, if necessary, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such officers a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools. The division of such pools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, occupants, or source of credits; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) which is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as he shall consider appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous and substantial involvement as determined by the executive director) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and
2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity thereof; (ii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated

with or controlled by a for-profit organization; (iii) the executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (iv) the executive director of the authority shall have determined that no staff member, officer or member of the board of directors of such qualified nonprofit organization will materially participate, directly or indirectly, in the proposed development as a for-profit entity.

~~[3. The "qualified nonprofit organization" must receive all developer's fees and any fees paid by to third party development consultants may not exceed the lesser of 10% of the developer's fee or \$50,000.]~~

In making the determinations required by the preceding subdivision 1 and clauses (ii), (iii) and (iv) of subdivision 2 of this section, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of paid staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis, and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools ("nonprofit pools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving

credits in other pools, and any such applications in such nonprofit pools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools to make such reservations) shall be assigned to such other pool as shall be appropriate hereunder; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, rank the applications therein and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved credits in such nonprofit pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other pool or pools as the executive director shall designate reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications") or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit pools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or any combination of pools may receive a reservation or allocation of annual credits in an amount greater than \$500,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.

Notwithstanding anything to the contrary herein, applicants relying on the experience of a local housing authority for developer experience points described hereinbelow and/or using Hope VI funds from the U.S. Department of Housing and Urban Development (*HUD*) in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit pools.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

- a. Written evidence satisfactory to the authority of (i) preliminary approval by local authorities of the plan of

development for the proposed development (30 points) or (ii) approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (40 points)

b. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning or special use permit for such site or (ii) that no zoning requirements or special use permits are applicable. (40 points)

c. Valid building permit(s) or letter dated within three months prior to the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. (20 points)

d. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit-by-unit work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)

2. Housing needs characteristics.

a. Submission of the letter in the form prescribed by the authority with the necessary attachments, addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. (10 points; failure to make timely submission, minus 50 points)

b. (1) A letter dated within three months prior to the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision b (1) above) nor opposition (as described in subdivision b (3) below) as to the allocation of credits to the applicant for the development. (25 points)

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(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development is not consistent with current zoning or other applicable land use regulations. (0 points)

c. Documentation from the local authorities that the proposed development is located in a Qualified Census Tract (QCT) or such other locally identified revitalization area, or determination by the authority that the proposed development is located in a Difficult Development Area as defined by the ~~U.S. Department of Housing and Urban Development HUD~~ or in an Enterprise Zone designated by the state. (20 points)

d. Commitment by the applicant to give leasing preference to individuals and families (i) on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant, or (ii) on section 8 (as defined in 13 VAC 10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points)

e. Any of the following: (i) firm financing commitment(s) from the local government, housing authority, [~~Federal Home Loan Bank affordable housing funds,~~] or the Rural Development of the U.S. Department of Agriculture or (ii) a resolution passed by the locality in which the proposed development is to be located committing a grant or below-market rate loan [*or a waiver of taxes and fees, donation of land or other similar support*] to the development or (iii) evidence from [~~either (x)~~] Rural Development that the development will remain subject to existing financing from Rural Development [~~or (y) HUD that the development will remain subject to existing financing under its Section 8 or Section 236 programs~~]. In the case of (iii) above, if the applicant is, or has any common interests with, the current owner, directly or indirectly, the application will only qualify for these points if the applicant waives all rights to any developer's fee and any other fees associated with the acquisition and rehabilitation (or rehabilitation only) of the development unless permitted by the executive director for good cause. (The amount of such financing [*or value of local support*] will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

3. Development characteristics.

a. The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, (i) the quotient of the number of units of a given

unit type divided by the total number of units in the proposed development, times (ii) the quotient of the average actual gross square footage per unit for a given unit type minus the lowest gross square footage per unit for a given unit type established by the executive director divided by the highest gross square footage per unit for a given unit type established by the executive director minus the lowest gross square footage per unit for a given unit type established by the executive director.)

b. Rehabilitation of existing housing stock and adaptive reuse developments (points equal to (percentage of households at or below 60% of the Area Median Income (AMI) in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100) minus 10). ~~Increase of housing stock attributable to new construction in jurisdictions other than the jurisdictions listed in the Northern Virginia pools established by the executive director~~ (points equal to 90 minus (percentage of households at or below 60% of the AMI in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100)). Developments involving both rehabilitation and new construction will be scored on a weighted average of the point calculations above. Proposed new construction developments to be located in the jurisdictions ~~listed~~ *included* in the rural pool established by the executive director will receive an additional 20 points; however, no applicant will receive more than 80 points under this subdivision. Notwithstanding the above, the applicant shall receive the maximum 80 points in this subdivision if the applicant provides a letter signed by the chief executive officer of the locality in which the proposed development is located requesting the authority to override the point calculations and provide the maximum points under this subdivision.

c. Lower amount of credit request. (Fifty points multiplied by the percentage by which the total amount of the annual tax credits requested is less than \$1,000,000, including negative points using the percentage in which the total amount of annual credits requested is greater than \$1,000,000.)

d. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:

(1) The following points are available for any application:

(a) If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points)

(b) If all units have a washer and dryer. (7 points)

(c) If all units have a balcony or patio. (5 points)

(d) If all units have a washer and dryer hook-up only. (3 points)

(e) If all units have a dishwasher. (2 points)

(f) If all units have a garbage disposal. (1 point)

- (g) If the development has a laundry room. (1 point)
 - (h) If a community/meeting room with a minimum of 800 square feet is provided. (5 points)
 - (i) If all units have a range hood above the stove. (1 point)
 - (j) If all metal windows have thermal breaks, and if insulating glass for windows and sliding glass doors have a 10-year warranty against breakage of the seal from date of delivery. (1 point)
 - (k) If all insulation complies with Virginia Power Energy Efficient Home Requirements, with a minimum R=30 insulation for roofs. (2 points)
 - (l) If all refrigerators are frost free, a minimum size of 14 cubic feet, and provide separate doors for freezer and refrigerator compartments. (1 point)
 - (m) If all exterior doors exposed to weather are metal. (1 point)
 - (n) Brick exterior walls. (15 points times the percentage of exterior walls covered by brick)
- (2) The following points are available to applications electing to serve elderly and/or handicapped tenants as elected in subdivision 4 a of this section:
- (a) If all cooking ranges have front controls. (1 point)
 - (b) If all units are adaptable for the handicapped in buildings with elevators. (2 points)
 - (c) If all units have an emergency call system. (3 points)
 - (d) If all bathrooms have grab bars and slip-resistant bottoms for bathtubs. (1 point)
 - (e) If all bathrooms have an independent or supplemental heat source. (1 point)
 - (f) If all corridors have a handrail on one side. (1 point)
- (3) The following points are available to projects which rehabilitate or adaptively reuse an existing structure:
- (a) If all bathrooms, including ones with windows, have exhaust fans ducted out. (1 point)
 - (b) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (2 points)
 - (c) If all apartments have a minimum of one electric smoke detector with battery backup. (1 point)
- (d) If all bathrooms have ground fault interrupter electrical receptacles. (1 point)
 - (e) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)
 - (f) All buildings have a minimum insulation of R=30 for attics and R=19 for crawl spaces. (2 points)
 - (g) All public areas, such as community rooms, laundry rooms, and rental office are accessible to persons in wheelchairs. (1 point)
- The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 d of this section is [30 45] points.
4. Tenant population characteristics.
- a. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: (i) persons 55 years or older, (ii) homeless persons or families, or (iii) physically or mentally disabled persons. Applicants committing to serve physically disabled persons must meet the requirements of the federal Americans with Disabilities Act (42 USC § 12101 et seq.). Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 [45 30] points)
 - b. Commitment by the applicant to creating a development in which 20% or more of the low-income units have three or more bedrooms. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 [45 30] points)
 - c. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points)
5. Sponsor characteristics.
- a. Evidence that the development team for the proposed development has the demonstrated experience, qualifications and ability to perform. ~~In comparison with the proposed development, the controlling general partner or partners, or principals of the controlling general partner or partners acting in the capacity of controlling general partner or partners, has placed in service one or more developments which, in the aggregate, would result in the highest number of points under one of the following: (i) at least an equal number of low income housing units (60 points); or (ii) two or more times as many low income housing units (90 points). For purposes of this subdivision 5 a of this section, each low income housing tax credit unit developed in Virginia, as evidenced by the issuance of~~

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IRS forms 8609, shall count as a full low-income housing unit; each low-income housing tax credit unit developed out of Virginia shall count as 75% of a low-income housing unit; any other developed residential units (either for sale or rental) shall count as 50% of a low-income unit. In implementing the scoring of this subdivision a, (i) only existing units will be counted, (ii) the units of the proposed development will not be counted, and (iii) the executive director may determine that multiple applications for which he deems to be a single development shall be considered a single application. The experience of the principals of the controlling partner may be drawn from two or more separate entities, provided that, the officers and directors of such separate entities are identical to each other. (10 points)

b. Participation by a qualified nonprofit organization authorized to do business in Virginia and substantially based or active in the community of the development that (i) acts as a managing general partner under the partnership agreement. (20 points); or (ii) materially participates in the development and the operation of the development and owns at least a 10% ownership interest in the general partnership interest of the partnership (10 points). No staff member, officer or member of the board of directors of such qualified nonprofit organization may materially participate, directly or indirectly, in the proposed development as a for-profit entity. Points awarded under clause (ii) of this subdivision b may not be combined with any points awarded under clause (i). [No staff member, officer or member of the board of directors of such qualified nonprofit organization may materially participate, directly or indirectly, in the proposed development through a for-profit entity.]

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the standard per unit credit amounts established by the executive director for [new construction units, adaptive reuse units and rehabilitation units, respectively a given unit type], based upon the number of [new construction units, adaptive reuse units and rehabilitation units such unit types] in the proposed development. (If the per unit credit amount of the proposed development equals or exceeds the applicable standard per unit credit amount established by the executive director, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than the applicable standard per unit credit amount established by the executive director, the difference is calculated as a percentage of such standard per unit credit amount established by the executive director, and then multiplied by [420 240] points.)

[b. The percentage by which the total of the amount of credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed

development is less than the standard per unit bedroom credit amounts established by the executive director per bedroom credit amount for new construction units, adaptive reuse units and rehabilitation units, respectively, based upon the number of new construction units, adaptive reuse units and rehabilitation units in the proposed development. (If the per bedroom credit amount of the proposed development equals or exceeds the applicable standard per unit bedroom credit amount established by the executive director, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than the applicable standard per unit bedroom credit amount established by the executive director, the difference is calculated as a percentage of such standard per unit bedroom credit amount established by the executive director, and then multiplied by 120 points.)

e. b.] The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the standard per unit credit cost amounts established by the executive director per unit cost for [new construction units, adaptive reuse units and rehabilitation units, respectively a given unit type], based upon the number of [new construction units, adaptive reuse units and rehabilitation units such unit types] in the proposed development. (If the per unit cost of the proposed development equals or exceeds the applicable standard per unit credit cost amount established by the executive director, the proposed development is assigned no points; if the per unit cost of the proposed development is less than the applicable standard per unit credit cost amount established by the executive director, the difference is calculated as a percentage of such standard per unit credit cost amount established by the executive director, and then multiplied by [55 110] points.)

[d. The percentage by which the total of the cost per bedroom in such low-income housing units (the "per bedroom cost"), adjusted by the authority for location, of the proposed development is less than the standard per unit credit bedroom cost amounts established by the executive director per bedroom cost for new construction units, adaptive reuse units and rehabilitation units based upon the number of new construction units, adaptive reuse units and rehabilitation units in the proposed development. (If the per bedroom cost of the proposed development equals or exceeds the applicable standard per unit credit bedroom cost amount established by the executive director, the proposed development is assigned no points; if the per bedroom cost of the proposed development is less than the applicable standard per unit credit bedroom cost amount established by the executive director, the difference is calculated as a percentage of such standard per unit credit bedroom cost amount established by the executive director, and then multiplied by 55 points.)]

[*The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount and the per unit cost amount in subdivision 6 above.*] For the purpose of calculating the points to be assigned pursuant to such subdivision 6 above, all credit amounts shall include any credits previously allocated to the development, and the per unit credit amount [~~and per bedroom credit amount~~] for any building documented by the applicant to be located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of ~~525~~ 475 points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

7. Bonus points. For each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points, bonus points shall be assigned as follows:

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (The product of (i) 50 points multiplied by (ii) the percentage of low-income housing units restricted for occupancy to households at or below 50% of the area median gross income.)

b. Commitment by the applicant to impose rent limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (The product of (i) 25 points multiplied by (ii) the percentage of low-income units restricted to the rents required for occupancy to households at or below 50% of the area median gross income.)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the ~~15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance~~

~~period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building.~~ Applicants receiving points under this subdivision c may not receive bonus points under subdivision d below. (40 points for a ~~15-year~~ 10-year commitment beyond the ~~15-year compliance~~ 30-year extended use period or 50 points for a ~~25-year~~ 20-year commitment beyond the ~~15-year compliance~~ 30-year extended use period.)

d. [~~Commitment~~ *Participation by a qualified nonprofit organization or local housing authority substantially based or active in the housing community with at least a 10% ownership interest in the general partnership interest of the partnership and a commitment*] by the applicant to sell the proposed development ~~by~~ pursuant to an executed, recordable option or right of first refusal to [~~a such~~] qualified nonprofit organization [~~authorized to do business in Virginia and substantially based or active in the community of the development or to a wholly-owned subsidiary of such organization or authority~~], at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for profit entity. The applicant must record such option or right of first refusal ~~as an exhibit to immediately after~~ the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any refinancings of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. (~~50~~ 60 points)

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools shall have been established, each application shall be assigned to a pool and shall be ranked within such pool. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

In the event of a tie in the number of points assigned to two or more applications within the same pool, or, if none, within the state, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool or, if none, within the Commonwealth, select one or more of the applications with the most bonus points as described above, and each application so selected shall receive (in order based

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upon the number of such bonus points, beginning with the application with the most bonus points) a reservation of credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or, if none, in the Commonwealth. If two or more of the tied applications receive the same number of bonus points and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or, if none, in the Commonwealth.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The executive director may, if he deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review and establish any or all of the foregoing items as to the larger development in making such determination for the development.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool, if applicable, until either substantially all credits therein are reserved or all qualified applications

therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available credits, provided that the applicant's modified development produces at least 75% of the units and bedrooms described in the application for the proposed development, or (ii) move the proposed development and the credits available to another pool. Any modifications shall be subject to the approval of the executive director; however, in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to this section. If any credits remain in any pool after accepting any modifications to an applicant's proposed development or moving proposed developments and credits to another pool, the executive director may reserve the remaining credits to any proposed development(s) scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application. If necessary, the executive director may, for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. However, the reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools is less than the total amount of credits made available therein

during such round, the executive director may either (i) leave such unreserved credits in such pools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year.

Notwithstanding anything contained herein, the executive director shall not reserve more than \$1.2 million of credits to any general partner(s) or principal(s) of such general partner(s), directly or indirectly, in any credit year.

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development unless the transfer is consented to by the executive director. The written binding commitment shall further limit the developers' fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director. The executive director may, as a condition to the binding commitment, require each applicant to obtain a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development.

If credits are reserved to any applicants for developments which have also received an allocation of credits from prior years, the executive director may reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount. The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to this section). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable

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to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

13 VAC 10-180-70. Allocation of credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of credits is (i) placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC and (ii) meets all of the preallocation requirements of this chapter, the binding commitment and any other applicable contractual agreements between the applicant and the authority, the applicant shall so advise the authority, shall request the allocation of all of the credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, this chapter, the binding commitment and the aforementioned contractual agreements, if any, and shall submit such application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings or development is entitled to such credits as described above. The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or

receipts expected by the authority to be generated with respect to the development and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to 13 VAC 10-180-60) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined in 13 VAC 10-180-60) at fixed interest rates, debt service on the proposed mortgage loan. The amount of credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director by more than a de minimis amount of not more than \$100.

Prior to allocating credits to an applicant, the executive director shall require the applicant to execute and deliver to the authority a valid IRS Form 8821, Tax Information Authorization, naming the authority as the appointee to receive tax information. The Forms 8821 of all applicants will be forwarded to the IRS, which will authorize the IRS to furnish the authority with all IRS information pertaining.

