
TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....329

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Regulations Governing the Practice of Medicine, Osteopathic
Medicine, Podiatry and Chiropractic (18 VAC 85-20).341

BOARD OF NURSING

Agency Decision

Regulations Governing the Practice of Nursing (18 VAC 90-
20).341

NOTICES OF INTENDED REGULATORY ACTION

TITLE 2. AGRICULTURE

Department of Agriculture and Consumer Services.....342

TITLE 4. CONSERVATION AND NATURAL RESOURCES

Department of Mines, Minerals and Energy342

TITLE 9. ENVIRONMENT

Virginia Waste Management Board.....342

State Water Control Board343

TITLE 12. HEALTH

State Board of Health344

Department of Medical Assistance Services344

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board for Contractors344

Board of Dentistry.....345

Board of Funeral Directors and Embalmers345

Board of Medicine.....345

Board of Long-Term Care Administrators.....345

TITLE 19. PUBLIC SAFETY

Department of State Police 346

PROPOSED REGULATIONS

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30,
11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70,
11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170;
repealing 11 VAC 10-70-50). 347

Appeals to the Commission (amending 11 VAC 10-90-10,
11 VAC 10-90-30, and 11 VAC 10-90-50). 347

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Rules and Regulations for Administration of Rent Reduction
Tax Credits (amending 13 VAC 10-160-10, 13 VAC 10-160-
30, 13 VAC 10-160-55, 13 VAC 10-160-60, 13 VAC 10-160-
80, and 13 VAC 10-160-90). 350

Rules and Regulations for the Allocation of Low-Income
Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC
10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-90). .. 355

FINAL REGULATIONS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Regulation for Nutrient Enriched Waters and Dischargers
within the Chesapeake Bay Watershed (amending 9 VAC 25-
40-10, 9 VAC 25-40-30, 9 VAC 25-40-40, and 9 VAC 25-40-
50; adding 9 VAC 25-40-25, 9 VAC 25-40-70; and repealing
9 VAC 25-40-20). 370

Water Quality Management Planning Regulation (amending
9 VAC 25-720-10, 9 VAC 25-720-30, 9 VAC 25-720-40,
9 VAC 25-720-50, 9 VAC 25-720-70, 9 VAC 25-720-110. . 370

Water Quality Standards (amending 9 VAC 25-260-30). ... 381

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Banking and Savings Institutions (adding 10 VAC 5-20-50).
..... 382

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Stewards (11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-
70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC10-70-80,
11 VAC 10-70-90 and 11 VAC 10-70-170) (Notice of

Table of Contents

Expiration of Regulatory Action).384

Appeals to the Commission (11 VAC 10-90-10, 11 VAC 10-90-30 and 11 VAC 10-90-50) (Notice of Expiration of Regulatory Action).384

Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).384

Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).384

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Regulations for the Licensure of Home Health Agencies (REPEAL) (12 VAC 5-380).388

Regulations for the Licensure of Home Care Organizations (adding 12 VAC 5-381-10 through 12 VAC 5-381-360).388

Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (repealing 12 VAC 5-500-10 through 12 VAC 5-500-350).407

Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (adding 12 VAC 5-501-10 through 12 VAC 5-501-350).407

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-40).414

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Virginia Certification Standards (amending 13 VAC 5-21-10 through 13 VAC 5-21-70; adding 13 VAC 5-21-45).416

Virginia Amusement Device Regulations (amending 13 VAC 5-31-20, 13 VAC 5-31-40, 13 VAC 5-31-50, 13 VAC 5-31-80, 13 VAC 5-31-100 and 13 VAC 5-31-190; adding 13 VAC 5-31-200 and 13 VAC 5-31-210).419

Virginia Statewide Fire Prevention Code (amending 13 VAC 5-51-21, 13 VAC 5-51-31, 13 VAC 5-51-41, 13 VAC 5-51-51, 13 VAC 5-51-61, 13 VAC 5-51-81, 13 VAC 5-51-91, 13 VAC 5-51-121, 13 VAC 5-51-130, 13 VAC 5-51-131, 13 VAC 5-51-132, 13 VAC 5-51-133, 13 VAC 5-51-135, 13 VAC 5-51-150, and 13 VAC 5-51-155; adding 13 VAC 5-51-133.5, 13 VAC 5-51-134, 13 VAC 5-51-135.5, 13 VAC 5-51-145, 13 VAC 5-51-152, and 13 VAC 5-51-154; repealing 13 VAC 5-51-136)422

Virginia Uniform Statewide Building Code (USBC) (repealing 13 VAC 5-62-10 through 13 VAC 5-62-480).444

Virginia Uniform Statewide Building Code (adding 13 VAC 5-63-10 through 13 VAC 5-63-550).444

Virginia Industrialized Building Safety Regulations (amending 13 VAC 5-91-10, 13 VAC 5-91-20, 13 VAC 5-91-40, 13 VAC 5-91-50, 13 VAC 5-91-70, 13 VAC 5-91-80, 13 VAC 5-91-90, 13 VAC 5-91-110 through 13 VAC 5-91-220, and 13 VAC 5-91-245 through 13 VAC 5-91-270).497

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Environmental Study to Restore Water Quality for Occoquan Basin Streams in Northern Virginia..... 504

DEPARTMENT OF HEALTH

HIV Care & Prevention Services Public Hearings 504

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Clarify Medicaid Utilization Calculation to Match Cost Report Practice and the Days Included for Newborns Not Enrolled in Medicaid During the Fiscal Year..... 505

STATE WATER CONTROL BOARD

Proposed Consent Special Order for BASF Corporation ... 505

Proposed Consent Special Order for the City of Salem..... 505

Proposed Consent Special Order for Titan Virginia Ready-Mix LLC 506

VIRGINIA CODE COMMISSION

Notice to State Agencies..... 506

Forms for Filing Material for Publication in the Virginia Register of Regulations..... 506