Prior to allocating the credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use

period for any building shall be subject to termination, in accordance with the IRC [, (i)] on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period ~~or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. [or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building]~~. In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units. Such commitment shall also contain such other terms and conditions as the executive director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and this chapter. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC.

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or prior to the end of the second calendar year after the calendar year in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that the buildings or development is so entitled to the credits, he shall allocate the credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low-income buildings or to the applicant's development in accordance with the requirements of the IRC. If the executive director shall determine that the applicant's buildings or development is not so entitled to the credits, he shall not allocate the credits and shall so notify the applicant within a reasonable time after such determination is made. In the event that any such applicant shall not request an

allocation of all of its reserved credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved credits, the executive director may reserve or allocate, as applicable, such unallocated credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of credits for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC the binding commitment, any contractual agreements between the authority and the applicant and this chapter as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any credits for which the applicants fail to satisfy such requirements.

The executive director may make the allocation of credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The executive director may also (to the extent not already required under 13 VAC 10-180-60) require that all applicants make such good faith deposits or execute such contractual agreements with the authority as the executive director may require with respect to the credits, (i) to ensure that the buildings or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to 13 VAC 10-180-60 and (ii) only in the case of any buildings or development which are to receive an allocation of credits hereunder and which are to be placed in service in any future year, to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

In the event that the executive director determines that a development for which an allocation of credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the authority, the executive director may terminate the allocation and rescind the credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement. An allocation of credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any credits, the executive director may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

VA.R. Doc. No. R00-15; Filed January 24, 2000, 3:46 p.m.



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TITLE 14. INSURANCE

AT RICHMOND, JANUARY 14, 2000

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS990252

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Ex Parte: In the matter of
Adopting Rules Governing
Independent External Review
of Final Adverse Utilization
Review Decisions
(14 VAC 5-215-10 et seq.)

Title of Regulation: **14 VAC 5-215-10 et seq. Rules Governing Independent External Review of Final Adverse Utilization Review Decisions.**

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

Effective Date: February 15, 2000.

Summary:

The purpose of these rules is to carry out the provisions of Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia dealing with External Review of Final Adverse Review Decisions. The rules provide a process for appeals to be made to the State Corporation Commission's Bureau of Insurance to obtain an independent external review of final adverse decisions made by or on behalf of Managed Care Health Insurance Plans. The rules also establish procedures for both standard and expedited considerations of such appeals, and establish standards, credentials, and qualifications for those impartial health entities that will be contracted by the Bureau of Insurance to perform the reviews of such appeals.

Significant changes made to the final regulation from the proposed regulation include the following: (i) the definition of "appellant" in 14 VAC 5-215-30 was amended to make clear that a committee can request an external review if a covered person is incompetent or incapacitated; (ii) the definition of "utilization review" in 14 VAC 5-215-30 was amended to clarify that specific health care services explicitly excluded in an evidence of coverage would not be eligible for external review; (iii) 14 VAC 5-215-70 E 1 was amended to clarify that the commissioner may terminate an external review if records or documents are not provided "without good cause"; (iv) 14 VAC-5-215-80 was amended by adding a new subdivision to clarify that a ruling in connection with a request for an expedited review is binding on the appellant and the utilization review entity; and (v) 14 VAC 5-215-10 B was amended to make clear that TRICARE is not included within the coverage provided by this regulation.

Agency Contact: Robert L. Wright, III, Principal Insurance Analyst, Life and Health Division, Bureau of Insurance, State Corporation Commission, 1300 E. Main Street, 5th Floor, Richmond, VA 23219; mailing address P.O. Box 1157, Richmond, VA 23218; telephone (804) 371-9074.

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein November 2, 1999, the Commission ordered that a hearing be conducted on December 16, 1999, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing Independent External Review of Final Adverse Utilization Review Decisions";

WHEREAS, the Commission's order required all interested persons to file their comments to the proposed regulation on or before December 2, 1999;

WHEREAS, the Bureau filed a response to the prefiled comments on December 14, 1999;

WHEREAS, the Commission conducted the aforesaid hearing where it received additional comments to the proposed regulation;

WHEREAS, the Bureau has recommended certain amendments to the proposed regulation in response to concerns raised by the Commission and the additional comments received by the Commission at the hearing; and

THE COMMISSION, having considered the proposed regulation, the comments of interested persons, and the Bureau's responses and recommendation, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED THAT:

(1) The regulation entitled "Rules Governing Independent External Review of Final Adverse Utilization Review Decisions," which is to be published in Chapter 215 of Title 14 of the Virginia Administrative Code as rules at 14 VAC 5-215-10 through 14 VAC 5-215-130, and which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective February 15, 2000;

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the adoption of the regulation by mailing a copy of this Order, together with a clean copy of the attached regulation, to all insurers licensed by the Commission to write accident and sickness insurance in the Commonwealth of Virginia and all health services plans, health maintenance organizations, and dental or optometric plans licensed by the Commission under Chapters 42, 43, and 45, respectively, of Title 38.2 of the Code of Virginia; and

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

CHAPTER 215.

RULES GOVERNING INDEPENDENT EXTERNAL REVIEW OF FINAL ADVERSE UTILIZATION REVIEW DECISIONS.

14 VAC 5-215-10. Scope and purpose.

A. This chapter shall apply to all utilization review entities as that term is defined in 14 VAC 5-215-30 [~~of this chapter~~], the issuer of a covered person's policy or contract of health benefits, and covered persons.

B. This chapter shall not apply to utilization [review] performed under contract with the federal government for [~~utilization of~~] patients eligible for [~~hospital health care~~] services under Title XVIII of the Social Security Act (42 USC § 1395 et seq.) [, utilization review performed under contract with the federal government for patients eligible for health care services under the TRICARE program (10 USC § 1071 et seq.),] or [utilization review performed] under contract with a plan otherwise exempt from the operation of this chapter pursuant to the Employee Retirement Income Security Act of 1974 (29 USC § 1001 et seq.).

This chapter shall not apply to programs administered by the Department of Medical Assistance Services or under contract with the Department of Medical Assistance Services.

C. The purpose of this chapter is to set forth rules to carry out the provisions of Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia so as to provide (i) a process for appeals to be made to the Bureau of Insurance to obtain an independent external review of final adverse decisions made by a utilization review entity; (ii) procedures for expedited consideration of appeals in cases of emergency health care; and (iii) standards, credentials, and qualifications for impartial health entities.

14 VAC 5-215-20. Evidence of coverage forms.

A. The right of appeal contained in this chapter shall commence with regard to final adverse decisions rendered on or after May 17, 2000. Evidences of coverage affected by this chapter that are issued, extended, renewed, amended, or reissued on or after February 15, 2000, shall conform to the provisions of this chapter. Evidences of coverage in force on February 15, 2000, shall be deemed to be in compliance with this chapter and may continue to be used until the date that they are extended, renewed, amended, or reissued. If any provision of an evidence of coverage in force February 15, 2000, conflicts with provisions of this chapter, the Bureau of Insurance and the impartial health entity shall use the provision more beneficial to the covered person.

B. In the event of a final adverse decision, a utilization review entity shall provide to the covered person or treating health care provider requesting the decision a clear and understandable written notification of (i) the right to appeal final adverse decisions to the Bureau of Insurance in accordance with the provisions of Chapter 59 of Title 38.2 of the P; and (iii) the binding nature and effect of such an appeal. The notice shall include a copy of the then current ["] Appeal of Final Adverse Decision ["] Form [;] or such

other form or forms as may then be required by the Bureau of Insurance pursuant to 14 VAC 5-215-120.

14 VAC 5-215-30. Definitions.

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

"Adverse decision" means a utilization review determination by the utilization review entity that the health care service rendered or proposed to be rendered was or is not medically necessary, when such determination may result in noncoverage of the health care service.

"Appellant" means (i) the covered person [; (ii)] the covered person's parent [, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person] if the covered person is a minor [~~or the covered person's legal guardian or~~ (iii)] the covered person's spouse, parent, committee, legal guardian, or other individual authorized by law to act on behalf of the covered person if the covered person is not a minor but is incompetent or incapacitated; or (iv)] the covered person's treating health care provider acting with the consent of the covered person, the covered person's parent [, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person] if the covered person is a minor, or the covered person's [spouse, parent, committee,] legal guardian [, or other individual authorized by law to act on behalf of the covered person if the covered person is not a minor but is incompetent or incapacitated].

"Commission" means the Virginia State Corporation Commission.

"Commissioner" means the Commissioner of Insurance.

"Covered person" means a subscriber, policyholder, member, enrollee or dependent, as the case may be, under a policy or contract issued or issued for delivery in Virginia by a managed care health insurance plan licensee, insurer, health services plan, or preferred provider organization.

"Emergency health care" means health care items and medical services furnished or required to evaluate and treat an emergency medical condition.

"Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, the absence of which would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy. "Emergency medical condition" also means [~~those health care services that are necessary to treat~~] a [health] condition or illness [~~of a covered person~~] that if not treated within the time frame allotted for a standard review under this chapter will result in [~~serious risk of harm to the health of the covered person~~] a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy].

"Evidence of coverage" means any certificate, individual or group agreement or contract, or identification card or related documents issued in conjunction with the certificate,

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agreement or contract, issued to a subscriber setting out the coverage and other rights to which a covered person is entitled.

"Final adverse decision" means a utilization review determination made by a utilization review entity in: (i) declining to grant an expedited review in a situation involving an alleged emergency medical condition; (ii) declining to provide coverage or services for an alleged emergency medical condition, whether before or after granting an expedited review; or (iii) a reconsideration of a prior adverse decision, and upon which a covered person or a treating health care provider acting with the consent of a covered person may base an appeal. For purposes of this chapter, a final adverse decision shall be deemed to have been made on the date that it is communicated to the covered person or treating health care provider.

"Treating health care provider" or "provider []" means a licensed health care provider who renders or proposes to render health care services to a covered person.

"Utilization review" means a system for reviewing the necessity, appropriateness, and efficiency of hospital, medical or other health care services rendered or proposed to be rendered to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insurer, health services plan, managed care health insurance plan licensee, or other entity or person. As used herein, "utilization review" shall include, but shall not be limited to, preadmission, concurrent and retrospective medical necessity determination, and review related to the appropriateness of the site at which services were or are to be delivered.

"Utilization review" shall also include determinations of medical necessity based upon contractual limitations regarding "experimental" or "investigational" procedures, by whatever terms designated in the evidence of coverage. "Utilization review" shall not include any: (i) ~~review of issues concerning insurance contract coverage or contractual restrictions on facilities to be used for the provision of services;~~ (ii) ~~review of patient information by an employee of or consultant to any licensed hospital for patients of such hospital~~ denial of benefits or services for a procedure which is explicitly excluded pursuant to the terms of the contract or evidence of coverage; (ii) review of issues concerning contractual restrictions on facilities to be used for the provision of services]; or (iii) determination by an insurer as to the reasonableness and necessity of services for the treatment and care of an injury suffered by an insured for which reimbursement is claimed under a contract of insurance covering any classes of insurance defined in §§ 38.2-117 through 38.2-119, 38.2-124 through 38.2-126, 38.2-130 through 38.2-132, and 38.2-134 of the Code of Virginia.

"Utilization review entity" or "entity" means a person or entity performing utilization review.

14 VAC 5-215-40. Minimum appealable amount.

A. Appeals of final adverse decisions may be made to the Bureau of Insurance provided that the cost of the health care service or services to the covered person would exceed \$500 if the final adverse decision is not reversed. The cost of the

health care service or services shall be determined by the amount the covered person has paid or has incurred a legal obligation to pay for such service or services, as well as the amount that the covered person would be obligated to pay in the event that the final adverse decision is not reversed.

B. The health care service or services must meet the following criteria in order to be eligible for an external review as provided by this chapter:

1. The service or services, as described by the most recent published editions of the applicable International Classification of Diseases 9th Revision Clinical Modification, Physician's Current Procedural Terminology, Diagnostic Related Groups, or other billing code, must have a minimum value, as [~~measured by the cost to the covered person defined in subsection A of this section~~], that exceeds \$500.
2. No covered person or provider shall engage in "bundling" techniques designed to combine the value of denied services such that the cost to the covered person of denied services artificially exceeds \$500.
3. The commissioner, or his designee, shall have the final undisputed authority to determine if the cost to the covered person of the denied services exceeds \$500.

14 VAC 5-215-50. Appeals.

A. An appeal of a final adverse decision made by a utilization review entity shall be submitted to the Bureau of Insurance within 30 days of the final adverse decision. The appeal shall be made by (i) completing and signing a copy of the then current "Appeal of Final Adverse Decision" form, or such other form or forms as may then be required by the Bureau of Insurance pursuant to 14 VAC 5-215-120; (ii) completing and signing an "Authorization to Release Medical Information" in a form and manner required by the Bureau of Insurance; and (iii) forwarding a check or money order made payable to the "Treasurer of Virginia" in the amount of \$50. The Bureau of Insurance shall provide a copy of the written appeal to the utilization review entity that made the final adverse decision.

B. The \$50 fee required to file an appeal may be waived or refunded for good cause shown upon a determination by the Bureau of Insurance that payment of the filing fee will cause undue financial hardship for the covered person. Such determination shall be based upon information provided on the "Appeal of Final Adverse Decision" form then required by the Bureau of Insurance, and any supplemental information required by the Bureau of Insurance. The decision of the Bureau of Insurance as to whether good cause has been shown that payment of the filing fee will cause undue financial hardship shall be final.

C. A preliminary review of the appeal shall be conducted by the Bureau of Insurance or its designee to determine the following: (i) that the person on whose behalf the appeal has been filed is, or was, a covered person at the time the health care service in question was requested; (ii) that the appellant satisfies the definition of "appellant" set forth in 14 VAC 5-215-30; (iii) that the benefit or service that is the subject of the appeal reasonably appears to be a covered service for which

the cost to the covered person would exceed \$500 if the final adverse decision is not reversed; (iv) that all other appeal procedures available to the appellant have been exhausted, except in the case of an appeal accepted as one requiring expedited review; and (v) that the appeal is otherwise complete and filed in accordance with this section. The Bureau of Insurance shall not accept an appeal that does not meet the foregoing requirements.

D. The preliminary review shall be conducted within five working days of receipt of all information and documentation necessary to conduct the preliminary review.

E. The Bureau of Insurance shall notify the appellant and the utilization review entity in writing within three working days of the completion of the preliminary review whether the appeal has been accepted for review, and if not accepted, the reason or reasons therefor.

F. The appellant, the treating health care provider, if not the appellant, and the utilization review entity shall provide to the Bureau of Insurance or its designee copies of all medical records relevant to the final adverse decision within 10 working days after the Bureau of Insurance has mailed [, via certified mail, return receipt requested,] written notice of its acceptance of the appeal. The confidentiality of these medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

G. The Bureau of Insurance, or its designee, may request additional medical records from the appellant, the treating health care provider, if not the appellant, or the utilization review entity. Such medical records shall be provided to the entity making the request, whether the Bureau of Insurance or its designee, within 10 working days of the request. The confidentiality of these medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth. Failure to comply with the request within the required time may result in dismissal of the appeal or reversal of the final adverse decision at the discretion of the commissioner [of Insurance].

H. If an appeal that is reviewed as an expedited appeal by a utilization review entity results in a final adverse decision, the utilization review entity shall take the following actions immediately: (i) notify the person who requested the expedited review of the final adverse decision; and (ii) notify the appellant, by telephone, telefacsimile, or electronic mail, that the appellant is eligible for an expedited appeal to the Bureau of Insurance without the necessity of providing the justification required pursuant to subdivision 1 of 14 VAC 5-215-80. The notification shall be followed within 24 hours by written notice to the appellant and the treating health care provider, if not the appellant, clearly informing them of the right to appeal this decision to the Bureau of Insurance and providing the appropriate forms by which such appeal to the Bureau of Insurance may be filed. A copy of this written notice shall be retained by the utilization review entity and included with any materials forwarded to the Bureau of Insurance in the event the utilization review entity's decision is appealed to the Bureau of Insurance.