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 507

INDEPENDENT

Open Meetings and Public Hearings530

LEGISLATIVE

Open Meetings and Public Hearings531

CHRONOLOGICAL LIST

Open Meetings533

Public Hearings.....536

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2005 VAC Supplement includes final regulations published through *Virginia Register* Volume 21, Issue 11, dated February 7, 2005). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 55-30-10 through 1 VAC 55-30-90 emer	Added	21:19 VA.R. 2599-2602	5/16/05-5/15/06
Title 3. Alcoholic Beverages			
3 VAC 5-30-10	Amended	21:19 VA.R. 2530	6/29/05
3 VAC 5-30-30	Amended	21:19 VA.R. 2531	6/29/05
3 VAC 5-30-60	Amended	21:19 VA.R. 2532	6/29/05
3 VAC 5-30-70	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-20	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-40	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-40-50	Amended	21:19 VA.R. 2533	6/29/05
3 VAC 5-70-220	Added	21:19 VA.R. 2533	6/29/05
Title 4. Conservation and Natural Resources			
4 VAC 15-40-20	Amended	21:23 VA.R. 3235	8/24/05
4 VAC 15-40-21	Added	21:23 VA.R. 3235	8/24/05
4 VAC 15-380-120	Readopting	21:23 VA.R. 3236	8/24/05
4 VAC 20-80-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-110-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-170-10 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30 emer	Amended	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-170-30	Amended	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-50	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-55	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-90	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-100	Amended	22:1 VA.R. 81	9/1/05
4 VAC 20-252-130	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-135 emer	Added	21:16 VA.R. 2219	4/1/05-4/30/05
4 VAC 20-252-135	Added	21:18 VA.R. 2372	5/1/05
4 VAC 20-252-150	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-160	Amended	21:13 VA.R. 1826	2/2/05
4 VAC 20-270-30 emer	Amended	21:23 VA.R. 3290	6/29/05-7/28/05
4 VAC 20-270-30	Amended	21:25 VA.R. 3469	7/29/05
4 VAC 20-320-20 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-20	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-320-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-320-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-390-20 through 4 VAC 20-390-50	Amended	21:22 VA.R. 3089-3092	7/1/05
4 VAC 20-430-10 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-10	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-15 emer	Amended	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-15	Amended	21:18 VA.R. 2373	5/1/05
4 VAC 20-430-65 emer	Added	21:16 VA.R. 2220	4/1/05-4/30/05
4 VAC 20-430-65	Added	21:18 VA.R. 2373	5/1/05
4 VAC 20-450-30	Amended	21:13 VA.R. 1827	2/2/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-566-10 through 4 VAC 20-566-50 emer	Added	21:25 VA.R. 3552	8/16/05-9/14/05
4 VAC 20-566-10 through 4 VAC 20-566-50	Added	22:1 VA.R. 81-82	9/15/05
4 VAC 20-620-20	Amended	21:21 VA.R. 2900	6/1/05
4 VAC 20-620-40	Amended	21:14 VA.R. 1992	3/1/05
4 VAC 20-620-50	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-60	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-70	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-670-30	Amended	21:25 VA.R. 3470	7/29/05
4 VAC 20-670-50	Amended	21:25 VA.R. 3470	7/29/05
4 VAC 20-720-10 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-40 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-40	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-49 emer	Added	21:14 VA.R. 2016	3/1/05-3/9/05
4 VAC 20-720-50 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-50	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-60 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-720-110 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-910	Erratum	21:20 VA.R. 2736	--
4 VAC 20-910-45	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-910-45	Amended	21:21 VA.R. 2901	6/1/05
4 VAC 20-920-45	Added	21:8 VA.R. 914	12/1/04
4 VAC 20-950-45	Amended	21:16 VA.R. 2191	4/1/05
4 VAC 20-950-48	Amended	21:13 VA.R. 1828	2/2/05
4 VAC 20-1065-10 through 4 VAC 20-1065-40	Added	21:12 VA.R. 1523	2/1/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50 emer	Added	21:16 VA.R. 2221	4/1/05-4/30/05
4 VAC 20-1080-10 through 4 VAC 20-1080-50	Added	21:18 VA.R. 2374	5/1/05
4 VAC 25-130 (Forms)	Amended	21:22 VA.R. 3106	--
4 VAC 25-130-816.11	Amended	21:26 VA.R. 3706	8/10/05-8/9/06
4 VAC 25-130-816.64	Amended	21:26 VA.R. 3707	8/10/05-8/9/06
Title 6. Criminal Justice and Corrections			
6 VAC 20-130-60	Amended	21:16 VA.R. 2192	5/18/05
6 VAC 20-180-10 through 6 VAC 20-180-50	Amended	21:14 VA.R. 1996-1998	4/20/05
6 VAC 20-180-60	Added	21:14 VA.R. 1998	4/20/05
6 VAC 20-230-160	Erratum	22:2 VA.R. 296	--
6 VAC 20-230-210	Erratum	22:2 VA.R. 296	--
6 VAC 20-230-10 through 6 VAC 20-230-350	Added	21:26 VA.R. 3680-3691	10/5/05
6 VAC 20-250-10 through 6 VAC 20-250-360 emer	Added	21:21 VA.R. 2914-2925	7/1/05-6/30/06
6 VAC 35-140-10	Amended	21:19 VA.R. 2534	7/1/05
6 VAC 35-140-20	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-22	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-23	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-24	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-30	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-40	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-45	Added	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-50 through 6 VAC 35-140-90	Amended	21:19 VA.R. 2536	7/1/05
6 VAC 35-140-110 through 6 VAC 35-140-140	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-170 through 6 VAC 35-140-190	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-192	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-200 through 6 VAC 35-140-230	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-250 through 6 VAC 35-140-270	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-275	Added	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-280	Amended	21:19 VA.R. 2537	7/1/05
6 VAC 35-140-290	Amended	21:19 VA.R. 2538	7/1/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 35-140-295	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-300 through 6 VAC 35-140-350	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-385 through 6 VAC 35-140-389	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-400	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-430 through 6 VAC 35-140-500	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-510	Repealed	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-530	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-540	Amended	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-545	Added	21:19 VA.R. 2538	7/1/05
6 VAC 35-140-550 through 610	Amended	21:19 VA.R. 2538-2540	7/1/05
6 VAC 35-140-615	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-620	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-630	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-660	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-670	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-680	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-685	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-690	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-700	Amended	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-701 through 6 VAC 35-140-709	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-711 through 6 VAC 35-140-715	Added	21:19 VA.R. 2540	7/1/05
6 VAC 35-140-730 through 6 VAC 35-140-770	Amended	21:19 VA.R. 2540	7/1/05
Title 8. Education			
8 VAC 20-21-80	Amended	21:25 VA.R. 3471	9/22/05
8 VAC 20-21-90	Amended	21:25 VA.R. 3473	9/22/05
8 VAC 20-21-580	Amended	21:15 VA.R. 2111	5/5/05
8 VAC 20-21-660	Amended	21:25 VA.R. 3473	9/22/05
8 VAC 20-21-680	Amended	21:25 VA.R. 3474	9/22/05
8 VAC 20-30-10 through 8 VAC 20-30-40	Amended	21:22 VA.R. 3092-3093	8/15/05
8 VAC 20-30-50	Repealed	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-60	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-30-70	Amended	21:22 VA.R. 3093	8/15/05
8 VAC 20-90-10	Amended	21:14 VA.R. 1999	5/2/05
8 VAC 20-90-30	Amended	21:14 VA.R. 2000	5/2/05
8 VAC 20-90-40	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-90-70	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-210-10	Erratum	21:13 VA.R. 1941	--
8 VAC 20-520-5 emer	Added	21:14 VA.R. 2016	3/1/05-2/28/06
8 VAC 20-520-10 emer	Repealed	21:14 VA.R. 2017	3/1/05-2/28/06
8 VAC 20-520-20 through 8 VAC 20-520-60 emer	Added	21:14 VA.R. 2017-2018	3/1/05-2/28/06
8 VAC 20-680-10	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-680-20	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-690-10 through 8 VAC 20-690-50	Added	21:12 VA.R. 1525	3/29/05
8 VAC 20-700-10 through 8 VAC 20-700-50 emer	Added	21:13 VA.R. 1928-1929	2/16/05-2/15/06
8 VAC 40-20-20	Amended	21:22 VA.R. 3102	9/28/05
8 VAC 40-20-30	Amended	21:22 VA.R. 3103	9/28/05
Title 9. Environment			
9 VAC 5-10-20	Amended	21:15 VA.R. 2112	5/4/05
9 VAC 5-20-204	Amended	21:15 VA.R. 2119	5/4/05
9 VAC 5-40-6620	Amended	21:15 VA.R. 2120	5/4/05
9 VAC 5-40-7260	Erratum	21:13 VA.R. 1941	--
9 VAC 5-40-7270	Erratum	21:13 VA.R. 1941	--
9 VAC 5-50-260	Amended	21:19 VA.R. 2577	*

* Suspension of Regulatory Process 21:26

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-60-92	Added	21:19 VA.R. 2577	*
9 VAC 5-80-1100	Amended	21:19 VA.R. 2577	*
9 VAC 5-80-1110	Amended	21:19 VA.R. 2578	*
9 VAC 5-80-1120	Amended	21:19 VA.R. 2583	*
9 VAC 5-80-1140	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1160	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1170	Amended	21:19 VA.R. 2584	*
9 VAC 5-80-1280	Amended	21:19 VA.R. 2585	*
9 VAC 5-80-1290	Amended	21:19 VA.R. 2586	*
9 VAC 5-80-1300	Amended	21:19 VA.R. 2586	*
9 VAC 5-80-1320	Amended	21:19 VA.R. 2587	*
9 VAC 5-91-20	Amended	21:19 VA.R. 2541	6/29/05
9 VAC 5-91-160	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-180	Amended	21:19 VA.R. 2547	6/29/05
9 VAC 5-91-740	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-741	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-742	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-743	Added	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-750	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-91-760	Amended	21:19 VA.R. 2548	6/29/05
9 VAC 5-230-10 through 9 VAC 5-230-120	Added	21:24 VA.R. 3385-3390	9/7/05
9 VAC 20-20-20	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-40	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-60	Amended	21:20 VA.R. 2668	7/13/05
9 VAC 20-20-80	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-100	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-110 through 9 VAC 20-20-150	Amended	21:20 VA.R. 2669	7/13/05
9 VAC 20-20-160	Added	21:20 VA.R. 2669	7/13/05
9 VAC 20-30-30	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-50	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-70 through 9 VAC 20-30-120	Amended	21:20 VA.R. 2670	7/13/05
9 VAC 20-30-130	Added	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-20	Amended	21:20 VA.R. 2671	7/13/05
9 VAC 20-40-40 through 9 VAC 20-40-150	Amended	21:20 VA.R. 2671-2680	7/13/05
9 VAC 20-40-160	Added	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-20	Amended	21:20 VA.R. 2680	7/13/05
9 VAC 20-50-40 through 9 VAC 20-50-100	Amended	21:20 VA.R. 2680-2693	7/13/05
9 VAC 20-50-110	Added	21:20 VA.R. 2693	7/13/05
9 VAC 20-70-290	Amended	21:20 VA.R. 2693	7/13/05
9 VAC 20-80-60	Amended	21:26 VA.R. 3691	10/5/05
9 VAC 20-80-400	Amended	21:26 VA.R. 3694	10/5/05
9 VAC 20-80-480	Amended	21:26 VA.R. 3697	10/5/05
9 VAC 20-80-485	Amended	21:26 VA.R. 3698	10/5/05
9 VAC 20-80-485	Erratum	22:2 VA.R. 296	--
9 VAC 20-80-790	Amended	22:1 VA.R. 104	12/19/05
9 VAC 20-80 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 20-130 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 25-31-10	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-100	Erratum	21:14 VA.R. 2022	--
9 VAC 25-31-120	Erratum	21:13 VA.R. 1941	--
9 VAC 25-40-10	Amended	21:23 VA.R. 3236	Suspended
9 VAC 25-40-20	Repealed	21:23 VA.R. 3236	Suspended
9 VAC 25-40-25	Added	21:23 VA.R. 3236	Suspended

* Suspension of Regulatory Process 21:26

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-40-30	Amended	21:23 VA.R. 3236	Suspended
9 VAC 25-40-40	Amended	21:23 VA.R. 3237	Suspended
9 VAC 25-40-50	Amended	21:23 VA.R. 3237	Suspended
9 VAC 25-40-70	Added	21:23 VA.R. 3237	Suspended
9 VAC 25-260-5	Amended	21:18 VA.R. 2375	6/24/05
9 VAC 25-260-10	Amended	21:18 VA.R. 2375	6/24/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-30	Amended	21:22 VA.R. 3094	8/10/05
9 VAC 25-260-50	Amended	21:18 VA.R. 2377	6/24/05
9 VAC 25-260-185	Added	21:18 VA.R. 2377	6/24/05
9 VAC 25-260-186	Added	21:18 VA.R. 2379	6/24/05
9 VAC 25-260-310	Amended	21:23 VA.R. 3250	Suspended
9 VAC 25-260-350	Amended	21:18 VA.R. 2379	6/24/05
9 VAC 25-260-410	Amended	21:23 VA.R. 3252	Suspended
9 VAC 25-260-530	Amended	21:23 VA.R. 3252	Suspended
9 VAC 25-630-50	Amended	22:2 VA.R. 229	11/2/05
9 VAC 25-720-10	Amended	21:23 VA.R. 3238	Suspended
9 VAC 25-720-30 through 9 VAC 25-720-70	Amended	21:23 VA.R. 3240-3246	Suspended
9 VAC 25-720-50	Amended	21:12 VA.R. 1526	3/23/05
9 VAC 25-720-50	Amended	22:2 VA.R. 236	11/2/05
9 VAC 25-720-60	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-80	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-80	Amended	21:17 VA.R. 2302	6/1/05
9 VAC 25-720-90	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-90	Amended	22:2 VA.R. 237	11/2/05
9 VAC 25-720-100	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-110	Amended	21:23 VA.R. 3247	Suspended
9 VAC 25-720-120	Amended	21:23 VA.R. 3247	Suspended
9 VAC 25-720-130	Amended	21:12 VA.R. 1528	3/23/05
9 VAC 25-720-130	Amended	21:17 VA.R. 2303	6/1/05
9 VAC 25-720-130	Amended	22:2 VA.R. 238	11/2/05
9 VAC 25-780-10 through 9 VAC 25-780-190	Added	22:2 VA.R. 238-246	11/2/05
Title 11. Gaming			
11 VAC 10-70-20	Amended	21:22 VA.R. 3094	6/17/05
11 VAC 10-70-30	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-40	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-50	Repealed	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-60	Amended	21:22 VA.R. 3095	6/17/05
11 VAC 10-70-70	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-80	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-90	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-70-170	Amended	21:22 VA.R. 3096	6/17/05
11 VAC 10-90-10	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-30	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-90-50	Amended	21:22 VA.R. 3097	6/17/05
11 VAC 10-180-10	Amended	21:16 VA.R. 2197	5/18/05
11 VAC 10-180-20	Amended	21:16 VA.R. 2193	3/31/03
11 VAC 10-180-20	Amended	21:16 VA.R. 2198	5/18/05
11 VAC 10-180-30	Repealed	21:16 VA.R. 2199	5/18/05
11 VAC 10-180-40	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-50	Repealed	21:16 VA.R. 2200	5/18/05
11 VAC 10-180-60	Amended	21:16 VA.R. 2194	3/31/03
11 VAC 10-180-60 through 11 VAC 10-180-90	Amended	21:16 VA.R. 2202-2207	5/18/05
11 VAC 10-180-80	Amended	21:16 VA.R. 2196	3/31/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-180-85	Added	21:16 VA.R. 2206	5/18/05
11 VAC 10-180-90	Amended	21:16 VA.R. 2197	3/31/03
11 VAC 10-180-100	Added	21:16 VA.R. 2207	5/18/05
11 VAC 10-180-110	Added	21:16 VA.R. 2207	5/18/05
Title 12. Health			
12 VAC 5-390-10 through 12 VAC 5-390-660	Repealed	21:23 VA.R. 3254	11/1/05
12 VAC 5-391-10 through 12 VAC 5-391-500	Added	21:23 VA.R. 3254-3272	11/1/05
12 VAC 5-410-10	Amended	21:12 VA.R. 1561	5/9/05
12 VAC 5-410-420	Amended	21:25 VA.R. 3550	11/7/05
12 VAC 5-410-1190	Amended	21:25 VA.R. 3550	11/7/05
12 VAC 5-590-10	Amended	21:13 VA.R. 1829	4/6/05
12 VAC 5-590-140	Amended	21:16 VA.R. 2209	5/18/05
12 VAC 5-590-150	Amended	21:16 VA.R. 2212	5/18/05
12 VAC 5-590-370	Amended	21:13 VA.R. 1835	4/6/05
12 VAC 5-590-410	Amended	21:13 VA.R. 1860	4/6/05
12 VAC 5-590-420	Amended	21:13 VA.R. 1863	4/6/05
12 VAC 5-590-500	Amended	21:13 VA.R. 1879	4/6/05
12 VAC 5-590-530	Amended	21:13 VA.R. 1880	4/6/05
12 VAC 5-590-540	Amended	21:13 VA.R. 1886	4/6/05
12 VAC 5-590-550	Amended	21:13 VA.R. 1890	4/6/05
12 VAC 5-590, Appendix L	Amended	21:13 VA.R. 1891	4/6/05
12 VAC 5-590, Appendix M	Amended	21:13 VA.R. 1897	4/6/05
12 VAC 5-590, Appendix O	Amended	21:13 VA.R. 1901	4/6/05
12 VAC 30-50-190 emer	Amended	21:23 VA.R. 3291	7/1/05-6/30/06
12 VAC 30-50-300	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-50-490 emer	Amended	21:12 VA.R. 1566	2/1/05-1/31/06
12 VAC 30-50-520 emer	Amended	21:20 VA.R. 2715	5/27/05-5/26/06
12 VAC 30-50-530	Amended	21:22 VA.R. 3098	8/10/05
12 VAC 30-60-40 emer	Amended	21:20 VA.R. 2716	7/1/05-6/30/06
12 VAC 30-60-70	Amended	21:19 VA.R. 2592	8/15/05
12 VAC 30-60-350 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-70-291 emer	Amended	21:20 VA.R. 2720	5/12/05-5/11/06
12 VAC 30-70-291	Amended	21:23 VA.R. 3274	9/1/05
12 VAC 30-70-291 emer	Amended	21:23 VA.R. 3299	7/1/05-6/30/06
12 VAC 30-70-301	Amended	21:14 VA.R. 2014	6/6/05
12 VAC 30-70-301	Amended	21:23 VA.R. 3274	9/1/05
12 VAC 30-70-331	Amended	21:20 VA.R. 2696	7/14/05
12 VAC 30-70-391	Amended	21:23 VA.R. 3275	9/1/05
12 VAC 30-70-425 emer	Amended	21:23 VA.R. 3292	7/1/05-6/30/06
12 VAC 30-70-426 emer	Repealed	21:23 VA.R. 3293	7/1/05-6/30/06
12 VAC 30-80-20 emer	Amended	21:23 VA.R. 3293	7/1/05-6/30/06
12 VAC 30-80-30 emer	Amended	21:23 VA.R. 3296	7/1/05-6/30/06
12 VAC 30-80-40	Amended	21:15 VA.R. 2121	7/1/05
12 VAC 30-80-190	Amended	21:23 VA.R. 3275	9/1/05
12 VAC 30-90-19 emer	Amended	21:23 VA.R. 3298	7/1/05-6/30/06
12 VAC 30-90-41	Amended	21:15 VA.R. 2136	7/1/05
12 VAC 30-90-41 emer	Amended	21:20 VA.R. 2717	7/1/05-6/30/06
12 VAC 30-120-10 through 12 VAC 30-120-60 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-380 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-120-490 through 12 VAC 30-120-550 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-700 emer	Amended	21:12 VA.R. 1568	2/1/05-1/31/06
12 VAC 30-120-710 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-720 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-730 emer	Amended	21:12 VA.R. 1576	2/1/05-1/31/06
12 VAC 30-120-740 emer	Amended	21:12 VA.R. 1578	2/1/05-1/31/06
12 VAC 30-120-750 emer	Amended	21:12 VA.R. 1579	2/1/05-1/31/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-752 emer	Amended	21:12 VA.R. 1580	2/1/05-1/31/06
12 VAC 30-120-753 emer	Amended	21:12 VA.R. 1582	2/1/05-1/31/06
12 VAC 30-120-754 emer	Amended	21:12 VA.R. 1583	2/1/05-1/31/06
12 VAC 30-120-756 emer	Amended	21:12 VA.R. 1584	2/1/05-1/31/06
12 VAC 30-120-758 emer	Amended	21:12 VA.R. 1585	2/1/05-1/31/06
12 VAC 30-120-760 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-762 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-764 emer	Amended	21:12 VA.R. 1587	2/1/05-1/31/06
12 VAC 30-120-766 emer	Amended	21:12 VA.R. 1588	2/1/05-1/31/06
12 VAC 30-120-768 emer	Amended	21:12 VA.R. 1590	2/1/05-1/31/06
12 VAC 30-120-770 emer	Amended	21:12 VA.R. 1592	2/1/05-1/31/06
12 VAC 30-120-772 emer	Amended	21:12 VA.R. 1596	2/1/05-1/31/06
12 VAC 30-120-774 emer	Amended	21:12 VA.R. 1597	2/1/05-1/31/06
12 VAC 30-120-776 emer	Amended	21:12 VA.R. 1598	2/1/05-1/31/06
12 VAC 30-120-780 emer	Repealed	21:12 VA.R. 1600	2/1/05-1/31/06
12 VAC 30-120-790 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-900 through 12 VAC 30-120-990 emer	Added	21:12 VA.R. 1601-1619	2/1/05-1/31/06
12 VAC 30-120-1500 through 12 VAC 120-1590 emer	Added	21:23 VA.R. 3300-3308	7/1/05-6/30/06
12 VAC 30-120-1600 through 12 VAC 30-120-1660 emer	Added	22:2 VA.R. 255-261	9/14/05-9/13/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3553	8/1/05-7/31/06
12 VAC 30-141-10 emer	Amended	21:25 VA.R. 3561	8/1/05-7/31/06
12 VAC 30-141-40 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3555	8/1/05-7/31/06
12 VAC 30-141-100 emer	Amended	21:25 VA.R. 3563	8/1/05-7/31/06
12 VAC 30-141-120 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-150 emer	Amended	21:25 VA.R. 3564	8/1/05-7/31/06
12 VAC 30-141-160 emer	Amended	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-170 emer	Repealed	21:25 VA.R. 3557	8/1/05-7/31/06