I. If a request for an expedited review is denied by a utilization review entity, the entity shall take the following

actions immediately: (i) notify the appellant of the decision by telephone, telefacsimile, or electronic mail; and (ii) inform the appellant that the appellant has the right to file a request for an expedited appeal with the Bureau of Insurance pursuant to subdivision 1 of 14 VAC 5-215-80. This notification shall be followed within 24 hours by a written notice to the appellant and the treating health care provider, if not the appellant, clearly informing them of the right to appeal this decision to the Bureau of Insurance and providing the appropriate forms by which such appeal to the Bureau of Insurance may be filed. A copy of the written notice shall be retained by the utilization review entity and included with any materials forwarded to the Bureau of Insurance in the event the utilization review entity's decision is appealed to the Bureau of Insurance.

J. If the Bureau of Insurance, or its designee, determines that a request for an expedited review which has been reviewed in accordance with subsection I of this section does not meet its criteria for an expedited review, the appellant shall be notified in writing by the Bureau of Insurance, or its designee, within two working days from the time such determination is made. The notice shall instruct the appellant wishing to pursue the appeal to contact the issuer of coverage and request a review through the standard review process of the issues for which an expedited review was sought.

14 VAC 5-215-60. Impartial health entity.

The Bureau of Insurance shall contract with one or more impartial health entities to perform the review of final adverse decisions made by utilization review entities. The impartial health entity shall examine the final adverse decision and determine whether the decision is objective, clinically valid, compatible with established principles of health care, and appropriate under the terms of the contractual obligations to the covered person. The impartial health entity shall issue its written recommendation affirming, modifying, or reversing the final adverse decision within 30 working days of the acceptance of the appeal by the Bureau of Insurance in the case of a standard review as set forth in 14 VAC 5-215-70. In the case of an expedited review, the impartial health entity shall issue its written recommendation within five working days of the acceptance of the appeal by the Bureau of Insurance.

14 VAC 5-215-70. Standard review.

A. The Bureau of Insurance, within two working days following its acceptance of an appeal, shall assign an impartial health entity with which it has contracted pursuant to 14 VAC 5-215-60 to conduct an external review and to provide a written recommendation to the commissioner as to whether to affirm, modify, or reverse the final adverse decision.

B. In reaching a recommendation, the assigned impartial health entity is not bound by any decisions or conclusions reached during the utilization review entity's utilization review process.

C. [In lieu of providing records to the Bureau of Insurance pursuant to 14 VAC 5-215-50 F,] the utilization review entity [, the appellant or the treating health care provider, if not the appellant,] shall provide to the assigned impartial health

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entity all documents, medical records, and other information relevant to [~~the~~ and relied upon by the utilization review entity in reaching its] final adverse decision within 10 working days [~~of the receipt of the notice required in 14 VAC 5-215-50 F~~ after the Bureau of Insurance has mailed written notice of its acceptance of the appeal pursuant to 14 VAC 5-215-50 E. The confidentiality of medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth].

D. Except as provided in subsection E of this section, failure of the utilization review entity to provide the documents, medical records and information within the time specified in subsection C of this section shall not delay the conduct of the external review.

E. 1. Upon receipt of a notice from the assigned impartial health entity that the utilization review entity, appellant, or the treating health care provider, if not the appellant, has failed [, without good cause, as determined by the commissioner in his sole discretion,] to provide the documents, medical records, and information within the time specified in subsection C of this section, the commissioner may terminate the external review and make a decision to affirm or reverse the final adverse decision.

2. Immediately upon making the decision pursuant to subdivision 1 of this subsection, the commissioner shall communicate his decision in writing to the assigned impartial health entity, the appellant and the utilization review entity.

F. The assigned impartial health entity shall review all of the relevant information and documents received pursuant to subsection C of this section and any other information submitted in writing by the appellant that has been forwarded to the impartial health entity by the Bureau of Insurance.

G. In addition to the documents and information provided pursuant to subsection C of this section, the assigned impartial health entity, to the extent the information is available and the impartial health entity considers them appropriate, shall consider the following in making its recommendation:

1. The treating health care provider's recommendation;
2. Consulting reports from appropriate health care providers and other documents submitted by the utilization review entity, the appellant, or the covered person's treating health care provider, if not the appellant;
3. The terms of coverage under the covered person's health benefit plan;
4. The most appropriate practice guidelines, which may include generally accepted practice guidelines, evidence-based practice guidelines or any other practice guidelines developed by the federal government, national or professional medical societies, boards and associations; and
5. Any applicable clinical review criteria developed or used by the utilization review entity.

H. The assigned impartial health entity shall include in its recommendation provided pursuant to 14 VAC 5-215-60:

1. A general description of the reason or reasons for the request for external review;
 2. The date the impartial health entity received the assignment from the Bureau of Insurance to conduct the external review;
 3. The dates the external review began and concluded;
 4. The date of its recommendation;
 5. The principal reason or reasons for its recommendation;
 6. The rationale for its recommendation; and
 7. References to the evidence or documentation, including the practice guidelines or clinical criteria, considered in reaching its recommendation.
- I. 1. Immediately upon receipt of the assigned impartial health entity's recommendation, the commissioner shall review the recommendation to ensure that it is not arbitrary or capricious.
2. The commissioner shall notify the appellant and the utilization review entity in writing of the decision to uphold or reverse the final adverse decision by issuing a written ruling affirming, modifying or reversing the final adverse decision. The written ruling shall bind the covered person and the issuer of the covered person's policy or contract for health benefits to the same extent to which each would have been bound by a judgment entered in an action at law or in equity with respect to the issues which the impartial health entity may examine when reviewing a final adverse decision.
3. The commissioner shall include in the notice sent pursuant to subdivision 2 of this subsection:
- a. The principal reason or reasons for the decision, including, as an attachment to the notice or in any other manner that the commissioner considers appropriate, the information provided by the assigned impartial health entity supporting its recommendation; and
 - b. If applicable, the principal reason or reasons why the commissioner did not follow the assigned impartial health entity's recommendation.
4. Upon notice of a decision pursuant to subdivision 1 of this subsection reversing the final adverse decision, the utilization review entity immediately shall approve and provide, or provide reimbursement for, any and all medical services that were the subject of the final adverse decision.

14 VAC 5-215-80. Expedited review.

Appeals presented to the Bureau of Insurance as requiring emergency health care shall be evaluated as follows.

1. Immediately upon receipt of an appeal indicating that emergency health care is required and otherwise meeting

the requirements for review as provided in 14 VAC 5-215-50 C, the Bureau of Insurance shall consult with the impartial health entity to which the appeal normally would be assigned, and such entity shall determine if the appeal involves emergency health care.

2. If, after consultation with the impartial health entity, a determination is made by the Bureau of Insurance that the appeal does not qualify for an expedited review, the person making the request for the expedited review shall be notified within two working days of receipt by the Bureau of Insurance of sufficient information to support the request for expedited review. The declination by the Bureau of Insurance to provide an expedited review shall not preclude the appellant from resuming the normal appeal process within the utilization review entity or from filing a request for a standard review by the Bureau of Insurance, provided the requirements set forth in 14 VAC 5-215-50 A have been met.

3. Immediately upon acceptance of an appeal for expedited review, the Bureau of Insurance shall notify the utilization review entity and the appellant by the most expeditious means available, including telephone, telefacsimile, or electronic mail, of their right to submit information and supporting documentation. Such information shall be submitted to the Bureau of Insurance or the impartial health entity within two working days of the acceptance of the appeal.

4. Upon the acceptance of the appeal for expedited review the Bureau of Insurance shall assign the appeal to an impartial health entity for clinical review as provided in 14 VAC 5-215-60. The impartial health entity shall review the appeal and make a decision as required under 14 VAC 5-215-60 as soon as possible consistent with the medical exigencies of the case, but in no event more than five working days after its receipt of the appeal.

[5. a. Immediately upon receipt of the assigned impartial health entity's recommendation, the commissioner shall review the recommendation to ensure that it is not arbitrary or capricious.

b. The commissioner shall notify the appellant and the utilization review entity in writing of the decision to uphold or reverse the final adverse decision by issuing a written ruling affirming, modifying or reversing the final adverse decision. The written ruling shall bind the covered person and the issuer of the covered person's policy or contract for health benefits to the same extent to which each would have been bound by a judgment entered in an action at law or in equity with respect to the issues which the impartial health entity may examine when reviewing a final adverse decision.

c. The commissioner shall include in the notice sent pursuant to subdivision b of this subsection:

(1) The principal reason or reasons for the decision, including, as an attachment to the notice or in any other manner that the commissioner considers appropriate, the information provided by the assigned impartial health entity supporting its recommendations; and

(2) If applicable, the principal reason or reasons why the commissioner did not follow the assigned impartial health entity's recommendation.

d. Upon notice of a decision pursuant to subdivision 5 a of this subsection reversing the final adverse decision, the utilization review entity immediately shall approve and provide, or provide reimbursement for, any and all medical services that were the subject of the final adverse decision.]

14 VAC 5-215-90. Reconsideration of final adverse decision.

A. The utilization review entity may reconsider its final adverse decision that is the subject of the external review at any time.

B. Reconsideration by the utilization review entity of its final adverse decision shall not delay or terminate the external review.

C. The external review may be terminated if the utilization review entity decides, upon completion of its reconsideration, to reverse its final adverse decision and provide coverage or payment for the health care service that is the subject of the final adverse decision.

D. 1. Immediately upon making the decision to reverse its final adverse decision, the utilization review entity shall notify the appellant, the assigned impartial health entity, and the commissioner in writing of its decision.

2. The assigned impartial health entity shall terminate the external review upon receipt of the notice from the utilization review entity sent pursuant to subdivision 1 of this subsection.

14 VAC 5-215-100. Payment of fees.

Any utilization review entity that: (i) reverses a final adverse decision that has already been assigned to an impartial health entity for review; or (ii) is required to provide previously denied services as a result of the commissioner's written ruling shall be responsible for the payment of the actual costs, as determined by the Bureau of Insurance, incurred by the commission [for the services performed by the impartial health entity] in the course of such review. This payment shall be made within 30 days of notification to the utilization review entity of the actual costs incurred.

14 VAC 5-215-110. Standards, credentials, and qualifications of the impartial health entity.

A. In order to qualify to perform either standard or expedited external reviews pursuant to this chapter and § 38.2-5900 et seq. of the Code of Virginia an impartial health entity shall have and maintain written policies and procedures that govern all aspects of the standard and expedited external review processes that include, at a minimum:

1. A quality assurance mechanism in place that ensures:
a. That external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

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b. The selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the impartial health entity and suitable matching of reviewers to specific cases;

c. That the confidentiality of medical records is maintained in accordance with the confidentiality and disclosure laws of the Commonwealth; and

d. That any person employed by or under contract with the impartial health entity adheres to the requirements of this chapter as well as § 38.2-5900 et seq. of the Code of Virginia; and

2. An agreement to maintain and provide to the commission the information set out in § 38.2-5900 et seq. of the Code of Virginia.

B. All clinical peer reviewers assigned by an impartial health entity to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

1. Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

2. Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions as the covered person's;

3. Hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

4. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character.

C. In addition to the requirements set forth in subsection A of this section, an impartial health entity shall not be affiliated with or a subsidiary of, nor be owned or controlled by a health plan, a trade association of health plans, or a professional association of health care providers.

D. 1. In addition to the requirements set forth in subsections A, B, and C of this section, to be qualified to perform an external review of a specified case pursuant to this chapter, neither the impartial health entity selected to conduct the external review nor any clinical peer reviewer assigned by the impartial health entity to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

a. The utilization review entity that made the final adverse decision that is the subject of the external review;

b. The covered person whose treatment is the subject of the external review;

c. Any officer, director or management employee of the utilization review entity that made the final adverse decision which is the subject of the external review;

d. The health care provider, the health care provider's medical group or independent practice association recommending the health care service or services subject to the external review;

e. The facility at which the recommended health care service was or would be provided; or

f. The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

2. In determining whether an independent review organization or a clinical peer reviewer of the impartial health entity has a material, professional, familial or financial conflict of interest for purposes of subdivision 1 of this subsection, the commissioner may take into consideration situations where the impartial health entity to be assigned to conduct an external review of a specified case or a clinical peer reviewer to be assigned by the impartial health entity to conduct an external review of a specified case may have an apparent professional, familial or financial relationship or connection with a person described in subdivision 1 of this subsection, but the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest sufficient to disqualify the impartial health entity or the clinical peer reviewer from conducting the external review.

14 VAC 5-215-120. Modification of forms.

The Bureau of Insurance shall be permitted to modify forms prepared for use in connection with this chapter as needed without requiring amendment to this chapter. Any modifications shall be provided to all insurers licensed to market health insurance, all licensed health maintenance organizations, and all licensed health services plans in the form of an administrative letter prepared by the Bureau of Insurance and sent by regular mail to such licensee's mailing address as shown in the records of the Bureau of Insurance. Failure to receive such administrative letter shall not be cause for exemption or grounds for noncompliance with the requirements set forth in this chapter. All original and subsequently modified forms shall be filed by the Bureau of Insurance for publication in the Virginia Register of Regulations.

14 VAC 5-215-130. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

NOTICE: The forms used in administering 14 VAC 5-215-10 et seq., Rules Governing Independent External Review of Final Adverse Utilization Review Decisions, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Instructions for Completing the Appeal of Final Adverse Decision Form (eff. 2/15/00).

Important Terms and Definitions (eff. 2/15/00).

Appeal of Final Adverse Decision [Form] (eff. 2/15/00).

Authorization to Release Medical Information (eff. 2/15/00).

State Corporation Commission
Bureau of Insurance
Life and Health Division
P.O. Box 1157
Richmond, VA 23218
(804) 371-9741



IMPORTANT TERMS AND DEFINITIONS

"Appellant" - means (i) the covered person; (ii) the covered person's parent, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person; (iii) if the covered person is a minor, the covered person's legal guardian, or (iv) the covered person's parent, committee, legal guardian, or other individual authorized by law to act on behalf of the covered person. If the covered person is not a minor but is incompetent or incapacitated, or (v) the covered person's (treating) health care provider acting with the consent of the covered person, the covered person's legal guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person; (vi) if the covered person is a minor, or the covered person's (spouse, parent, committee) legal guardian for other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated.

"Cost of Service" - the total amount paid by the covered person for a rendered service or the assumed liability for that service by the covered person for a rendered service. The law requires that in order for an appeal of a final adverse decision to occur, the cost to the covered person of the service if the final adverse decision is not reversed must be less than \$500.

"Emergency Medical Condition" - the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, the absence of which would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy. Emergency medical condition also means (those health care services that are necessary to stabilize the health condition or illness of a covered person) that if not treated within the time frame allotted for an expedited review (under this chapter) will result in (serious risk of harm to the health of the covered person) or a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the covered person's health in serious jeopardy.

"Expedited Review" - a review of a final adverse decision that is provided in an urgent manner due to the fact that the covered person has an emergency medical condition.

"Final Adverse Decision" - means a utilization review decision made by a utilization review entity in: (i) declining to grant an expedited review in a situation involving an alleged emergency medical condition; (ii) declining to provide coverage or services for an alleged emergency medical condition, whether before or after granting an expedited review; or (iii) a reconsideration of a prior adverse decision, and upon which a covered person or provider acting with the consent of a covered person may base an appeal. In other words, and except in emergency situations, it is the final decision of the plan after the internal appeal process has been exhausted.

"Impartial Health Entity" - an organization selected by the Bureau of Insurance that performs, under contract with the Bureau of Insurance, reviews of final adverse decisions. The Bureau of Insurance is not an impartial health entity.

"Managed Care Health Insurance Plan" or **"MCHIP"** - an arrangement for the delivery of health care in which a health carrier undertakes to provide, arrange and pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis which contains one or more incentive arrangements, including any credentialing requirements intended to influence the cost or level of health care services between the health carrier and one or more providers with respect to the delivery of health care services and requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with or employed by the health carrier.

"Self-funded Plan" - an employer sponsored group health plan administered by an insurance company or MCHIP. The employer actually pays for claims that are processed and administered by the insurance company or MCHIP.

State Corporation Commission
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INSTRUCTIONS FOR COMPLETING THE APPEAL

OF FINAL ADVERSE DECISION FORM

Please Read Carefully Before Completing the Form

Before attempting to complete the attached form, please read the following instructions carefully. We also recommend that you review the form itself as well as the "Important Terms" list attached.