12 VAC 30-141-175 emer	Added	21:25 VA.R. 3559	8/1/05-7/31/06
12 VAC 30-141-200 emer	Amended	21:20 VA.R. 2721	7/1/05-6/30/06
12 VAC 30-141-200 emer	Amended	21:25 VA.R. 3560	8/1/05-7/31/06
12 VAC 30-141-500	Amended	21:19 VA.R. 2549	6/29/05
12 VAC 30-141-500 emer	Amended	21:23 VA.R. 3291	7/1/05-6/30/06
12 VAC 30-141-810 through 12 VAC 30-141-1660 emer	Added	21:25 VA.R. 3566-3573	8/1/05-7/31/06
Title 13. Housing			
13 VAC 5-63-110	Erratum	21:14 VA.R. 2021	--
Title 14. Insurance			
14 VAC 5-170-20 through 14 VAC 5-170-105	Amended	21:25 VA.R. 3477-3490	8/15/05
14 VAC 5-170-120	Amended	21:25 VA.R. 3490	8/15/05
14 VAC 5-170-130	Amended	21:25 VA.R. 3492	8/15/05
14 VAC 5-170-150	Amended	21:25 VA.R. 3493	8/15/05
14 VAC 5-170-150	Erratum	22:1 VA.R. 114	--
14 VAC 5-170-160	Amended	21:25 VA.R. 3525	8/15/05
14 VAC 5-170-190 Appendices A through D	Amended	21:25 VA.R. 3527-3548	8/15/05
14 VAC 5-210-10 through 14 VAC 5-210-150	Repealed	21:23 VA.R. 3276	7/1/05
14 VAC 5-211-10 through 14 VAC 5-211-280	Added	21:23 VA.R. 3279-3287	7/1/05
Title 15. Judicial			
15 VAC 5-50-10 through 15 VAC 5-50-210	Repealed	21:17 VA.R. 2304	4/13/05
15 VAC 5-60-10 through 15 VAC 5-60-240	Repealed	21:17 VA.R. 2304	4/13/05
Title 16. Labor and Employment			
16 VAC 25-90-1910.142	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.151	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.268	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1003	Amended	21:21 VA.R. 2901	8/15/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.1017	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1018	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1025	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1027	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1028	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1029	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1043	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1044	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1045	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1047	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1048	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-90-1910.1051	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-100-1915.1001	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.62	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1101	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.1127	Amended	21:21 VA.R. 2901	8/15/05
16 VAC 25-175-1926.60	Amended	21:21 VA.R. 2903	8/15/05
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-290	Added	21:21 VA.R. 2904	7/27/05
18 VAC 47-20-10 emer	Amended	21:25 VA.R. 3574	8/1/05-7/31/06
18 VAC 47-20-35 emer	Added	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-70 emer	Amended	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-140 emer	Amended	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-240 emer	Repealed	21:25 VA.R. 3575	8/1/05-7/31/06
18 VAC 47-20-250 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 47-20-260 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 47-20-270 emer	Added	21:25 VA.R. 3576	8/1/05-7/31/06
18 VAC 50-22-100	Amended	21:20 VA.R. 2696	8/1/05
18 VAC 50-22-140	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-170	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-22-250	Amended	21:20 VA.R. 2697	8/1/05
18 VAC 50-30-90	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-120	Amended	21:20 VA.R. 2698	8/1/05
18 VAC 50-30-130	Amended	21:20 VA.R. 2699	8/1/05
18 VAC 60-20	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-10	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-10 emer	Amended	22:1 VA.R. 106	9/1/05-8/31/06
18 VAC 60-20-16	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-17	Added	21:19 VA.R. 2550	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2551	6/29/05
18 VAC 60-20-20	Amended	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-20 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-50 through 18 VAC 60-20-90	Amended	21:19 VA.R. 2551-2552	6/29/05
18 VAC 60-20-71 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-91	Added	21:19 VA.R. 2555	6/29/05
18 VAC 60-20-105	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-105 emer	Amended	22:1 VA.R. 107	9/1/05-8/31/06
18 VAC 60-20-106	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-106	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-106 emer	Amended	22:1 VA.R. 108	9/1/05-8/31/06
18 VAC 60-20-107	Added	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-107	Erratum	21:22 VA.R. 3119	--
18 VAC 60-20-110	Amended	21:19 VA.R. 2552	6/29/05
18 VAC 60-20-120	Amended	21:19 VA.R. 2553	6/29/05
18 VAC 60-20-130	Repealed	21:19 VA.R. 2554	6/29/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-135	Added	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-190	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-195	Amended	21:19 VA.R. 2554	6/29/05
18 VAC 60-20-210 emer	Amended	22:1 VA.R. 108	9/1/05-8/31/06
18 VAC 60-20-230 emer	Amended	22:1 VA.R. 109	9/1/05-8/31/06
18 VAC 62-20-10 through 18 VAC 62-20-180	Added	21:20 VA.R. 2700-2706	7/15/05
18 VAC 65-20-15	Added	21:18 VA.R. 2380	6/15/05
18 VAC 75-40-10	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-20	Added	21:16 VA.R. 2215	5/18/05
18 VAC 75-40-30	Added	21:16 VA.R. 2215	5/18/05
18 VAC 76-20-20 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-30 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-50 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-60	Amended	21:19 VA.R. 2556	6/29/05
18 VAC 76-20-60 emer	Amended	21:25 VA.R. 3577	7/25/05-7/24/06
18 VAC 76-20-70 emer	Added	21:25 VA.R. 3578	7/25/05-7/24/06
18 VAC 76-40-10	Amended	21:19 VA.R. 2596	8/15/05
18 VAC 85-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 85-20	Erratum	22:1 VA.R. 114	--
18 VAC 85-20-25	Added	22:1 VA.R. 82	10/19/05
18 VAC 85-20-26	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-27	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-28	Added	22:1 VA.R. 83	10/19/05
18 VAC 85-20-29	Added	22:1 VA.R. 84	10/19/05
18 VAC 85-20-30	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-30	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-40	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-50	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-80	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-90	Amended	22:1 VA.R. 84	10/19/05
18 VAC 85-20-100	Amended	21:20 VA.R. 2707	7/13/05
18 VAC 85-20-100	Amended	22:1 VA.R. 85	10/19/05
18 VAC 85-20-105	Amended	22:1 VA.R. 85	10/19/05
18 VAC 85-20-280	Amended	21:22 VA.R. 3105	9/26/05
18 VAC 85-40-85 through 18 VAC 85-40-91	Added	22:1 VA.R. 87-89	10/19/05
18 VAC 85-50-175 through 18 VAC 85-50-184	Added	22:1 VA.R. 89-91	10/19/05
18 VAC 85-80-61	Added	21:23 VA.R. 3287	8/24/05
18 VAC 85-80-120 through 18 VAC 85-80-125	Added	22:1 VA.R. 92-93	10/19/05
18 VAC 85-101-161 through 18 VAC 85-101-166	Added	22:1 VA.R. 94-95	10/19/05
18 VAC 85-110-175 through 18 VAC 85-110-183	Added	22:1 VA.R. 95-98	10/19/05
18 VAC 85-120-50	Amended	22:2 VA.R. 254	12/17/05
18 VAC 85-120-155 through 18 VAC 85-120-162	Added	22:1 VA.R. 98-100	10/19/05
18 VAC 90-15-10	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-20	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-15-30	Added	21:21 VA.R. 2905	7/27/05
18 VAC 90-20-10	Amended	21:21 VA.R. 2906	7/27/05
18 VAC 90-20-181	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-182	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-183	Added	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-230	Amended	21:20 VA.R. 2708	7/13/05
18 VAC 90-20-280	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-20-300	Amended	21:21 VA.R. 2907	7/27/05
18 VAC 90-30-80	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-100	Amended	21:21 VA.R. 2910	7/27/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-30-110	Amended	21:21 VA.R. 2910	7/27/05
18 VAC 90-30-120	Amended	21:21 VA.R. 2909	7/27/05
18 VAC 95-10-10	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-10-20	Amended	21:18 VA.R. 2380	7/1/05
18 VAC 95-20-10	Amended	21:18 VA.R. 2381	7/1/05
18 VAC 95-20-471	Added	21:19 VA.R. 2557	6/29/05
18 VAC 100-20-53	Added	21:20 VA.R. 2709	8/1/05
18 VAC 100-20-54	Amended	21:20 VA.R. 2708	8/1/05
18 VAC 100-20-54	Erratum	21:23 VA.R. 3311	--
18 VAC 100-20-81	Amended	21:20 VA.R. 2709	8/1/05
18 VAC 105-20-41	Added	21:18 VA.R. 2382	6/15/05
18 VAC 110-20-15	Added	21:15 VA.R. 2122	5/4/05
18 VAC 110-20-20	Amended	22:2 VA.R. 246	11/2/05
18 VAC 110-20-276	Added	21:24 VA.R. 3390	9/7/05
18 VAC 110-20-515	Added	21:24 VA.R. 3391	9/7/05
18 VAC 112-20-26	Added	21:19 VA.R. 2557	6/29/05
18 VAC 112-20-135	Amended	22:1 VA.R. 100	10/19/05
18 VAC 112-20-150	Amended	22:1 VA.R. 101	10/19/05
18 VAC 112-20-151	Repealed	22:1 VA.R. 101	10/19/05
18 VAC 115-15-10 through 18 VAC 115-15-30	Added	21:22 VA.R. 3099	8/10/05
18 VAC 115-20-20	Amended	22:2 VA.R. 249	1/14/06
18 VAC 115-30-30	Amended	22:2 VA.R. 250	1/21/06
18 VAC 120-40-50	Amended	21:20 VA.R. 2712	8/1/05
18 VAC 125-15-10	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-20	Added	21:20 VA.R. 2712	7/13/05
18 VAC 125-15-30	Added	21:20 VA.R. 2712	7/13/05
18 VAC 140-20-171	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-15	Added	21:21 VA.R. 2913	7/27/05
18 VAC 150-20-100	Amended	21:26 VA.R. 3701	10/5/05
18 VAC 150-20-195	Amended	21:23 VA.R. 3289	10/8/05
Title 19. Public Safety			
19 VAC 30-70-210	Amended	21:18 VA.R. 2382	4/15/05
Title 20. Public Utilities and Telecommunications			
20 VAC 5-315 (Forms)	Amended	21:19 VA.R. 2603	--
20 VAC 5-315-20	Amended	21:18 VA.R. 2387	4/26/05
20 VAC 5-315-30	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-40	Amended	21:18 VA.R. 2388	4/26/05
20 VAC 5-315-90	Repealed	21:18 VA.R. 2389	4/26/05
20 VAC 5-427-10	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-100	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-110	Erratum	22:1 VA.R. 114	--
20 VAC 5-427-130	Erratum	22:1 VA.R. 114	--
Title 22. Social Services			
22 VAC 15-30-10	Amended	21:12 VA.R. 1528	6/1/05
22 VAC 15-30-30	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-50	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-70	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-80	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-90	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-110	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-140	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-150	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-160	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-180	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-190	Amended	21:12 VA.R. 1535	6/1/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-200	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-200	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-230	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-250	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-260	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-290	Amended	21:12 VA.R. 1538	6/1/05
22 VAC 15-30-310 through 22 VAC 15-30-390	Amended	21:12 VA.R. 1538-1542	6/1/05
22 VAC 15-30-410	Amended	21:12 VA.R. 1542	6/1/05
22 VAC 15-30-430	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-440	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-451	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-461	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-471	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-490	Amended	21:12 VA.R. 1546	6/1/05
22 VAC 15-30-500	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-510	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-520	Amended	21:12 VA.R. 1548	6/1/05
22 VAC 15-30-540 through 22 VAC 15-30-670	Amended	21:12 VA.R. 1548-1556	6/1/05
22 VAC 15-30-575	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-585	Added	21:12 VA.R. 1550	6/1/05
22 VAC 15-51-50	Amended	21:20 VA.R. 2713	7/13/05
22 VAC 30-40-10	Amended	21:16 VA.R. 2215	5/18/05
22 VAC 30-40-70	Amended	21:16 VA.R. 2217	5/18/05
22 VAC 30-40-130	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-140	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 30-40-150	Amended	21:16 VA.R. 2218	5/18/05
22 VAC 40-71-10 emer	Amended	22:2 VA.R. 261	12/28/05-12/27/06
22 VAC 40-71-50 emer	Amended	22:2 VA.R. 266	12/28/05-12/27/06
22 VAC 40-71-55 emer	Added	22:2 VA.R. 266	12/28/05-12/27/06
22 VAC 40-71-60 emer	Amended	22:2 VA.R. 267	12/28/05-12/27/06
22 VAC 40-71-65 emer	Added	22:2 VA.R. 269	12/28/05-12/27/06
22 VAC 40-71-80 emer	Amended	22:2 VA.R. 269	12/28/05-12/27/06
22 VAC 40-71-120 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-130 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-150 emer	Amended	22:2 VA.R. 270	12/28/05-12/27/06
22 VAC 40-71-400 emer	Amended	22:2 VA.R. 274	12/28/05-12/27/06
22 VAC 40-71-485 emer	Added	22:2 VA.R. 277	12/28/05-12/27/06
22 VAC 40-71-630 emer	Amended	22:2 VA.R. 278	12/28/05-12/27/06
22 VAC 40-71-650 emer	Amended	22:2 VA.R. 279	12/28/05-12/27/06
22 VAC 40-71-660 emer	Repealed	22:2 VA.R. 280	12/28/05-12/27/06
22 VAC 40-71-670 emer	Amended	22:2 VA.R. 280	12/28/05-12/27/06
22 VAC 40-71-700 emer	Amended	22:2 VA.R. 281	12/28/05-12/27/06
22 VAC 40-80-120 emer	Amended	22:2 VA.R. 285	12/28/05-12/27/06
22 VAC 40-80-340 emer	Amended	22:2 VA.R. 286	12/28/05-12/27/06
22 VAC 40-80-345 emer	Added	22:2 VA.R. 287	12/28/05-12/27/06
22 VAC 40-90-10 through 22 VAC 40-90-60	Amended	21:18 VA.R. 2393	7/1/05
22 VAC 40-90-70	Added	21:18 VA.R. 2395	7/1/05
22 VAC 40-170-10	Amended	21:19 VA.R. 2558	8/1/05
22 VAC 40-170-20	Repealed	21:19 VA.R. 2559	8/1/05
22 VAC 40-170-30 through 22 VAC 40-170-210	Amended	21:19 VA.R. 2560-2567	8/1/05
22 VAC 40-170-230	Amended	21:19 VA.R. 2567	8/1/05
22 VAC 40-191-40	Amended	21:18 VA.R. 2395	7/1/05
22 VAC 40-191-50	Amended	21:18 VA.R. 2399	7/1/05
22 VAC 40-191-90	Amended	21:18 VA.R. 2400	7/1/05
22 VAC 40-660-10 through 22 VAC 40-660-100	Repealed	21:19 VA.R. 2568	8/1/05
22 VAC 40-661-10 through 22 VAC 40-661-90	Added	21:19 VA.R. 2568-2572	8/1/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-730-10	Amended	22:2 VA.R. 251	11/2/05
22 VAC 40-730-115	Amended	22:2 VA.R. 252	11/2/05
Title 24. Transportation and Motor Vehicles			
24 VAC 30-41-30	Amended	21:13 VA.R. 1911	4/6/05
24 VAC 30-41-50	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-110	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-190	Amended	21:13 VA.R. 1914	4/6/05
24 VAC 30-41-210	Amended	21:13 VA.R. 1915	4/6/05
24 VAC 30-41-220	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-230	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-250	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-280	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-290	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-300	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-310	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-320	Amended	21:13 VA.R. 1919	4/6/05
24 VAC 30-41-350	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-430	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-500	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-510	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-520	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-530	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-580	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-650	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-660	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-680	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-91-10	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-110	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-130	Erratum	21:12 VA.R. 1776	--
24 VAC 30-620-10	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:15 VA.R. 2123	5/22/05
24 VAC 30-620-30	Amended	21:22 VA.R. 3099	8/20/05