The law requires that in order to be "appealable" the cost to the covered person of the services or procedures in question would exceed \$500 if the final adverse decision is not reversed. Please verify the cost of the service(s) before requesting an appeal of a final adverse decision.

- Name & Address**
Please type (or print) the covered person's full name. Include the address, daytime telephone number, date of birth, sex and policy number, certificate number, or other identifying number of the covered person.
- Appellant Information**
This section is to be completed by the appellant who is making the appeal on behalf of the covered person. This section does not need to be completed if the covered person is requesting the external review on his own behalf.
- Name of the Managed Care Health Insurance Plan**
Please provide the name, address and telephone number of the Managed Care Health Insurance Plan (MCHIP). The MCHIP name should be the same as the insurance company or health maintenance organization providing the covered person's coverage. If the covered person is covered by insurance through an employer, please provide the name, address and phone number of the employer, if available. If the plan is self-funded, please indicate that information as well (optional).
- Describe the Covered Person's Situation**
Please clearly and accurately describe the nature of the circumstances surrounding the covered person's request for an appeal of a final adverse decision. Attach copies of any pertinent and essential documentation that supports your request, including the letter from the covered person's MCHIP denying coverage for the service or services you want reviewed. This could include, but is not limited to, correspondence from treating physicians and medical records.
- Expedited Review**
In certain situations, an expedited review of an appeal of a final adverse decision may be requested. [If delay of the service(s) or procedure(s) with immediately threaten the life or health of the covered person, Please review the definition of "emergency medical condition" provided with this form. If the situation involves an "emergency medical condition," please indicate this by checking the "yes" box (---) and attach supporting documentation [the appropriate that the situation involved is immediately life or health threatening].
- Filing Fee Waiver**
Please note that the \$50 filing fee may be waived. If you wish to request that the filing fee be waived, please describe the reason or reasons for the request and provide supporting documentation.
- Authorization/Authorization to Release Medical Information**
Please carefully read the "Authorization" section on the "Appeal of Final Adverse Decision" form and the separate "Authorization to Release Medical Information" form included with this package. Information that you provide or authorize to be released may be shared with an impartial health entity. The signature of the covered person or the covered person's parent or legal guardian (once authorized signature) is required on both of these forms in order for the appeal of the final adverse decision to occur.



State Corporation Commission
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APPEAL OF FINAL ADVERSE DECISION [FORM]

If you meet the definition of an 'Appellant', and have had a request for approval of health care services(s) denied by a Managed Care Health Insurance Plan (MCHIP), you may have the right to an external review of the MCHIP's decision. An impartial health entity selected by the Bureau of Insurance will review the appropriateness of the MCHIP's decision, and make a recommendation to the Commissioner of Insurance as to whether the health care service(s) should be covered. In order for such a review to occur, the appellant must complete and sign this form. Additionally, the appeal in question must meet the following criteria:

- 1. The cost of service in question must exceed \$500;
2. The appeal must be filed within 30 days of the final adverse decision by the MCHIP;
3. The MCHIP's internal appeal process must have been exhausted (except for expedited reviews); and
4. A \$50 filing fee must be submitted with this form by check or money order made payable to the Treasurer of Virginia. This fee is nonrefundable unless it can be demonstrated that paying the fee constitutes a financial hardship to the covered person (see item 6 on the following page).

Additional instructions and definitions of key terms for completing this form are attached. If you have questions while completing this form or if you have questions that are not addressed in the instruction form, you may contact The Office of the Managed Care Ombudsman toll free at (877) 310-6560, or locally at (804) 371-9032, for assistance.

The decision reached as a result of this external review process is binding upon the covered person as well as the issuer of the covered person's policy to the same extent that such would be bound by a judgment entered in a court action at law or in equity.

I request an external review of the MCHIP's final adverse decision by an impartial health entity as chosen by the Bureau of Insurance. I certify that the covered person's MCHIP's internal appeals have been exhausted, or that the requirements for an expedited review have been met. I enclose copies of all correspondence or other documents which may include patient medical records, correspondence from medical providers and/or the MCHIP relating to this matter that may help the Bureau of Insurance and the impartial health entity in its evaluation of my request for review.

(Please type or print clearly all requested information in the spaces provided, or use additional pages, if necessary.)

1. Name of the Covered Person:
Address:
City: State: Zip:
Daytime Phone Number:
Date of Birth: Sex:
ID# (Policy or Certificate (number Number):
2. If you are an appellant other than the covered person, please tell us your name and what your relationship is with the covered person.

1 Words in bold type are defined key terms

3. Complete Name of MCHIP:
Address:
City: State: Zip:
Phone number:
Is this health coverage provided through an employer? Yes No
If yes, please provide the employer's name, address, and telephone number.

4. On a separate sheet of paper, please describe the situation you are seeking help with and describe the service(s) or procedure(s) in question.
Is this a self-funded plan? Yes No (This question can be left unanswered if you are unsure.)

5. Are you requesting an expedited review? Yes No
If yes, please provide documentation that [the] covered person's situation involves an emergency medical condition [where a delay in care would place their life or health in serious jeopardy].

6. Are you requesting a waiver of the \$50 filing fee? Yes No
If yes, please provide the reason and documentation to support the claim that paying the \$50 filing fee would cause financial hardship to the covered person.

AUTHORIZATION
I understand and agree that a copy of this form and any information I provide may be forwarded to the MCHIP and to the Impartial Health Entity.
Signature of Appellant (if not the covered person) Dated
Signature of Covered Person or (Covered Person's Parent or Legal Guardian or Other Authorized Signature) Dated

State Corporation Commission
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Life and Health Division
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AUTHORIZATION TO RELEASE MEDICAL INFORMATION

This authorization must be signed by (i) the covered person, or; (ii) the covered person's parent or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor; (iii) the covered person's spouse, parent, committee, legal guardian, or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated; or (iv) the covered person's treating health care provider acting with the consent of the covered person, the covered person's parent, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor, or the covered person's spouse, parent, committee, legal guardian or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated.

Any health care provider of services or supplies, insurance company, or any other organization, institution or person that has a record or knowledge regarding the covered person named below and such person's health, is hereby authorized to furnish to the Bureau of Insurance, or its designated impartial health entity, information concerning services or supplies provided or proposed to be provided to such covered individual.

If I am not the covered person listed below, I hereby certify that I am authorized by law to execute this authorization on the covered person's behalf.

This authorization is given for the purpose of conducting an external review of a final adverse decision made by a utilization review entity. This authorization is valid for 90 days from the date below.

Printed Name of Covered Person: _____
Social Security # of Covered Person: _____
Covered Person's Date of Birth: _____
Signature of Covered Person: _____
OR
[Signature of Parent or Legal Guardian
of Covered Person Other Authorized Signature]: _____
Date: _____

VA.R. Doc. No. R00-41; Filed January 19, 2000, 8:28 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS AND LEAD

REGISTRAR'S NOTICE: Amendments to the following regulations relating to the reduction of fees filed by the Virginia Board for Asbestos and Lead are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 9 of the Code of Virginia, which exempts regulations which are reducing fees charged to regulants and applicants.

Title of Regulation: 18 VAC 15-20-10 et seq. Virginia Asbestos Licensing Regulations (amending 18 VAC 15-20-50 and 18 VAC 15-20-960).

Statutory Authority: § 54-1-113 of the Code of Virginia.

Effective Date: May 1, 2000.

Summary:

The amendments reduce the fees charged to applicants for licensure, license renewal and late license renewal as a lead-based paint individual and firm licensee.

Agency Contact: Copies of the regulation may be obtained from Adrienne Mayo, Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 367-8595.

18 VAC 15-20-50. Fees.

A. The fee for an initial or a renewal of an asbestos worker, supervisor, inspector, RFS inspector, management planner, project designer, or project monitor license shall be ~~\$35~~ \$25.

B. The renewal fee for individual licenses not renewed within 30 days after the noted expiration date shall be ~~\$60~~ \$50.

C. The fee for an initial or a renewal of an Asbestos Analytical Laboratory License shall be ~~\$75~~ \$40.

D. The renewal fee for Asbestos Analytical Laboratory Licenses not renewed within 30 days after the noted expiration date shall be ~~\$100~~ \$65.

E. The fee for an initial or a renewal of an Asbestos Contractor License and RFS Asbestos Contractor License shall be ~~\$50~~ \$40.

F. The renewal fee for Asbestos Contractor Licenses or RFS Contractors Licenses not renewed within 30 days after the noted expiration date shall be ~~\$75~~ \$65.

G. A license not renewed within six months after the expiration date printed on the license shall not be renewed and the licensee shall apply for a new license.

H. Applicants who submit a dishonored check will be charged a \$25 service fee in addition to the required application fee.

18 VAC 15-20-960. Fee schedule.

CATEGORY	FEE AMOUNT
Asbestos Contractors License	
Application	\$50 \$40
Renewal	\$50 \$40
Late Renewal	\$75 \$65
RFS Contractors License	
Application	\$50 \$40
Renewal	\$50 \$40
Late Renewal	\$75 \$65
Asbestos Workers License	
Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Supervisor License	
Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Inspectors License	
Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Management Planner License Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Project Designer License	
Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Project Monitor License	
Application	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Asbestos Analytical Laboratory License Application	\$75 \$40
Renewal	\$75 \$40
Late Renewal	\$100 \$65

EVALUATION OF TRAINING COURSES

Asbestos Worker Training Courses (32 hours)	\$1,200
Refresher Course (8 hours)	\$400
Asbestos Supervisor Training Course (40 hours)	\$1,600
Refresher Course (8 hours)	\$400
Asbestos Inspector Training Course (24 hours)	\$1,200
Refresher Course (4 hours)	\$200

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Asbestos Management Planner Training Course (16 hours)	\$800
Refresher Course (4 hours)	\$200
Asbestos Project Designer Training Course (24 hours)	\$1,200
Refresher Course	\$400
Asbestos Project Monitor Training Course (40 hour comp.)	\$2,000
Asbestos Project Monitor Training Course (16 hours)	\$800
Refresher Course	\$400
RFS Worker Basic Module	\$200
RFS Specialty Module	\$200
RFS Supervisor	\$200
RFS Worker Refresher	\$200
RFS Inspector Refresher	\$200
RFS Inspectors Training Course (24 hours comprehensive)	\$1,200
RFS Inspectors Training Course (12 hours)	\$ 600
Dishonored check service fee	\$ 25

VA.R. Doc. No. R00-93; Filed January 13, 2000, 10:08 a.m.

Title of Regulation: 18 VAC 15-30-10 et seq. Virginia Lead-Based Paint Activities Regulations (amending 18 VAC 15-30-160 and 18 VAC 15-30-830).

Statutory Authority: §§ 54.1-113 and 54.1-501 of the Code of Virginia.

Effective Date: May 1, 2000.

Summary:

The amendments reduce the fees charged to applicants for certification, certification renewal and late certification renewal as a lead-based paint individual and firm licensee.

Agency Contact: Copies of the regulation may be obtained from Adrienne Mayo, Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 367-8595.

18 VAC 15-30-160. Fees.

A. The fee for an initial or a renewal worker, supervisor, inspector technician, inspector/risk assessor, or planner/project designer certification shall be ~~\$35~~ \$25.

B. The renewal fee for an individual certification not renewed within 30 days after the expiration date on the certification shall be ~~\$60~~ \$50.

C. The fee for an initial or a renewal of a certified contractor certification shall be ~~\$50~~ \$40.

D. The renewal fee for a certified contractor not renewed within 30 days after the expiration date shall be ~~\$75~~ \$65.

E. The application fee for an accredited training program shall be \$400 for each eight hours of course duration required by 18 VAC 15-30-380.

F. The application fee for an accredited refresher program shall be \$400.

G. The renewal fee for an accredited training program shall be \$100.

H. Fees for an accredited training program shall not be imposed on any state, local government, or nonprofit training program.

I. The examination fee shall consist of the administration expenses of the department ensuing from the board's examination procedures and contract charges. Examination service contracts shall be established through competitive negotiations in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The current examination shall not exceed a cost of \$75 to the candidate.

J. Applicants who submit a dishonored check will be charged a \$25 service fee in addition to the required application fee.

18 VAC 15-30-830. Fees.

CATEGORY	FEE AMOUNT
Lead Contractor Certification	\$50 \$40
Renewal	\$50 \$40
Late Renewal	\$75 \$65
Lead Worker Certification	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Lead Supervisor Certification	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Inspector Technician Certification	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Inspector/Risk Assessor	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Planner/Project Designer	\$35 \$25
Renewal	\$35 \$25
Late Renewal	\$60 \$50
Dishonored check service fee	\$ 25

VA.R. Doc. No. R00-94; Filed January 13, 2000, 10:09 a.m.



EMERGENCY REGULATIONS

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARDS OF PHARMACY AND MEDICINE

Title of Regulation: 18 VAC 110-40-10 et seq. Regulations Governing Collaborative Practice Agreements.

Statutory Authority: §§ 54.1-2400 and 54.1-3300.1 of the Code of Virginia and Chapter 1011 of the 1999 Acts of Assembly.

Effective Dates: January 20, 2000, through January 19, 2001.

Preamble:

Emergency regulations relating to collaborative practices among physicians and pharmacists were jointly adopted by the Board of Pharmacy at its meeting on August 17, 1999, and the Board of Medicine at its meeting on August 6, 1999. The emergency regulations are necessary to conform rules of the boards to the statutory provisions of Chapter 1011 of the 1999 Acts of Assembly.

In accordance with the Administrative Process Act, the "emergency situation" which exists is specified in clause ii of § 9-6.14:4.1 C 5 of the Code of Virginia as one in which the agency is required by statutory law to have a regulation in effect within 280 days from the enactment of the law.

The boards intend to promulgate these emergency rules as permanent regulations.

Agency Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, Southern States Building, 6606 W. Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9911.

CHAPTER 40. REGULATIONS GOVERNING COLLABORATIVE PRACTICE AGREEMENTS.

18 VAC 110-40-10. Definitions.

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

"Agreement" means a collaborative practice agreement by which practitioners of medicine, osteopathy or podiatry and pharmacists enter into voluntary, written agreements to improve outcomes for their mutual patients using drug therapies, laboratory tests, and medical devices, pursuant to the provisions of § 54.1-3300.1 of the Code of Virginia.

"Committee" means an Informal Conference Committee, comprised of two members of the Board of Pharmacy and two members of the Board of Medicine.

"Pharmacist" means, for the purpose of these regulations, a pharmacist who holds an active license to practice pharmacy from the Virginia Board of Pharmacy and who is a signatory to a collaborative practice agreement.

"Practitioner" means, for the purpose of these regulations and notwithstanding the definition in § 54.1-3401 of the Code of Virginia, a doctor of medicine, osteopathy, or podiatry who writes the order and is directly and ultimately responsible for the care of a patient being treated under an agreement and who holds an active license to practice from the Virginia Board of Medicine.

18 VAC 110-40-20. Signed authorization for an agreement.

A. The signatories to an agreement shall be a practitioner of medicine, osteopathy, or podiatry involved directly in patient care and a pharmacist involved directly in patient care. The practitioner may designate alternate practitioners, and the pharmacist may designate alternate pharmacists, provided the alternates are also signatories to the agreement and are involved directly in patient care at a location where patients regularly receive services.

B. An agreement shall only be implemented for an individual patient pursuant to an order from the practitioner for that patient and only after written informed consent from the patient has been obtained by the practitioner who authorizes the patient to participate in the agreement. A copy of the informed written consent from the patient shall be provided to the pharmacist.

1. The patient may decline to participate or withdraw from participation at any time.

2. Prior to giving consent to participate, the patient shall be informed by the practitioner of the cooperative procedures that will be used pursuant to an agreement. The procedures to be followed pursuant to an agreement shall be clearly stated on the informed consent form.

3. As part of the informed consent, the practitioner and the pharmacist shall provide written disclosure to the patient of any contractual arrangement with any other party or any financial incentive which may impact one of the party's decisions to participate in the agreement.