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Title of Regulation: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.**

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

Name of Petitioner: Robert B. Stroube, M.D., M.P.H.

Nature of Petitioner's Request: Amend regulations for administration of anesthesia in office-based settings to require a registered nurse, qualified by education and experience in perioperative nursing, to be present as the circulating nurse during the procedure.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board received comment indicating that such a requirement would be very burdensome and costly without sufficient evidence to indicate that it is necessary for patient safety in office-based settings. In addition, the board has adopted regulations for office-based anesthesia that addressed concerns about safety.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-7423, FAX (804) 662-9943, or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R05-202; Filed September 23, 2005, 11:17 a.m.

BOARD OF NURSING

Agency Decision

Title of Regulation: **18 VAC 90-20. Regulations Governing the Practice of Nursing.**

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

Name of Petitioner: Barbara E. Sorenson.

Nature of Petitioner's Request: To amend regulations to establish an inactive license in nursing.

Agency Decision: Request granted.

Statement of Reasons for Decision: The board agrees that an inactive licensure status should be considered to accommodate those licensees who want to retain a license but are no longer actively practicing.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or e-mail jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R05-255; Filed September 23, 2005, 11:18 a.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Withdrawal of Notice of Intended Regulatory Action

The Department of Agriculture and Consumer Services has WITHDRAWN the Notice of Intended Regulatory Action for **2 VAC 5-70, Health Requirements Governing the Control of Equine Infectious Anemia in Virginia**, published in 20:25 VA.R. 3028 August 23, 2004.

Contact: Larry Redford, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3501, FAX (804) 371-2945.

VA.R. Doc. No. R04-258; Filed September 23, 2005, 4:11 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled **4 VAC 25-130, Coal Surface Mining Reclamation Regulations**. The purpose of the proposed action is to revise references to sections in the Virginia Administrative Process Act to reflect the renumbering that became effective October 1, 2001; provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed; maintain consistency with corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations; allow the approval of natural stream restoration channel design as approved by the U.S. Army Corps of Engineers; maintain consistency with federal regulations regarding thick overburden; and increase the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted until November 3, 2005.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219, telephone (804) 692-3211, FAX (804) 692-3237 or e-mail stephen.walz@dmme.virginia.gov.

VA.R. Doc. No. R06-38; Filed August 31, 2005, 3:43 p.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to amend the requirements for control programs for unauthorized wastes.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq; 40 CFR Part 258.

Public comments may be submitted until November 4, 2005.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, FAX (804) 698-4327 or e-mail rgwickline@deq.virginia.gov.

VA.R. Doc. No. R06-31; Filed August 31, 2005, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to amend the numerous requirements for solid waste management including exemptions and exclusions, open burning, waste intake rates, bird hazards, etc.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq; 40 CFR Part 258.

Public comments may be submitted until November 4, 2005.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

Notices of Intended Regulatory Action

(804) 698-4146, FAX (804) 698-4327 or e-mail
mjdieter@deq.virginia.gov.

VA.R. Doc. No. R06-32; Filed August 31, 2005, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-101, Vegetative Waste Management and Yard Waste Composting Regulations**. The purpose of the proposed action is to address the composting of manure and crop waste with vegetative waste and yard waste. The goal is to make the regulations clear and enforceable and to protect human health and the environment.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq. 40 CFR; Part 258.

Public comments may be submitted until November 4, 2005.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327 or e-mail mjdieter@deq.virginia.gov.

VA.R. Doc. No. R06-30; Filed August 31, 2005, 10:49 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled **9 VAC 20-130, Regulations for the Development of Solid Waste Management Plans**. The purpose of the proposed action is to amend the regulation on the calculation of the mandatory recycling rate for localities and regions, procedures for formation and dissolution of planning regions, clear specification of qualifications for variances, requirements for plan approval and duplicative language on the Waste Information and Assessment Program.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 10.1-1411 of the Code of Virginia; 42 USC § 6942 (b) of the Resource Conservation and Recovery Act of 1976; 40 CFR Parts 255 and 256.

Public comments may be submitted until November 4, 2005.

Contact: Allen Brockman, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4468, FAX (804) 698-4327 or e-mail arbrockman@deq.virginia.gov.

VA.R. Doc. No. R06-29; Filed August 31, 2005, 10:49 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-740, Regulation for Wastewater Reclamation and Reuse**. The purpose of the proposed action is to establish a technical regulation that includes requirements and standards for the reclamation and reuse of wastewater.

The department developed a proposed regulation for wastewater reclamation and reuse that was published in the Virginia Register on February 24, 2003. A public hearing for the proposed regulation was held on April 2, 2003, to further solicit public comments. Comments received during the public comment period and at the public hearing were addressed as appropriate through revisions to the proposed regulation. Thereafter, work on the draft proposed regulation was suspended until June 2005. Due to the prolonged period following the first revisions to the proposed regulation, the department determined that the Administrative Process Act should be reinitiated for the regulation. Much of the information used to draft the previous proposed regulation, as well as text of the previous proposed regulation, will be retained as applicable for discussion by a Technical Advisory Committee during the development of the currently proposed regulation.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116 or e-mail varourke@deq.virginia.gov.

VA.R. Doc. No. R06-33; Filed August 31, 2005, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider adopting regulations entitled **9 VAC 25-830, Virginia General Pollution Abatement Permit Regulation for Industrial and Other Nonirrigation Reuses of Reclaimed Water**. The purpose of the proposed action is to adopt a general Virginia pollution abatement permit for industrial and other nonirrigation reuses of reclaimed water.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone

Notices of Intended Regulatory Action

(804) 698-4158, FAX (804) 698-4116 or e-mail varourke@deq.virginia.gov.

VA.R. Doc. No. R06-34; Filed August 31, 2005, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider adopting regulations entitled **9 VAC 25-840, Virginia General Pollution Abatement Permit for Irrigation Reuse of Level A Reclaimed Water**. The purpose of the proposed action is to adopt a general Virginia pollution abatement permit for irrigation uses of Level A reclaimed water.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116 or e-mail varourke@deq.virginia.gov.

VA.R. Doc. No. R06-35; Filed August 31, 2005, 10:48 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider adopting regulations entitled **9 VAC 25-850, Virginia General Pollution Abatement Permit Regulation for Irrigation Reuse of Level B Reclaimed Water**. The purpose of the proposed action is to adopt a general Virginia pollution abatement permit for irrigation uses of Level B reclaimed water.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116 or e-mail varourke@deq.virginia.gov.