18 VAC 110-40-30. Approval of protocols.

A. If a practitioner and a pharmacist intend to manage or treat a condition or disease state for which there is not a protocol which is clinically accepted as the standard of care, the practitioner and pharmacist shall submit a proposed protocol for approval. The committee shall, in accordance with § 9-6.14:11 of the Code of Virginia, receive and review the proposed treatment protocol and recommend approval or disapproval to the boards.

B. For a proposed treatment protocol in which practitioner oversight increases from that which is the accepted standard of care, approval by the committee is not required.

C. In order to request a protocol review by the committee, the practitioner and the pharmacist shall submit:

1. An application and required fee of \$750.

2. Supporting documentation that the protocol follows an acceptable standard of care for the particular condition or disease statement for which the practitioner and the

Emergency Regulations

pharmacist intend to manage or treat through an agreement.

18 VAC 110-40-40. Content of an agreement and treatment protocol.

A. *An agreement shall contain treatment protocols that are clinically accepted as the standard of care within the medical and pharmaceutical professions.*

B. *The treatment protocol shall describe the disease state or condition, drugs or drug categories, drug therapies, laboratory tests, medical devices, and substitutions authorized by the practitioner.*

C. *The treatment protocol shall contain a statement by the practitioner that describes the activities the pharmacist is authorized to engage in, including:*

- 1. The procedures, decision criteria, or plan the pharmacist shall follow when providing drug therapy management;*
- 2. The procedures the pharmacist shall follow for documentation; and*
- 3. The procedures the pharmacist shall follow for reporting activities and results to the practitioner.*

D. *An agreement shall be valid for a period not to exceed two years. The signatories shall implement a procedure for reviewing and, if necessary, revising the procedures and protocols of a collaborative agreement at least every two years.*

18 VAC 110-40-50. Record retention.

A. *Signatories to an agreement shall keep a copy of the agreement on file at their primary places of practice.*

B. *An order for a specific patient from the prescribing practitioner authorizing the implementation of drug therapy management pursuant to the agreement shall be noted in the patient's medical record and kept on file by the pharmacist.*

C. *A copy of the informed written consent from the patient shall be maintained in the patient's medical record and kept on file along with the practitioner's order by the pharmacist in a readily retrievable manner.*

18 VAC 110-40-60. Rescindment or alteration of the agreement.

A. *A signatory may rescind or a patient may withdraw from an agreement at any time.*

B. *A practitioner may override the collaborative agreement whenever he deems such action necessary or appropriate for a specific patient.*

18 VAC 110-40-70. Compliance with statutes and regulations.

Any collaborative agreement or referral under an agreement governed by this chapter shall be in compliance with the requirements of the Practitioner Self-Referral Act (§ 54.1-2410 et seq. of the Code of Virginia) and with Chapters 29, 33 and 34 of Title 54.1 of the Code of Virginia and regulations promulgated pursuant thereto.

/s/ John W. Hasty, Director
Department of Health Professions
Date: August 24, 1999

/s/ Claude A. Allen
Secretary of Health and Human Resources
Date: January 3, 2000

/s/ James S. Gilmore, III
Governor
Date: January 20, 2000

VA.R. Doc. No. R00-98; Filed January 20, 2000, 4:23 p.m.



FORMS

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

EDITOR'S NOTICE: The following forms have been amended by the State Corporation Commission. With the exception of minor housekeeping revisions, the content of the forms has not changed, but they have been restructured and reformatted for clarification and ease of use. The forms are available for public inspection at the State Corporation Commission, John Tyler Building, 1300 East Main Street, 10th Floor, Richmond, VA 23219. Copies of the forms may be obtained from Vicki M. Ayers, State Corporation Commission, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 786-9521 or e-mail vayers@scc.state.va.us.

Title of Regulation: **14 VAC 5-350-10 et seq. Rules Governing Surplus Lines Insurance.**

FORMS

Form SLB-1, Application for License ~~as~~ *for an Individual Surplus Lines Broker, Part 1* (rev. ~~9/96~~ 1/00).

Form SLB-1, Application for License for a Partnership or Corporation Surplus Lines Broker, Part 2 (eff. 1/00).

Form SLB-2, Bond for Surplus Lines *Insurance* Broker, *Part 1* (rev. ~~9/96~~ 1/00).

Form SLB-2, Acknowledgment of Principal (Individual or Partnership), Part 2 (eff. 1/00).

Form SLB-2, Acknowledgment of Principal (Corporations Only), Part 3 (eff. 1/00).

Form SLB-3, Quarterly Combined Affidavit by Surplus Lines Broker (rev. 9/99).

Form SLB-4, Annual Combined Affidavit by Surplus Lines Broker (rev. 9/99).

Form SLB-5, Surplus Lines Quarterly Report (rev. 9/99).

Form SLB-6, Surplus Lines Annual Report (rev. 9/99).

Form SLB-7, Quarterly Gross Premiums Tax Report (rev. 9/99).

Form SLB-8, Annual Gross Premiums Tax Report (rev. 9/99).

Form SLB-9, Notice to Insured (eff. 9/96).

Form SLB-10, Commercial Insured Waiver (eff. 9/96).

VIRGINIA FORM SLB-1 – PART 1

Commonwealth of Virginia
State Corporation Commission, Bureau of Insurance

APPLICATION FOR LICENSE FOR AN INDIVIDUAL SURPLUS LINES BROKER

The undersigned applicant, who is currently licensed as a Property & Casualty Agent in the Commonwealth of Virginia, hereby applies for a license as a Surplus Lines Broker under the provisions of Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.), for the term expiring on the 15th day of March next succeeding the license issue date.

Remittance of (\$50.00) (\$25.00) is submitted herewith to cover the required initial license fee. (If license application is filed on or before September 15, the license fee is \$50.00; if filed after September 15, the license fee is \$25.00). Note that the fee for license renewal is \$50.

- 1. Name of Applicant _____ SS # _____
Tel No. (____) _____
- 2. Business Address _____
(Street Number)

(Town or City) (State) (Zip Code)
- 3. Residence Address _____
(Street Number)

(Town or City) (State) (Zip Code)

The submission of this application signifies the applicant's understanding and agreement to abide by the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.) regarding insurance transacted under the authority granted by the applicant's licensure as a surplus lines broker.

The applicant hereby declares that the foregoing answers are true and correct; and that the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.) are fully understood and will be fully complied with.

(Signature of Applicant)

STATE OF _____

County (City) of _____ To-Wit:

This day _____ personally
(Name of Individual Surplus Lines Broker)

appeared before me in the County (City) aforesaid, and verified that the foregoing answers and declarations given in this application are true and correct.

Given under my hand this _____ day of _____, 20____.

(Notary Public)

My Commission expires _____

VIRGINIA FORM SLB-1 - PART 2

Commonwealth of Virginia
State Corporation Commission, Bureau of Insurance

APPLICATION FOR LICENSE FOR A
PARTNERSHIP OR CORPORATION SURPLUS LINES BROKER

The undersigned applicant, who is currently licensed as a Property & Casualty Agent in the Commonwealth of Virginia, hereby applies for a license as a Surplus Lines Broker under the provisions of Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.), for the term expiring on the 15th day of March next succeeding the license issue date.

Remittance of (\$50.00) (\$25.00) is submitted herewith to cover the required initial license fee. (If license application is filed on or before September 15, the license fee is \$50.00; if filed after September 15, the license fee is \$25.00). Note that the fee for license renewal is \$50.

1. Name of Applicant _____ IRS # _____
Tel No. (____) _____
2. Business Address _____

(Street Number)

(Town or City) (State) (Zip Code)

3. Active Members -Individuals to act for partnership or corporation in the transaction of insurance under authority of license applied for - limited to partners, officers, directors, or employees of applicant, each of whom is individually licensed as a Property and Casualty Insurance Agent as defined in Section 38.2-1800 of the Code of Virginia. Attach additional sheet if necessary.

Table with 4 columns: NAME, SS#, TITLE, RESIDENCE ADDRESS. Includes three blank rows for data entry.

The submission of this application signifies the applicant's understanding and agreement to abide by the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.) regarding insurance transacted under the authority granted by the applicant's licensure as a surplus lines broker.

The applicant hereby declares that the foregoing answers are true and correct; and that the requirements outlined in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia and the Commission's Rules Governing Surplus Lines Insurance (14 VAC 5-350-10 et seq.) are fully understood and will be fully complied with.

Print name of applicant _____ Officer or Partner of applicant _____ Title _____

STATE OF _____ County (City) of _____ To-Wit:

This day _____ of _____
(Name of Authorized Individual) (Name of Corporation or Partnership)

personally appeared before me in the County (City) aforesaid, and verified that the foregoing answers and declarations given in this application are true and correct.

Given under my hand this ____ day of _____, 20__.

My Commission expires _____ (Notary Public)

VIRGINIA FORM SLB-2 - PART 1

BOND FOR SURPLUS LINES INSURANCE BROKER
(To comply with Section 38.2-4804 of the Code of Virginia)

KNOW ALL MEN BY THESE PRESENTS, That _____
of _____ as
Principal, and the _____ Company,
a corporation organized and existing under the laws of the State of
_____, and authorized to do business in the Commonwealth of
Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the
penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000) for the payment of which, well
and truly to be made, we, and each of us, bind ourselves, our heirs, successors and assigns,
jointly and severally, firmly by these presents.

SIGNED, SEALED, AND DATED THIS _____ day of _____, 20__.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the said Principal has applied to the State Corporation Commission of the Commonwealth of Virginia for a license to act as a Surplus Lines Broker pursuant to Chapter 48 (§ 38.2-4800 et seq.) of the Code of Virginia and, in accordance with Section 38.2-4804 thereof, is required to give a corporate surety bond unto the COMMONWEALTH OF VIRGINIA in the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000);

NOW THEREFORE, the condition of this obligation is such that if the said Principal shall conduct business under said license in accordance with the provisions of the laws and regulations of the Commonwealth of Virginia pertaining to Surplus Lines Brokers, and, further, shall promptly remit the taxes and assessments provided by such laws and regulations, then this obligation shall be null and void; otherwise, to remain in full force and effect;

PROVIDED, this bond shall cover the acts of the Principal during the period beginning on the date such license becomes effective and ending on the fifteenth day of March next succeeding; and in no event shall the Surety's aggregate liability hereunder for all losses exceed the penal sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000);

PROVIDED FURTHER, the Surety may be released from liability for future breaches of the conditions of this bond only after thirty days have elapsed from the giving of written notice to the State Corporation Commission of the Commonwealth of Virginia of its desire to be so released;

IN WITNESS WHEREOF, the said Principal has caused these presents to be signed and the said Surety has caused these presents to be signed by its duly authorized officer or Attorney-in-Fact and its corporate seal affixed on the day and year first written above.

VIRGINIA FORM SLB-2, PART 2

**ACKNOWLEDGMENT OF PRINCIPAL
(INDIVIDUAL OR PARTNERSHIP)**

(Principal) BY _____
(If Principal is Partnership)

STATE OF _____ CITY (COUNTY) OF _____ to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of _____, do certify that _____ whose name or names is or are signed above bearing date on the _____ day of _____, personally appeared before me and acknowledged the same.

Given under my hand this _____ day of _____, 20____.

(Notary Public)

My Commission expires _____

AFFIDAVIT AND ACKNOWLEDGMENT OF SURETY

(Surety) BY _____
(Officer or Attorney-in-Fact)

(SEAL OF SURETY)

STATE OF _____
CITY (COUNTY) OF _____, to wit:

I, _____, a Notary Public in and for the City (County) aforesaid, in the State of _____, do certify that _____ personally appeared before me and made oath that he is _____ of the _____; that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated _____, and recorded in the Clerk's office of the _____ of _____, in Deed Book No. _____, page _____; that said power of attorney has not been revoked; that the said company has complied with all the requirements of law regulating the admission of such companies to transact business in the State of Virginia; that the said company (NAIC # _____) holds a license authorizing it to do business in the State of Virginia; that it has a surplus to policyholders of \$ _____; that the penalty of the foregoing bond is not in excess of ten per centum of said sum; that the said company is not by said bond incurring in the aggregate on behalf or on account of the principal named in said bond a liability for an amount larger than 1/10 of its surplus to policyholders; that the said company is solvent and fully able to meet promptly all of its obligations, and the said _____ thereupon, in the name and on behalf of the said company, acknowledging the foregoing writing as its act and deed.

Given under my hand this _____ day of _____, 20____.

(Notary Public)

My Commission expires _____

VIRGINIA FORM SLB-2, PART 2 (Rev. 01/00)

VIRGINIA FORM SLB-2, PART 3

ACKNOWLEDGMENT OF PRINCIPAL CORPORATIONS ONLY

(Principal) BY (Officer of Corporation)

STATE OF CITY (COUNTY) OF to wit:

I, a Notary Public in and for the City (County) aforesaid, in the State of do certify that appeared before me personally on the day of 20 and, being duly sworn by me, deposed and stated that he resides in; that he is the of the the corporation described above and that he signed his name thereto by like order.

Given under my hand this day of, 20.

(Notary Public)

My Commission expires

AFFIDAVIT AND ACKNOWLEDGMENT OF SURETY

(Surety) BY (Officer or Attorney-in-Fact)

(SEAL OF SURETY)

STATE OF CITY (COUNTY) OF to wit:

I, a Notary Public in and for the City (County) aforesaid, in the State of do certify that personally appeared before me and made oath that he is of the; that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said company, dated and recorded in the Clerk's office of the of in Deed Book No. page; that said power of attorney has not been revoked; that the said company (NAIC #) has complied with all the requirements of law regulating the admission of such companies to transact business in the State of Virginia; that the said company holds a license authorizing it to do business in the State of Virginia; that it has a surplus to policyholders of \$; that the penalty of the foregoing bond is not in excess of ten per centum of said sum; that the said company is not by said bond incurring in the aggregate on behalf or on account of the principal named in said bond a liability for an amount larger than 1/10 of its surplus to policyholders; that the said company is solvent and fully able to meet promptly all of its obligations, and the said thereupon, in the name and on behalf of the said company, acknowledging the foregoing writing as its act and deed.

Given under my hand this day of, 20.

(Notary Public)

My Commission expires

VIRGINIA FORM SLB-2, PART 3 (Rev. 01/00)

GUIDANCE DOCUMENTS

Chapter 11 of the 1997 Acts of Assembly requires annual publication in the *Virginia Register* of guidance document lists from state agencies covered by the Administrative Process Act (§ 9-6.14:1 et seq.) and the Virginia Register Act (§ 9-6.15 et seq.). A guidance document is defined as "...any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations..." Agencies are required to maintain a complete, current list of all guidance documents and make the full text of such documents available to the public.

Generally, the format for the guidance document list is: document number (if any), title of document, date issued or last revised, and citation of Virginia Administrative Code regulatory authority or Code of Virginia statutory authority. Questions concerning documents or requests for copies of documents should be directed to the contact person listed by the agency.

[The text of the agency guidance document lists has been removed from this PDF file to reduce the file size and download time. The guidance document lists are posted separately on the Virginia Code Commission's web site at <http://legis.state.va.us/codecomm/guidance/guidedoc.htm> .]

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Public Meeting and Public Comment Regarding Blackwater River TMDL

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for fecal coliform bacteria on four segments of the Blackwater River. These impaired segments are located in Franklin County on the North Fork Blackwater, South Fork Blackwater, and two are on the main stem Blackwater. These four segments are identified in Virginia's 1998 § 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report.

The second public meeting on the development of the Blackwater River coliform TMDL for these four segments will be held on Wednesday, February 16, 2000, at 7 p.m. in the Town Council Chambers, Allen O. Woody, Jr. Municipal Building, 345 Donald Avenue, Rocky Mount, Virginia.

The public comment period will end on March 15, 2000. A fact sheet on the development of the TMDL for fecal coliform bacteria on the Blackwater River is available upon request. Questions or information requests should be addressed to Clint Boschen. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Clint Boschen, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, Virginia, 24019, telephone (540) 562-6724, Fax (540) 562-6729, or e-mail cjboschen@deq.state.va.us.