VA.R. Doc. No. R06-36; Filed August 31, 2005, 10:47 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

† Withdrawal of Notice of Intended Regulatory Action

The State Board of Health has WITHDRAWN the Notice of Intended Regulatory Action for **12 VAC 5-450 [VR 355-04]**,

Sanitary Regulations for Summer Camps, published in 10:5 VA.R. 1002 November 29, 1993.

Contact: Gary Hagy, Director, Division of Food and Environmental Services, Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7455, FAX (804) 864-7475, e-mail gary.hagy@vdh.virginia.gov.

VA.R. Doc. No. R94-258; Filed September 23, 2005, 11:20 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to establish a new waiver program to provide additional services to residents of assisted living facilities who receive an auxiliary grant, who meet nursing facility criteria, who are age 55 and older, and who have a diagnosis of Alzheimer's disease or a related dementia.

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

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until November 2, 2005.

Contact: Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or email teja.stokes@dmas.virginia.gov.

VA.R. Doc. No. R06-50; Filed September 14, 2005, 11:06 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to adopt regulations consistent with Chapter 792 of the 2005 Acts of Assembly regarding the certification of water well system providers by the Board for Contractors.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Notices of Intended Regulatory Action

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

VA.R. Doc. No. R06-28; Filed August 31, 2005, 9:46 a.m.

Public comments may be submitted until November 16, 2005.

BOARD OF MEDICINE

Contact: Kevin Hoeft, Regulatory Boards Administrators, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail contractor@dpor.virginia.gov.

VA.R. Doc. No. R06-54; Filed September 23, 2005, 2:47 p.m.

BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to consider amending regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to increase certain fees as needed to address the deficit of the board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 19, 2005.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943 or e-mail sandra.reen@dhp.virginia.gov.

VA.R. Doc. No. R06-27; Filed August 31, 2005, 9:46 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled **18 VAC 65-20, Regulations of the Board of Funeral Directors and Embalmers, and 18 VAC 65-40, Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to increase certain fees sufficient to cover expenditures.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 19, 2005.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943 or e-mail elizabeth.young@dhp.virginia.gov.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled:

18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic.

18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners.

18 VAC 85-50, Regulations Governing the Practice of Physician Assistants.

18 VAC 85-80, Regulations for Licensure of Occupational Therapists.

18 VAC 85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologist-Limited.

18 VAC 85-110, Regulations Governing the Practice of Licensed Acupuncturists.

18 VAC 85-120, Regulations Governing the Certification of Athletic Trainers.

The purpose of the proposed action is increase fees as necessary to meet expenditures.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until October 19, 2005.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-26; Filed August 31, 2005, 9:46 a.m.

BOARD OF LONG-TERM CARE ADMINISTRATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Long-Term Care Administrators intends to consider promulgating regulations entitled **18 VAC 95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of the proposed action is to establish initial requirements for licensure of assisted living administrators.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3102 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until November 2, 2005.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943 or email sandra.reen@dhp.virginia.gov.

VA.R. Doc. No. R06-42; Filed September 13, 2005, 10:10 a.m.

◆ ◆

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of State Police intends to consider adopting regulations entitled **19 VAC 30-190, Regulations Relating to the Issuance of Nonresident Concealed Handgun Carry Permits**. The purpose of the proposed action is to promulgate new regulations for issuance of nonresident concealed handgun carry permits.

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

Statutory Authority: § 18.2-308 of the Code of Virginia.

Public comments may be submitted until October 19, 2005.

Contact: Donna Tate, Firearms Manager, Department of State Police, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2292, FAX (804) 674-6704 or e-mail donna.tate@vsp.virginia.gov.

VA.R. Doc. No. R06-37; Filed September 1, 2005, 12:53 p.m.

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 11. GAMING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia when acting by and through its duly appointed stewards or in matters related to any specific race meeting.

The Virginia Racing Commission adopted the regulations to apply to the harness race meeting scheduled to begin on September 16, 2005, and end on November 14, 2005.

Titles of Regulations: **11 VAC 10-70. Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).**

11 VAC 10-90. Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).

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

Public Hearing Date: N/A - Public comments may be submitted until December 16, 2005.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

Summary:

The amendments clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments provide the authority of the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present and clarify that such disciplinary actions must be determined by a preponderance of the evidence. These amendments are made to conform the regulation to Chapter 700 of the 2005 Acts of Assembly.

11 VAC 10-70-20. Appointment.

~~Three~~ *The commission shall appoint stewards, all of whom shall be employees of the commission, shall be appointed for each race meeting licensed by the commission. The commission, in its discretion, may appoint one or more stewards for the satellite facilities licensed by the commission. To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing*

Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association.

11 VAC 10-70-30. Senior Commonwealth Steward.

One of the ~~three~~ stewards employed by the commission ~~for each race meeting~~ shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards ~~at the race meetings that do not pertain to the operation of the satellite wagering facilities. In matters pertaining to the operation of satellite facilities, a single~~ Any steward shall ~~preside at all~~ may conduct hearings pertaining to the operation of satellite wagering facilities.

11 VAC 10-70-40. General powers and authority.

The A steward or ~~the stewards for each race meeting or satellite facility licensed by the commission~~ shall be responsible to the commission ~~for the conduct of the race meeting or for the operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission. The steward or stewards, shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission.~~

11 VAC 10-70-50. General powers.

The A steward or ~~the stewards~~ shall exercise immediate supervision, control and regulation of horse racing at each race meeting ~~or and at a all satellite facility facilities~~ licensed by the commission ~~and shall be responsible to the commission.~~ The powers of the stewards shall include:

1. *Reviewing the conduct of all racing officials, track management, permitted personnel, other persons responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;*
2. *Determining all questions, disputes, protests, complaints, or and objections concerning live horse racing which arise during a race meeting or at a satellite facility and simulcast horse racing and enforcing their rulings;*
- 2- 3. *Taking disciplinary action against any holder of a permit or participant found violating federal laws, state laws, local ordinances or regulations of the commission;*
- 3- 4. *Reviewing applications for permits and either granting or denying the permits to participate in horse racing at race meetings or satellite facilities. Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;*

Proposed Regulations

4. 5. Enforcing the regulations of the commission in all matters pertaining to horse racing ~~or~~ *and* satellite facilities;
 - ~~5.~~ 6. Issuing rulings pertaining to the conduct of horse racing ~~or~~ *and* satellite facilities;
 - ~~6.~~ 7. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";
 - ~~7.~~ 8. Requesting assistance from other commission employees, *law-enforcement officials*, racing officials, members of *the horse racing industry* or the licensee's security service in the investigation of possible *statutory or rule infractions violations*;
 - ~~8.~~ 9. Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters ~~or~~ *and* satellite facilities; ~~and~~
 - ~~9.~~ 10. Substituting another qualified person where any racing official is unable to perform his duties.;
 11. *Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;*
 12. *Placing horses on the Stewards' List for unsatisfactory performance; and*
 13. *Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.*
- 11 VAC 10-70-60. Duties.**
- In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings or satellite facilities, the stewards shall have the following specific duties:
1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;
 2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";
 3. Being present in the stewards' stand during the running of all races at race meetings;
 4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;
 5. Determining the identification of horses;
 6. Determining eligibility of horses for races restricted to Virginia bred;
 7. Determining eligibility of a horse or person to participate in a race;
 8. Supervising the taking of entries and the drawing of post positions;
 9. Approving or denying requests for horses to be excused from racing;
 10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;
 11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign ~~on the infield results board~~ when there are alleged violations;
 12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign ~~on the infield results board~~ when there are alleged violations;
 13. Causing the "official" sign to be posted ~~on the infield results board~~ after determining the official order of finish for the purposes of the pari-mutuel payout;
 14. Reviewing the video tapes of the previous day's races and determining the jockeys ~~whom the stewards feel~~ who should review the films for instructional purposes;
 15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;
 16. Reporting their findings of their periodic inspections of the facilities to the commission;
 17. Filing with the commission a written daily report ~~at~~ *during* race meetings ~~which~~. *Such report* shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;
 18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate; and
 19. ~~Observing the conduct of simulcast horse racing at satellite facilities.~~ *Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:*
 - a. *Issue a reprimand;*
 - b. *Assess a fine;*
 - c. *Require forfeiture or redistribution of a purse or award;*
 - d. *Place a permit holder or participant on probation with or without conditions;*

e. Suspend a permit holder or participant with or without conditions;

f. Revoke a permit;

g. Exclude from the grounds under the jurisdiction of the commission; or

h. Any combination of the above.

11 VAC 10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by *trainers, owners, jockeys or drivers* after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;
2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;
3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;
4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;
5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;
6. Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official and. The stewards may call and examine any witness regarding the protest;
7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and
8. A participant or holder of a permit may not withdraw a protest without the permission of the stewards.