STATE WATER CONTROL BOARD

Proposed Consent Special Order Capitol Region Airport Commission

The State Water Control Board proposes to issue a consent special order to the Capital Region Airport Commission to address unpermitted discharges of deicing product from the airport property to state waters, White Oak Swamp. The proposed order requires the Airport Commission to pay a civil charge for the unpermitted discharges of deicing product.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed consent special order until March 15, 2000. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia, 23060. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Bertrand E. Geddy, Charles M. Ware, Jr., and Ronald E. Phillips as the Administrators of the Estate of Edmond M. Ware

The State Water Control Board proposes to issue a consent special order to Bertrand E. Geddy, Charles M. Ware, Jr., and Ronald E. Phillips, as administrators of the estate of Edmond M. Ware, to resolve certain alleged violations of environmental laws and regulations occurring at Cedar Grove Farm. The proposed order requires the administrators to ensure that lagoon closure work is discontinued until sediment and erosion control measures are implemented, that lagoons are closed in a manner that will prevent additional pollutants from entering state waters, that all liquid waste and sludges are removed from the lagoons prior to backfilling, that all liquid waste and sludges are utilized in accordance with an approved nutrient management plan or disposed of as solid waste in accordance with the requirements of the Virginia Solid Waste Management Regulations, that the lagoons are backfilled with clean material, and that representatives of the department are permitted reasonable access to the property to ensure the terms of the order are met.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed consent special order until March 15, 2000. Comments should be addressed to Rick Weeks, Jr., Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Shoosmith Brothers, Incorporated

The State Water Control Board proposes to issue a consent special order to Shoosmith Brothers, Incorporated, to formalize a plan and schedule for wetlands mitigation on the parcel of land known as the Chester Goodrich Tract. The proposed order requires Shoosmith Brothers, Incorporated, to create a minimum of 8.48 acres of forested wetlands as mitigation for unauthorized impacts of 3.39 acres of wetlands on the parcel of land known as the Chester Goodrich Tract.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed consent special order until March 15, 2000. Comments should be addressed to Christine Ryan, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Town of South Boston

The State Water Control Board proposes to issue a consent special order to the Town of South Boston to address violations of the VPDES Permit. The proposed order places the town on a schedule to reduce inflow/infiltration in its

wastewater collection system in order to bring the wastewater treatment facility into compliance with its VPDES permit. If repairs and maintenance of the wastewater collection system does not achieve compliance with the permit, the proposed order requires the town to expand and upgrade its wastewater treatment plant.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed consent special order until March 15, 2000. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060. A copy of the order may be obtained in person or by mail from the above office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.



Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page: <http://legis.state.va.us/codecomm/register/regindex.htm>

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08


CALENDAR OF EVENTS

Symbol Key

-  Location accessible to handicapped
 Teletype (TTY)/Voice Designation

NOTICE


Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **March 16, 2000 - 9 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, Second Floor Board
Room, Richmond, Virginia 


A regular meeting to discuss issues related to Virginia agriculture and consumer services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate in the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy Seward, Secretary to the Board, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 211, Richmond, VA 23219, telephone (804) 786-3538 or FAX (804) 371-7679.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Aquaculture Advisory Board


NOTE: CHANGE IN MEETING DATE

† **February 17, 2000 - 11:30 a.m.** -- Open Meeting
Virginia State University, Cooperative Extension Pavilion,
4415 River Road, Ettrick, Virginia 

A regular meeting to discuss issues related to Virginia aquaculture. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: T. Robins Buck, Secretary, Virginia Aquaculture Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank Street, Room 211, Richmond, VA 23219, telephone (804) 371-6094, FAX (804) 371-7679.


Virginia Charity Food Assistance Advisory Board

February 24, 2000 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor Board
Room, Richmond, Virginia 23219 

A routine meeting to discuss issues related to food insecurity. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Steven W. Thomas at least five days before the meeting date so that suitable arrangements can be made.

Contact: Steven W. Thomas, Executive Director, Virginia Charity Food Assistance Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 809, Richmond, VA, telephone (804) 786-3936, FAX (804) 371-7788.

Consumer Affairs Advisory Committee

February 14, 2000 - 9:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor Board
Room, Richmond, Virginia  (Interpreter for the deaf
provided upon request)

The Consumer Affairs Advisory Committee communicates the views and interests of Virginians on issues related to the Department of Agriculture and Consumer Services' consumer education and fraud prevention programs, their availability to citizens, and the utilization of a state-wide network of volunteer program presenters. The February meeting is the first of two meetings held annually. Members will review 1999's events, plan for 2000, and elect the chairperson for the year. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before

the meeting date so that suitable arrangements can be made.

Contact: Evelyn A. Jez, Administrative Staff Specialist, Department of Agriculture and Consumer Services, Office of Consumer Affairs, 1100 Bank St., Room 1101, Richmond, VA, telephone (804) 786-1308, FAX (804) 786-5112, toll-free (800) 552-9963, (800) 828-1120/TTY ☎

Virginia Corn Board

February 16, 2000 - 8 a.m. -- Open Meeting
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia ☎

A meeting to discuss checkoff revenues resulting from sales of the 1999 corn crop and approve the previous meeting minutes. The board will hear FY 1999-2000 project reports and will receive FY 2000-2001 project proposals. Following all the presentations, the group will make funding decisions for the fiscal year beginning on July 1, 2000. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

Virginia Farmers Market Board

† February 15, 2000 - 9:30 a.m. -- Open Meeting
Department of Forestry, Fontaine Research Park, 300 Natural Resources Drive, 2nd Floor, Board Room, Charlottesville, Virginia ☎

The board will convene for its quarterly meeting for the purpose of conducting business to benefit the Virginia Farmers Market System. During the meeting, the board members will hear, and if appropriate, approve the financial report and the minutes of the November 16, 1999, meeting. In addition, contracted private sector operators of the shipping point markets in the system will present reports on operations of the four markets during the 1999 harvest season. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Susan K. Simpson, Special Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1002, Richmond, VA 23219, telephone (804) 786-2112 or FAX (804) 371-7786.

Virginia Marine Products Board

† March 1, 2000 - 6 p.m. -- Open Meeting
Bill's Seafood House, Route 17 and Denbigh Boulevard, Grafton, Virginia ☎

The board will meet to receive reports from the executive director on finance, marketing, past and future program planning, publicity, public relations and old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Department of Agriculture and Consumer Services, 554 Denbigh Boulevard, Suite B, Newport News, VA, telephone (757) 874-3474 or FAX (757) 886-0671.

Virginia Sheep Industry Board

† February 28, 2000 - 10 a.m. -- Open Meeting
Virginia Horse Center, 487 Maury River Road, Lexington, Virginia ☎

A meeting to hear and, if appropriate, approve minutes of the last board meeting; receive a presentation of the board's financial statement; elect officers; hear a report on the Chesapeake Heritage Arts and Fiber Festival; and hear a report on predator control. Also, the board will approve minutes of the January 7, 2000, meeting and review the financial report. The board will hear all funding requests and develop a budget for the 2000-01 fiscal year. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mike Carpenter, Program Director, Livestock Marketing Services, Department of Agriculture and Consumer Services, 116 Reservoir St., Harrisonburg, VA, telephone (540) 434-0779 or FAX (540) 434-5607.

Virginia Soybean Board

February 24, 2000 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia ☎


A meeting to discuss checkoff revenues resulting from sales of the 1999 soybean crop and approve previous meeting minutes. The board will hear project reports for FY 1999-2000 project proposals for FY 2000-2001. Funding decisions will be made for the fiscal year beginning on July 1, 2000. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs

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any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA, telephone (804) 371-6157, FAX (804) 371-7786.

Virginia Sweet Potato Board

February 15, 2000 - 7 p.m. -- Open Meeting
Little Italy Restaurant, 10227 Rogers Drive, Nassawadox, Virginia 

A meeting to hear and approve minutes of the last meeting and the presentation of the board's financial statement. The board will discuss and consider programs (promotion, research and education), the annual budget and other business that may be presented. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.


Virginia Winegrowers Advisory Board

February 22, 2000 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Second Floor, Board Room, Richmond, Virginia. 


A quarterly business meeting, including hearing and potential approval of minutes from the prior meeting, committee reports, treasurer's report, and a report from the Alcoholic Beverage Control Board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Board Secretary, Virginia Winegrowers Advisory Board, Washington Building, 1100 Bank Street, Suite 1010, Richmond, VA 23219, telephone (804) 371-7685, FAX (804) 786-3122.


BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

March 8, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 


A meeting of the full board to conduct business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-514, FAX (804) 367-2475 or (804) 367-9753/TTY 


Certified Interior Designer Section

March 1, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


The Certified Interior Designer Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 


Landscape Architect Section

February 23, 2000 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


The Landscape Architect Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 


Land Surveyor Section

February 16, 1999 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


The Land Surveyor Section will conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY 

VIRGINIA BOARD FOR ASBESTOS AND LEAD

March 7, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5W, Richmond,
Virginia. 


A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Virginia Board for Asbestos and Lead, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail asbestos@dpor.state.va.us.

ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

February 17, 2000 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms
Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly board meeting of the Board of Directors to review applications for guaranteed loans. Public comment is invited. The board will meet in closed session to review loan applications in order to protect the personal information of the applicants.

Contact: Gail Stubbs, Assistive Technology Loan Fund Authority, 8004 Franklin Farms Drive, Richmond, VA 23228, telephone (804) 662-7331, FAX (804) 662-9533, (804) 662-7331/TTY , e-mail loanfund@erols.com, homepage <http://www.cns.state.va.us/atlfa>.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES


State Executive Council

† **February 23, 2000 - 9 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street,
Training Room 3, Richmond, Virginia


A monthly meeting.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Suite 137, Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

February 17, 2000 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 


A public hearing to receive comments on the proposed regulations for school speech-language pathologist. Following the public hearing the board will hold a regular meeting.

Contact: Senita Booker, Administrative Staff Assistant, Department of Health Professions, 6606 W. Broad St., Suite 403, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail sbooker@dhp.state.va.us.


VIRGINIA AVIATION BOARD

† **February 16, 2000 - 9 a.m.** -- Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond,
Virginia. (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Tony Williams at least 10 days prior to the meeting if assistance is needed.

Contact: Tony Williams, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, VA 23250-2422, telephone (804) 236-3626 or (804) 236-3624/TTY 

COMPENSATION BOARD

† **February 22, 2000 - 11 a.m.** -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 10th
Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218,

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telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

† **February 15, 2000 - 7 p.m.** -- Open Meeting
New River Community College, Edwards, Room 117, Section A, Dublin, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review the goals and objectives of existing conditions for the Master Plan of Claytor Lake State Park. This is a rescheduled meeting (original date 1/20/00).

Contact: Richard Gibbons, Environmental Programs Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4732, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.

BOARD OF CORRECTIONAL EDUCATION

† **February 18, 2000 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Board of Correctional Education, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 786-7642 or (804) 371-8647/TTY ♿, e-mail paennis@dce.state.us.

BOARD FOR COSMETOLOGY

March 6, 2000 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 W. Broad Street, 4th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any persons desiring to attend the meeting and requiring special accommodations or interpretative services should contact the department at 804-367-8590 or 804-367-9753/TTY at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY ♿, e-mail cosmo@dpor.state.va.us.

BOARD OF DENTISTRY

† **February 18, 2000 - 9 a.m.** -- Open Meeting
† **February 25, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia ♿

The Special Conference Committee will conduct informal conferences to hear disciplinary matters. No public comment will be heard.

Contact: Marcia Miller, Executive Director, Board of Dentistry, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-9943 or (804) 662-7197/TTY ♿, e-mail MJMiller@dhp.state.va.us.

BOARD OF EDUCATION

February 24, 2000 - 9 a.m. -- Open Meeting
March 23, 2000 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items on the agenda. The agenda is available upon request.

Contact: Dr. Margaret Roberts, Executive Assistant for State Board of Education, Department of Education, Monroe Building, 101 North 14th Street, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or toll-free (800) 292-3829.

February 28, 2000 - 7 p.m. -- Public Hearing
Marion Senior High School, 848 Stage Street, Marion, Virginia.

February 28, 2000 - 7 p.m. -- Public Hearing
John Marshall High School, 4225 Old Brook Road, Richmond, Virginia.

February 28, 2000 - 7 p.m. -- Public Hearing
Lake Braddock High School, 9200 Burke Lake Road, Burke, Virginia.

February 28, 2000 - 7 p.m. -- Public Hearing
Linkhorne Elementary School, 2501 Linkhorne Drive, Lynchburg, Virginia.

February 28, 2000 - 7 p.m. -- Public Hearing
Heritage High School, 5800 Marshall Avenue, Newport News, Virginia.

February 28, 2000 - 7 p.m. -- Public Hearing
Shelburne Middle School, 300 Grubert Avenue, Staunton, Virginia.

March 17, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education

intends to amend regulations entitled: **8 VAC 20-80-10 et seq. Regulations Governing Special Education Programs for Children with Disabilities in Virginia** and **repeal** regulations entitled: **8 VAC 20-750-10 et seq. Special Education Program Standards**. These regulations ensure that Virginia complies with the Individuals with Disabilities Education Act (IDEA) (20 USC § 1400 et seq.) and that all children with disabilities in the Commonwealth have available a free appropriate public education and procedural safeguards. The Special Education Program Standards, which provide special education teacher staffing and assignments, is being incorporated into the board of Virginia's special education regulations and is, therefore, being repealed.

Statutory Authority: §§ 22.1-16 and 22.1-214 of the Code of Virginia.

Contact: Catherine A. Pomfrey, Executive Secretary Senior, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2402, FAX (804) 371-8796 or (804) 371-2822/TTY ☎

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **March 1, 2000 - 3 p.m.** -- Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A meeting to elect officers for 2000 and to conduct a quarterly business meeting.

Contact: L. A. Miller, Fire and Rescue Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298, toll-free 1-800-667-0118, or (540) 662-4131/TTY ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **March 2, 2000 - 7 p.m.** -- Public Hearing
Chapel of All Faiths, University of Virginia at Wise, 1 College Avenue, Wise, Virginia.

A public hearing to receive comments on the draft permit amendment #2 for the Wise County Sanitary Landfill located near the community of Blackwood, just north of U.S. Alternate Rte 58.

Contact: Paul Farrell, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4214, (804) 698-4021/TTY ☎, e-mail epfarrell@deq.state.va.us.

Ground Water Protection Steering Committee

† **March 21, 2000 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 10th Floor Conference Room, Richmond, Virginia. ♿

Anyone interested in ground water protection issues is welcome to attend the meeting. Meeting minutes and agenda are available from the contact person below.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, telephone (804) 698-4042, FAX (804) 698-4032 or (804) 698-4021/TTY ☎, e-mail mamassie@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

† **February 17, 2000 - 8:30 a.m.** -- Open Meeting
Richmond Airport Holiday Inn, 5203 Williamsburg Road, Sandston, Virginia. ♿ (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Fire/EMS Education and Training Committee: 8:30 a.m.
Legislative/Liaison Committee: 10 a.m.
Fire Prevention and Control Committee: 1 p.m.
Finance and Budget Oversight Committee: 4 p.m.

Contact: Troy H. Lapetina, Executive Director, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0217, e-mail firedft9@idt.net, homepage <http://idt.net/~firedft9>.

† **February 18, 2000 - 9 a.m.** -- Open Meeting
Richmond Airport Holiday Inn, 5203 Williamsburg Road, Sandston, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: Troy H. Lapetina, Executive Director, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0217, e-mail firedft9@idt.net, homepage <http://idt.net/~firedft9>.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **March 8, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ♿

A meeting to discuss general business matters of the board. There will be a 15-minute public comment period. A formal hearing will be held at 1 p.m.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.


† **March 15, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ♿


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A meeting of the Legislative Committee to discuss legislative proposals for the General Assembly 2001. There will be a 15-minute public comment period.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

DEPARTMENT OF GAME AND INLAND FISHERIES


February 15, 2000 - 7 p.m. -- Open Meeting
Smyth-Bland Regional Library, Copenhaver Meeting Room, 118 South Sheffey Street, Marion, Virginia.  (Interpreter for the deaf provided upon request)

February 16, 2000 - 7 p.m. -- Open Meeting
Department of Game and Inland Fisheries, Verona (Staunton) Regional Office, 4724 Lee Highway, Verona, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Department of Game and Inland Fisheries (DGIF) is hosting five public meetings in February 2000 to discuss Virginia's freshwater fishing regulations and agency programs with anglers and other interested parties. Interested individuals are invited to join the DGIF staff to discuss these subjects. Public comments and suggestions received will be considered by staff as they refine current programs, develop new ones, and develop staff recommendations for amendments to freshwater fish and fishing regulations. Agency staff will present such recommendations to the Board of Game and Inland Fisheries at its August 2000 meeting as part of the regular biennial review of freshwater fish and fishing regulations.


Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad Street, Richmond, VA, telephone (804) 367-1000 or FAX (804) 367-0488.


† March 9, 2000 - 9 a.m. -- Open Meeting


† March 10, 2000 - 9 a.m. -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to discuss general and administrative issues, receive a report on relevant legislation from the 2000 Session of the General Assembly, and receive a report on the House Bill 38 planning study and public opinion surveys. The board may elect to hold a dinner Wednesday evening, March 8, at a location and time to be determined; and it may hold a closed session before the public session begins on March 9. If the board completes its entire agenda on March 9, it may not convene on March 10, the second of the scheduled two days of the meeting.


Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA, telephone (804) 367-1000 or FAX (804) 367-0488.

† March 15, 2000 - 7 p.m. -- Public Hearing
Sandy Bottom Nature Park, 1255 Big Bethel Road, Hampton, Virginia.  (Interpreter for the deaf provided upon request)

† March 21, 2000 - 7 p.m. -- Public Hearing
Smyth-Bland Regional Library, 1180 South Sheffey Street, Marion, Virginia.  (Interpreter for the deaf provided upon request)

† March 23, 2000 - 7 p.m. -- Public Hearing
Department of Game and Inland Fisheries, Staunton Regional Office, 4725 Lee Highway, Verona, Virginia.  (Interpreter for the deaf provided upon request)


† March 27, 2000 - 7 p.m. -- Public Hearing
Salem Church Library, 2607 Salem Church Road, Fredericksburg, Virginia.  (Interpreter for the deaf provided upon request)

† March 28, 2000 - 7 p.m. -- Public Hearing
Forest Branch Library, 15583 Forest Road, Lynchburg, Virginia.  (Interpreter for the deaf provided upon request)


The Department of Game and Inland Fisheries (DGIF) is hosting five public meetings in March 2000 to discuss Virginia's wildlife diversity (i.e., wildlife other than in the context of hunting, trapping, or fishing) regulations and agency programs with interested parties. Interested individuals are invited to join the DGIF staff to discuss these subjects. Public comments and suggestions received will be considered by staff as they refine current programs, develop new ones, and develop staff recommendations for amendments to wildlife diversity regulations. Agency staff will present such recommendations to the Board of Game and Inland Fisheries at its August 2000 meeting as part of the regular biennial review of wildlife diversity regulations.


Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA, telephone (804) 367-1000 or FAX (804) 367-0488.

DEPARTMENT OF HEALTH PROFESSIONS

February 16, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee to review issues related to the disciplinary roles of health regulatory boards.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

February 16, 2000 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia  (Interpreter for the deaf provided upon request)

A meeting of the Regulatory Research Committee to receive an update on studies into the need to regulate clinical lab specialists, technical medical technologists, medical lab technicians, and histopathologists. Public

comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY ☎

February 16, 2000 - 11:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

New members will receive orientation on the purpose and functions of the board and its various committees.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail ecarter@dhp.state.va.us, homepage <http://www.dhp.state.va.us>.

February 16, 2000 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the full board to consider reports from committees, review action plan for year, and discuss issues related to the regulation of health care professions.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail ecarter@dhp.state.va.us, homepage <http://www.dhp.state.va.us>.

BOARD FOR HEARING AID SPECIALISTS

† **February 28, 2000 - 9:45 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Rooms 4W and 5W, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will meet to administer the Hearing Aid Specialist Practical Examination.

Contact: Sharon M. Sweet, Examination Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TTY ☎

April 4, 2000 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review, disciplinary cases and other matters requiring board action. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to

change. Any persons desiring to attend the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., 4th Floor, Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail hearingaidspec@dpor.state.va.us.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

March 14, 2000 - 9 a.m. -- Open Meeting

April 11, 2000 - 9 a.m. -- Open Meeting
State Council of Higher Education, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A teleconferenced meeting. Locations available include McGuire, Woods, Battle and Boothe, World Trade Center, Suite 9000, Norfolk, Virginia and 420 Park Street, Charlottesville, Virginia. Time may vary.

Contact: Kathy R. Robinson, Executive Secretary Senior, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2628, FAX (804) 225-2638, e-mail robinson@schev.edu.

February 15, 2000 - 8:30 a.m. -- Canceled
State Council of Higher Education, James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

The monthly committee and council meetings have been canceled.

Contact: Kathy R. Robinson, Executive Secretary Senior, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2628, FAX (804) 225-2638, e-mail robinson@schev.edu.

March 21, 2000 - 8:30 a.m. -- Open Meeting
Longwood College, Farmville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting.

Contact: Kathy R. Robinson, Executive Secretary Senior, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2628, FAX (804) 225-2638, e-mail robinson@schev.edu.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

March 7, 2000 - 9 a.m. -- Open Meeting
Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia. ♿ (Interpreter for the deaf provided upon request)

Calendar of Events

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, Hopewell Industrial Safety Council, 300 N. Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **March 6, 2000 - 9:30 a.m.** -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-21-10 et seq. Virginia Certification Standards.** The proposed amendments (i) clarify the requirements for combination inspectors to obtain a certificate of competence; (ii) permit the issuance of provisional certificates under certain conditions; (iii) permit the board to appoint an advisory peer review committee to advise the board concerning proposed sanctions against a certificate holder; (iv) allow the board to impose sanctions on certificate holders under certain conditions; and (v) allow administrative appeals to the Technical Review Board to resolve disputes.

Statutory Authority: §§ 36-98.3 and 36-137 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

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† **March 6, 2000 - 9:30 a.m.** -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-51-10 et seq. Virginia Statewide Fire Prevention Code.** The proposed amendments (i) require the fire code official to enforce the provision of the building code regarding maintenance of smoke detectors in certain dwellings; (ii) require the fire code official to enforce the provision of the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) regarding installation of fire extinguishers and smoke detectors in state regulated facilities (Use Groups R-2, R-3 and R-4 only); (iii) amend the provision concerning the appointment of local assistant fire marshals to conform

with state law; (iv) address a potential safety problem with an already installed fire sprinkler device that may not function properly during a fire situation; (v) add a requirement for fire exit drills to be conducted at state regulated care facilities at least 12 times per year with not less than six of the drills being unannounced; (vi) delete all references regarding regulation of transportation of explosive materials and add a reference to Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.); (vii) amend the definition of fireworks to conform with the Code of Virginia; and (viii) allow the storage of motor fuels in aboveground tanks at public service stations when the installation meets the National Fire Protection Association standard.

Statutory Authority: §§ 27-97 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

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† **March 6, 2000 - 9:30 a.m.** -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-61-10 et seq. Virginia Uniform Statewide Building Code.** The proposed amendments (i) require that persons under contract to a local building department for enforcement of the USBC be certified and attend periodic training courses as designated by the Department of Housing and Community Development and such other training as designated by the local governing body in the same manner as required for employees; (ii) allow for exceptions to filing duplicate construction documents when the already submitted construction documents and site plans were approved for identical structures in the same development and for dwellings with reverse floor plans; (iii) clarify that the code official's approval of construction documents is limited to only those items that are within the scope of the USBC; (iv) require that certain measures be taken in the construction of one- and two-family homes in counties or cities with an average residential radon level greater than 4 picoCuries per liter; (v) require that building officials ensure that exterior insulation and finish systems are installed correctly; (vi) clarify that building code officials are allowed to accept third party reviews of construction documents; (vii) require that for new construction, fire walls, fire separation assemblies, fire partitions, and smoke barriers are to be marked with language warning against the creation of holes, and that the warnings must be no more than eight feet apart, above ceilings and at all ceiling access doors; (viii) provide an exemption for the

requirement of fire sprinkler systems in certain types of closets; (ix) provide an exemption from the requirement that a toilet be provided when the structure or tenant space has an occupant load less than 150 and food and beverages are neither served nor consumed on the premises; (x) provide an exemption from a requirement that separate-sex toilet facilities be provided when the mercantile space is less than 5,000 square feet; (xi) and require that, in new construction of buildings four stories or more, at least one elevator be provided for emergency access to all floors, be sized to accommodate an ambulance stretcher, and be identified by the emergency medical services international symbol (star of life).

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: George W. Rickman, Jr., Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7180, FAX (804) 371-9092 or (804) 371-7089/TTY ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 23, 2000 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and if, appropriate, approve amendments to its Rules and Regulations for Allocation of Low-Income Housing Tax Credits; and (v) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, or (804) 783-6705/TTY ☎

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Safety and Health Codes Board

† **March 6, 2000 - 10 a.m.** -- Open Meeting
State Corporation Commission, Tyler Building, 1300 East Main Street, Second Floor, Courtroom B, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The agenda may include reports on the periodic review of regulations.

Contact: Regina P. Cobb, Agency Management Analyst, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA, telephone (804) 786-0610, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail reginacobb@doli.state.va.us, homepage http://www.dli.state.va.us.

STATE LIBRARY BOARD

March 13, 2000 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A meeting to discuss matters pertaining to The Library of Virginia and the State Library Board.

The following committees will meet at 8:15 a.m.:

Public Library Development Committee (Orientation Room)
Publications and Educational Services Committee (Conference Room B)
Records Management Committee (Conference Room C)

The following committees will meet at 9:30 a.m.:

Archival and Information Services Committee (Orientation Room)
Collection Management Services Committee (Conference Room B)
Legislative and Finance Committee (Conference Room C).

The full board will meet in the conference room on 2M at 10:30 a.m. Public comment will be received at approximately 11 a.m.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 East Broad Street, Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@vsla.edu, homepage http://www.lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

February 21, 2000 - 10:30 a.m. -- Public Hearing
Clifton Forge area; site to be determined.

Oral presentations regarding the City of Clifton Forge's proposed reversion to a town in Alleghany County. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, http://www.state.va.us/clg.

February 21, 2000 - 7 p.m. -- Public Hearing
Clifton Forge area; site to be determined.

Calendar of Events

A public hearing regarding the City of Clifton Forge's proposed reversion to a town in Alleghany County. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, <http://www.state.va.us/clg>.

February 22, 2000 - 9 a.m. -- Public Hearing
Clifton Forge area; site to be determined.

Oral presentations regarding the City of Clifton Forge's proposed reversion to a town in Alleghany County. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, <http://www.state.va.us/clg>.

† March 13, 2000 - 10:30 a.m. -- Open Meeting
Windsor area; site to be determined.

Oral presentations regarding the Town of Windsor - Isle of Wight County voluntary settlement agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, <http://www.state.va.us/clg>.

† March 13, 2000 - 3 p.m. -- Open Meeting
Windsor area; site to be determined.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, <http://www.state.va.us/clg>.

† March 13, 2000 - 7 p.m. -- Public Hearing
Windsor area; site to be determined.

A public hearing regarding the Town of Windsor - Isle of Wight County voluntary settlement agreement. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara W. Bingham, Administrative Assistant, Commission on Local Government, 900 E. Main Street, Suite

103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us, <http://www.state.va.us/clg>.

VIRGINIA MANUFACTURED HOUSING BOARD

† February 17, 2000 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, The Jackson Center, 2nd Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TTY ☎

MARINE RESOURCES COMMISSION

February 22, 2000 - 9:30 a.m. -- Open Meeting

March 28, 2000 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters beginning at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals; fishery management plans; fishery conservation issues; licensing; and shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free (800) 541-4646 or (757) 247-2292/TTY ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 17, 2000 - 2 p.m. -- Open Meeting

Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A meeting of the Drug Utilization Review Board to conduct board business.

Contact: Marianne Rollings, Program Administrator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268,

FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

March 17, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **Program for All-Inclusive Care for the Elderly - PACE: 12 VAC 30-10-10 et seq. State Plan Under Title XIX of the Social Security Act Medical Assistance Program; General Provisions; 12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care Services; 12 VAC 30-120-10 et seq. Waivered Services.** These proposed regulations provide for the creation of Medicaid coverage of PACE services (Program of All-Inclusive Care for the Elderly). These regulations link all types of medical care that frail, elderly individuals might need through a system of care management. This program has been modeled after the On Lok program in California.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 17, 2000, to T. C. Jones, Analyst, LTC-Appeals Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

March 17, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-70-10 et seq. Methods and Standards for Establishing Payment Rates-Inpatient Hospital Care (Diagnosis Related Groups).** The proposed regulations amend the existing inpatient hospital payment methodology regulations to remove transition period rules and fully implement the new Diagnosis Related Grouping (DRG) methodology. These amendments fulfill a directive by the 1996 General Assembly to implement a DRG methodology (Chapter 912, Item 322 J) and the settlement terms of a case brought under the federal Boren Amendment which required DMAS and the then Virginia Hospital Association to jointly develop a replacement reimbursement method.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until March 17, 2000, to Stan Fields, Director of Cost Settlement, Department of

Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

April 14, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the proposed amendment is to repeal certain obstetric and pediatric procedures from the State Plan.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until April 14, 2000, to Bobby Powell, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

Medicaid Pharmacy Liaison Committee

April 3, 2000 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street Suite 1300, Board Room, Richmond, Virginia. ☎

A routine meeting.

Contact: Marianne Rollings, Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

BOARD OF MEDICINE

Advisory Board on Athletic Training

† **March 23, 2000 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the establishment of regulations mandated by § 54.1-2957.5 of the Code of Virginia.

Contact: William L. Harp, MD, Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA

Calendar of Events

23230, telephone (804) 662-9960, FAX (804) 662-9517 or (804) 662-7197/TTY ☎.

Executive Committee

April 7, 2000 - 8 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting will be held in open and closed session to review disciplinary files requiring administrative action, adopt amendments and approve for promulgation regulations as presented, interview applicants, and act on other issues that come before the board. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9517, (804) 662-7197/TTY ☎

Informal Conference Committee

† **February 24, 2000 - 9:30 a.m.** -- Open Meeting

Wyndham Roanoke Hotel, 2801 Hershberger Road, Roanoke, Virginia.

† **March 1, 2000 - 9 a.m.** -- Open Meeting

† **March 3, 2000 - 9 a.m.** -- Open Meeting

† **March 31, 2000 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

March 9, 2000 - 9 a.m. -- Open Meeting

Central Park Hotel, 2801 Plank Road, Fredericksburg, Virginia. ♿

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixon, Board of Medicine, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎

STATE MILK COMMISSION

February 16, 2000 - 10:30 a.m. -- Open Meeting

Department of Forestry, 900 Natural Resources Drive, 2nd Floor, Conference Room, Charlottesville, Virginia. ♿

A regular meeting of the Board of Commissioners to consider industry issues, distributor licensing, base transfers, baseholder license amendments, fiscal matters, and to review reports from staff of the agency. Any persons requiring special accommodations in order to participate in the meeting should contact Edward C.

Wilson, Jr. at least five days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth Street Office Bldg., 202 N. Ninth St., Room 915 Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, (804) 786-2013/TTY ☎, e-mail ewilson@smc.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

† **February 17, 2000 - Noon** -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿

A quarterly meeting of the board of trustees to approve acquisition of art works, review budget status, and receive committee and staff reports. Public comment will not be received at the meeting.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 17, 2000 - 8:30 a.m.** -- Open Meeting

Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, 2nd Floor Meeting Room, Richmond, Virginia. ♿

A quarterly meeting of the Buildings and Grounds Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 17, 2000 - 9:30 a.m.** -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ♿

A quarterly meeting of the Collections Committee to consider art purchase recommendations, gifts of art offered to the museum, and requests for loans. Public comment will not be received.


Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 16, 2000 - 3:15 p.m.** -- Open Meeting

Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, 2nd Floor Meeting Room, Richmond, Virginia. ♿


A quarterly meeting of the Communications and Marketing Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 16, 2000 - 2 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, 1st Floor Meeting Room, Richmond, Virginia. 


A quarterly meeting of the Education and Programs Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, Virginia, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 16, 2000 - 4:30 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, 1st Floor Meeting Room, Richmond, Virginia. 


A quarterly meeting of the Exhibitions Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 17, 2000 - 11 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 


A quarterly meeting of the Finance Committee with budget review and staff reports. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 16, 2000 - 11:15 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. 

A meeting of the Legislative Committee to discuss the Governor's budget and the current session of the General Assembly. Public comment will not be received at the meeting.


Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

† **February 16, 2000 - 12:30 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 


A quarterly meeting of the Planning Committee. Public comment will not be received.


Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, e-mail erobertson@vmfa.state.va.us.

BOARD OF NURSING


February 15, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


A meeting to adopt final regulations for nurses and certified nurse aides in order to increase certain fees charged to applicants and to consider any other action as may come before the board.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail ndurrett@dhp.state.va.us.


February 15, 2000 - 8:30 a.m. -- Open Meeting
February 17, 2000 - 8:30 a.m. -- Open Meeting
February 22, 2000 - 8:30 a.m. -- Open Meeting
February 28, 2000 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A Special Conference Committee will conduct informal conferences with licensees or certificate holders. Public comment will not be received.


Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

† **March 20, 2000 - 8:30 a.m.** -- Open Meeting
† **March 22, 2000 - 8:30 a.m.** -- Open Meeting
† **March 23, 2000 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 


A panel of the board will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

BOARD OF OPTOMETRY


February 18, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to conduct a formal disciplinary hearing, after which general board business will resume (at approximately 11 a.m.).

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

Calendar of Events


VIRGINIA OUTDOORS FOUNDATION

† **February 21, 2000 - 10 a.m.** -- Open Meeting
Prudential Funkhouser and Associates, University Avenue,
Harrisonburg, Virginia. 


The Region I Advisory Board will review funding applications to the Open Space Lands Preservation Trust Fund.


Contact: Faye Cooper, Conservation Easement Specialist, Virginia Outdoors Foundation, 11 East Beverley St., Staunton, VA 24401, telephone (540) 886-2460 or FAX (540) 886-1380.

BOARD OF PHARMACY

February 15, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting to conduct general business and consider disciplinary matters or conduct disciplinary proceedings. Public comment will be received at the beginning of the meeting immediately following approval of the agenda and acceptance of the minutes.


Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail erussell@dhp.state.va.us.

February 16, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 W. Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 


A Special Conference Committee will hear informal conferences. Public comment will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.


BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

March 27, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks in advance of the meeting. The department fully complies with the Americans with Disabilities Act.


Contact: Debra L. Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519 or (804) 367-9753/TTY 

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS


February 17, 2000 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. 


A meeting of the Credentials Committee to review applicant credentials. No public comment will be received.

Contact: Joyce D. Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail coun@dhp.state.va.us.


February 17, 2000 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. 


The Regulatory Committee will meet to review final fee changes for its licensure and certification categories, work on consistency in the language among its regulations, discuss education requirements for certified substance abuse counselors, and discuss inactive licensure requirements.

Contact: Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail jdelorme@dhp.state.va.us.

February 17, 2000 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. 

A meeting of the Supervision Committee to review supervision standards. No public comment will be heard.

Contact: Joyce D. Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail coun@dhp.state.va.us.

February 18, 2000 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. 

A meeting of the Executive Committee to plan for the upcoming board meeting. No public comment will be heard.

Contact: Joyce D. Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230,

telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail coun@dhp.state.va.us.

February 18, 2000 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th, Floor, Board Room 2, Richmond, Virginia. ♿

A regular meeting to conduct general board business and to consider committee reports correspondence and any other matters under the jurisdiction of the board. Public comments will be heard at the beginning of the meeting.

Contact: Joyce D. Williams, Administrative Assistant, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail coun@dhp.state.va.us.

VIRGINIA RACING COMMISSION

February 16, 2000 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia. ♿

A regular monthly meeting including a segment for public participation. The commission will discuss proposed amendments to its regulation 11 VAC 10-150-10 et seq., Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Standardbred Racing. The commission will also hear a report from Colonial Downs.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418.

REAL ESTATE BOARD

February 17, 2000 - 9 a.m. -- Open Meeting
Omni Hotel, 12th and Cary Streets, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552 or FAX (804) 367-2475.

† **February 22, 2000 - 9 a.m.** -- Open Meeting
† **February 23, 2000 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences pursuant to § 9-6.14:11 of the Administrative Process Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie A. Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-2179, or (804) 367-9753/TTY ☎

STATE REHABILITATION COUNCIL

February 14, 2000 - 9:30 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Council committee followed by a regular business meeting.

Contact: Kay Magill, State Rehabilitation Council Liaison, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7527, FAX (804) 662-7696, or toll-free 1-800-552-5019 or 1-800-464-9950/TTY ☎

VIRGINIA RESOURCES AUTHORITY

† **March 14, 2000 - 9 a.m.** -- Open Meeting
† **April 11, 2000 - 9 a.m.** -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia.

A meeting to approve minutes of the prior meeting, to review the authority's operations for the prior month, and to consider other matters and take other actions as the authority may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Benjamin M. Hoyle, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Individuals with Mental Illness (PAIMI) Council


† **February 16, 2000 - 10:15 a.m.** -- Open Meeting
Eastern State Hospital, Building 4, Williamsburg, Virginia. ♿
(Interpreter for the deaf provided upon request)

A quarterly meeting.

Contact: Susan Jones, Program Operations Coordinator, Department for Rights of Virginians with Disabilities, 202 N. Ninth St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2061, FAX (804) 225-3221, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail jonessm@drvd.state.va.us.

Calendar of Events


SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

† **March 1, 2000 - 10 a.m.** -- Open Meeting
Henrico County Human Resources Building, 8600 Dixon Powers Road, Board Room, Richmond, Virginia. 

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236 or FAX (804) 225-4003.


VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **February 22, 2000 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and general business of the board. The time of the meeting is subject to change depending upon the agenda of the board.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254 or FAX (804) 225-3384.

BOARD OF SOCIAL WORK

February 25, 2000 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

A meeting to conduct general board business, receive committee reports, and discuss any other items which may come before the board. The board will entertain public comments during the first 15 minutes of the meeting.

Contact: Rai Minor, Administrative Assistant, Board of Social Work, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail bsw@dhp.state.va.us, homepage <http://www.dhp.state.va.us>.

DEPARTMENT OF TECHNOLOGY PLANNING


† **February 18, 2000 - 8:30 a.m.** -- Open Meeting
Department of Information Technology, 110 South 7th Street, 4th Floor, Auditorium, Richmond, Virginia.

Executive Branch Agency and Institution Workshop on Executive Order 51: Web-Site Plan.

Contact: Conor Powell, VIPNet Authority, Department of Technology Planning, 110 S. 7th St., Suite 135, Richmond,

VA 23219, telephone (804) 786-4583, FAX (804) 371-2795, e-mail cpowell@vipnetboard.state.va.us.


Land Records Management Task Force

† **March 28, 2000 - 1:30 p.m.** -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd floor Conference Room, Richmond, Virginia. 

A regular business meeting.


Contact: Diane Wresinski, Policy and Planning Specialist, Department of Technology Planning, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 371-2750, e-mail dwresinski@ntp.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

† **February 16, 2000 - 2 p.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.


† **February 17, 2000 - 10 a.m.** -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Statewide Rehabilitation Council for the Blind

March 4, 2000 - 10 a.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA, 23227, telephone (804) 371-3111, FAX (804) 371-3351, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dvh.state.va.us.

VIRGINIA VOLUNTARY FORMULARY BOARD

March 3, 2000 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ♿

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs to/from the Formulary that became effective on July 27, 1998, and the most recent supplement to the formulary. Copies of the proposed additions and deletions are available for inspection at the Department of Health, Bureau of Pharmacy Services, 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond, Virginia 23218. Written comments received prior to 5 p.m. on March 3, 2000, will be made a part of the hearing record and considered by the formulary board.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, State Board of Health, 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond VA 23218, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

March 2, 2000 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 10th Floor, Conference Room, Richmond, Virginia. ♿

A public meeting to receive comments on the board's intended regulatory action to amend regulations 9 VAC 20-70-10 et seq., Financial Assurance Regulations for Solid Waste Management Facilities.

Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238, (804) 698-4021/TTY ☎, e-mail msporterfi@deq.state.va.us.

STATE WATER CONTROL BOARD

February 16, 2000 - 7 p.m. -- Open Meeting
Hayfield High School, 7630 Telegraph Road, Alexandria, Virginia. ♿

A public hearing to receive comments on the proposed issuance of a VPDES Permit for Meadowood Farm L.L.P. wastewater treatment plant proposed in southeastern Fairfax County at the end of Belmont Boulevard.

Contact: Thomas A. Faha, Water Permits Manager, State Water Control Board, Northern Regional Office, Woodbridge, VA 22193, telephone (703) 583-3846, e-mail tafaha@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

February 24, 2000 - 8:30 a.m. -- Open Meeting

March 16, 2000 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ♿

A meeting to conduct routine business and adopt proposed regulations. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.

VIRGINIA WORKFORCE COUNCIL

† **February 28, 2000 - 10 a.m.** -- Open Meeting
Virginia Employment Commission, Central Office, 703 East Main Street, Conference Room 303, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the Committee on WIA and Coordinated Planning to consider certification of training providers under the Workforce Investment Act (WIA) and the state five-year strategic plan.

Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 786-5891 or (804) 371-8050/TTY ☎

† **February 29, 2000 - 10 a.m.** -- Open Meeting
Virginia Employment Commission, Central Office, 703 East Main Street, Conference Room 303, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the Existing and Hard to Employ Committee to consider an alternate formula based on unemployment for distribution of 30% of the youth/adult local allocation of Workforce Investment Act (WIA) funds. Performance measure and related matters may also be discussed.

Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 786-5891 or (804) 371-8050/TTY ☎

Calendar of Events

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in *The Virginia Register of Regulations*. You may call Legislative Information for information on standing committee meetings. The number is (804) 698-1500.

COMMISSION ON VIRGINIA'S STATE AND LOCAL TAX STRUCTURE FOR THE 21ST CENTURY

February 17, 2000 - 1 p.m. -- Public Hearing
American Type Culture Collection, 10801 University Boulevard, Lobby Conference Room, Manassas, Virginia.

A public hearing to receive testimony concerning possible changes in Virginia's state and local tax structure to address the needs of the Commonwealth in the 21st century. Individuals and groups that wish to address the commission at the hearing are requested to preregister with the commission's staff in Richmond at the address below.

Contact: M. H. Wilkinson, Staff Director, Commission on Virginia's State and Local Tax Structure for the 21st Century, 700 E. Franklin St., Suite 700, Richmond, VA 23219-2318, telephone (804) 786-4273, FAX (804) 371-0234.

February 17, 2000 - 7 p.m.-- Open Meeting

February 18, 2000 - 8 a.m. (if necessary) -- Open Meeting
American Type Culture Collection, 10801 University Boulevard, Lobby Conference Room, Manassas, Virginia

A meeting devoted to the commission's discussion and consideration of issues concerning the adequacy of Virginia's state and local tax structure to address the needs of the Commonwealth in the 21st Century. The meeting will be continued, if necessary, on February 18 and 8 a.m. at the same location.

Contact: M. H. Wilkinson, Staff Director, Commission on Virginia's State and Local Tax Structure for the 21st Century, 700 E. Franklin St., Suite 700, Richmond, VA 23219-2318, telephone (804) 786-4273, FAX (804) 371-0234.

OPEN MEETINGS

February 14

Agriculture and Consumer Services, Department of
- Consumer Affairs Advisory Committee
Rehabilitation Council, State

February 15

† Agriculture and Consumer Services, Department of
- Farmers Market Board
- Virginia Sweet Potato Board
† Aviation Board, Virginia
† Conservation and Recreation, Department of
Game and Inland Fisheries, Department of
Higher Education for Virginia, State Council of

Nursing, Board of
- Special Conference Committee
Pharmacy, Board of

February 16

Agriculture and Consumer Services, Department of
- Virginia Corn Board
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Land Surveyors Section
† Aviation Board, Virginia
Game and Inland Fisheries, Department of
Health Professions, Department of
- Enforcement Committee
- Regulatory Research Committee
Milk Commission, State
† Museum of Fine Arts, Virginia
- Communications and Marketing Committee
- Education and Programs Committee
- Exhibitions Committee
- Legislative Committee
- Planning Committee
Pharmacy, Board of
- Special Conference Committee
Racing Commission, Virginia
† Rights of Virginian's with Disabilities, Department for
† Transportation Board, Commonwealth

February 17

† Agriculture and Consumer Services, Department of
- Virginia Aquaculture Advisory Board
Assistive Technology Loan Fund Authority
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Finance and Budget Oversight Committee
- Legislative/Liaison Committee
† Manufactured Housing Board
Medical Assistance Services, Department of
- Drug Utilization Review Board
† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee
- Collections Committee
- Finance Committee
Nursing, Board of
- Special Conference Committee
Professional Counselors, Marriage and Family Therapists
and Substance Abuse Treatment Professionals, Board
of Licensed
- Credentials Committee
- Regulatory Committee
- Supervision Committee
Real Estate Board
Tax Structure for the 21st Century, Commission on
Virginia's State and Local
† Transportation Board, Commonwealth

February 18

† Correctional Education, Board of
† Dentistry, Board of
† Fire Services Board, Virginia
Optometry, Board of

Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, Board of Licensed
- Executive Committee
Tax Structure for the 21st Century, Commission on Virginia's State and Local
† Technology Planning, Department of

February 21

† Local Government, Commission on
† Outdoors Foundation, Virginia
- Region I Advisory Board

February 22

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Compensation Board
Marine Resources Commission
Nursing, Board of
- Special Conference Committee
† Real Estate Board
† Small Business Financing Authority, Virginia

February 23

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- Landscape Architects Section
† At-Risk Youth and Their Families, Comprehensive Services for
- State Executive Council
† Housing Development Authority, Virginia
† Real Estate Board

February 24

Agriculture and Consumer Services, Department of
- Virginia Aquaculture Advisory Board
- Virginia Charity Food Assistance Advisory Board
- Virginia Soybean Board
Education, Board of
† Medicine, Board of
- Informal Conference Committee
Waterworks and Wastewater Works Operators, Board for

February 25

† Dentistry, Board of
- Special Conference Committee
Social Work, Board of

February 28

† Agriculture and Consumer Services, Department of
- Virginia Sheep Industry Board
† Hearing Aid Specialists, Board for
Nursing, Board of
- Special Conference Committee
† Workforce Council, Virginia
- WIA and Coordinated Planning Committee

February 29

† Workforce Council, Virginia
- Existing Workforce and the Hard to Employ Committee

March 1

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- Certified Interior Designer Section
† Emergency Planning Committee, Local - Winchester
† Medicine, Board of
- Informal Conference Committee
† Sewage Handling and Disposal Appeal Review Board

March 2

Waste Management Board, Virginia

March 3

† Medicine, Board of
- Informal Conference Committee
Voluntary Formulary Board, Virginia

March 4

Visually Handicapped, Board for the
- Statewide Rehabilitation Council

March 6

Cosmetology, Board for
† Labor and Industry, Department of
- Safety and Health Codes Board

March 7

Asbestos and Lead, Virginia Board for
Hopewell Industrial Safety Council

March 8

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
† Funeral Directors and Embalmers, Board of

March 9

† Game and Inland Fisheries, Board of
Medicine, Board of
- Informal Conference Committee

March 10

† Game and Inland Fisheries, Board of

March 13

Library Board, State
† Local Government, Commission on

March 14

Higher Education for Virginia, State Council of
† Resources Authority, Virginia
- Board of Directors

March 15

† Funeral Directors and Embalmers, Board of
- Legislative Committee

March 16

† Agriculture and Consumer Services, Department of
Waterworks and Wastewater Works Operators, Board for

March 20

† Nursing, Board of

Calendar of Events

March 21

† Environmental Quality, Department of
- Ground Water Protection Steering Committee
Higher Education for Virginia, State Council of

March 22

† Nursing, Board of

March 23

Education, Board of
† Medicine, Board of
- Advisory Board of Athletic Training
† Nursing, Board of

March 27

Professional and Occupational Regulation, Board for

March 28

Marine Resources Commission
† Technology Planning, Department of
- Land Records Management Task Force

March 31

† Medicine, Board of
- Informal Conference Committee

April 3

Medical Assistance Services, Department of
- Medicaid Pharmacy Liaison Committee

April 4

Hearing Aid Specialists, Board for

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