11 VAC 10-70-80. Period of authority.

The period of authority for each steward shall commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission. The period of authority for the steward or stewards at satellite facilities shall commence and terminate at a period of time designated by the be established by contractual arrangement between each steward and the commission.

11 VAC 10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other two stewards shall agree on the appointment of a substitute to act

for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the ~~deputy~~ substitute steward, the reason for his appointment, and the races over which the substitute officiated.

11 VAC 10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the ~~holder of a permit person being disciplined~~, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the ~~holder of the permit person being disciplined~~, but in either case, the mode of delivery shall be duly acknowledged certified by the ~~holder of a permit sender~~. The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.

11 VAC 10-90-10. Generally Request for review; stay.

A holder of ~~or applicant for~~ a license or permit or a participant who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A denial of a license or permit or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. At the written request of an aggrieved party, a stay in the implementation of a disciplinary action may be granted by the ~~executive secretary~~ chairman of the commission or a commissioner designated by the chairman. Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.

11 VAC 10-90-30. Content of request.

The request shall state:

1. The disciplinary action of ~~or denial of a permit~~ by the steward or stewards being contested;
2. The basis for the request; and
3. Any additional information the applicant for or holder of a licensee, permit holder or participant may wish to include concerning the request.

11 VAC 10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a

Proposed Regulations

disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.

2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a ~~proposed~~ recommended written decision for their consideration. *The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.*

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the ~~holder of or applicant for a permit~~ person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision at least 10 days before the date set for the review.

a. *The written notice shall describe the charges, basis thereof and possible penalties.*

b. *The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.*

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the ~~applicant for or holder of a permit~~ person requesting the review elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission *or hearing officer* may issue subpoenas to compel the attendance of witnesses or ~~for~~ the production of ~~reports, books, papers, registration documents or any other materials and other relevant evidence~~ it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

b. Oaths shall be administered to all witnesses;

c. The commission may examine any witnesses;

d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;

e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;

f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; *and*

g. The commission may grant a continuance of any review for good cause; ~~and.~~

~~h. A record of the proceedings shall be made.~~

6. ~~The Review proceeding is a hearing~~ *proceedings regarding riding or driving infractions shall be on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.*

7. *In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been found obtained at the time of the stewards hearing. If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.*

V.A.R. Doc. No. R06-53; Filed September 15, 2005, 9:27 a.m.

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: **13 VAC 10-160. Rules and Regulations for Administration of Rent Reduction Tax Credits (amending 13 VAC 10-160-10, 13 VAC 10-160-30, 13 VAC 10-160-55, 13 VAC 10-160-60, 13 VAC 10-160-80, and 13 VAC 10-160-90).**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: November 10, 2005 - 10 a.m.

Public comments may be submitted until November 10, 2005.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or e-mail judson.mckellar@vhda.com.

Summary:

The proposed amendments continue the rent reduction tax credit program through December 31, 2010, if (i) rent reduction tax credits were validly claimed for the dwelling unit for all or part of December 1999, and (ii) the tenant was an occupant of such unit on December 31, 2005. The proposed amendments to such rules and regulations implement the amendments to § 58.1-339.9 of the Code of Virginia enacted in the 2005 Session of the General Assembly.

13 VAC 10-160-10. Definitions.

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

"Authority" means the Virginia Housing Development Authority.

"Board" means the Board of Commissioners of the authority.

"Disability" means (i) a physical or mental impairment which substantially limits one or more of the major life activities of such individual and includes any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities (the term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus (HIV) infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance, and alcoholism) or (ii) a record of such an impairment; or being regarded as having such an impairment which includes a history of or being misclassified as having a mental or physical impairment that substantially limits one or more major life activities; or a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation; or a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or none of the impairments defined above but the individual is treated by another person as having such an impairment; provided, however, that any physical or mental impairment described in (i) or (ii) shall be expected to result in death or shall have lasted continuously during the immediately preceding 12-month period or shall be expected to last continuously during the next succeeding 12-month period.

"Elderly person" means a person who exceeds, by any period of time, 62 years of age.

"Elderly tenant" means (i) an elderly person or (ii) a household in which any member is an elderly person.

"Eligible owner" means any person meeting the criteria for an eligible owner as set forth in the state code and these rules and regulations.

"Eligible tenant" means an elderly tenant, a tenant with a disability or a previously homeless tenant whose income does not exceed the limit described in these rules and regulations.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act on his behalf or on behalf of the authority pursuant to a resolution of the board.

"HUD fair market rent" means the rent published by the U.S. Department of Housing and Urban Development for the Section 8 Rental Certificate Program.

"Income" means gross income (including but not limited to all salary, wages, bonuses, commissions, income from self-employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income) which is being received by the elderly tenant, a tenant with a disability or a previously homeless tenant or is regularly paid to or on behalf of such tenant by a third party as of the application date. The income of any person who is living with an elderly person or person with a disability for the primary purpose of providing care to such person shall be excluded. All such income, provided it is not temporary, shall be computed on an annual basis to determine income for the purpose of program eligibility.

"Market rent" means the amount of rent, as determined by the authority pursuant to these rules and regulations, charged to other tenants for comparable units (other than tax credit units) in the same property or, if there are no such comparable units in the same property, for comparable units in the same market area.

"Owner" means an applicant for tax credits under these rules and regulations and, upon and subsequent to an allocation of such credits, means the owner of the tax credit unit to whom the tax credits are allocated.

"Person with a disability" means a person having a disability as defined in these rules and regulations.

"Previously homeless" means having, at any time within the 12 months preceding the commencement of the lease term, resided in a domestic violence shelter or homeless shelter.

"Previously homeless tenant" means (i) a previously homeless person or (ii) a household in which any adult member is previously homeless.

"Program" means the low-income housing tax credit program for rent reductions described in these rules and regulations.

"State code" means Article 3 (§ 58.1-331 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia.

"Tax credit rent" means the reduced amount of rent charged for the tax credit unit to the eligible tenant. As provided in 13 VAC 10-160-30, the tax credit rent shall be at least 15% less than the market rent.

"Tax credits" means the tax credits as described in §§ 58.1-339 and ~~58.1-339.8~~ 58.1-339.9 of the Code of Virginia, as applicable.

"Tax credit unit" means a unit occupied or to be occupied by eligible tenants at reduced rents in order for the owner to be entitled to receive tax credits hereunder.

"Tenant" means a person or household who is applying for occupancy of, or is occupying, a tax credit unit.

Proposed Regulations

"Tenant with a disability" means (i) a person with a disability or (ii) a household in which any member is a person with a disability.

13 VAC 10-160-30. General description.

The state code was amended by adding sections numbered 58.1-339 and ~~58.1-339.8~~ 58.1-339.9 relating to a tax credit for owners providing rent reduction for eligible tenants.

For taxable years beginning on or after January 1, 1991, through December 31, ~~2005~~ 2010, any individual or corporation receiving an allocation of tax credits pursuant to § 58.1-339 or § ~~58.1-339.8~~ 58.1-339.9, as applicable, of the Code of Virginia shall, subject to the provisions of the state code and these rules and regulations, be entitled to a credit against the tax levied pursuant to § 58.1-320 or § 58.1-400 of the Code of Virginia, provided that the following requirements are satisfied:

1. The individual or corporation is engaged in the business of the rental of dwelling units (as hereinafter specified) and is subject to the Virginia Residential Landlord and Tenant Act, § 55-248.2 et seq. of the Code of Virginia, either by virtue of the provisions thereof or by virtue of the owner's providing for the applicability thereof pursuant to § 55-248.5 B of the Code of Virginia;
2. The owner provides a reduced rent to eligible tenants;
3. The rent charged to the eligible tenants is at least 15% less than the market rent;
4. To claim a credit under § 58.1-339 of the Code of Virginia for reduction of rents charged to a tenant on or after July 1, 1996, and before January 1, 2000: (i) a credit for rental reductions must have been validly claimed on the tax credit unit for all or part of the month of June 1996 and such tenant must have been an occupant of such tax credit unit on June 30, 1996, or (ii) the tenant must have been previously homeless; ~~and~~
5. To claim a credit under § ~~58.1-339.8~~ 58.1-339.9 of the Code of Virginia for reduction of rents charged to a tenant on or after January 1, 2000, and prior to January 1, 2006, on a dwelling unit, a credit for rental reductions must have been validly claimed on such dwelling pursuant to § 58.1-339 of the Code of Virginia for all or part of the month of December 1999; *and*
6. *To claim a credit under § 58.1-339.9 of the Code of Virginia for reduction of rents charged to a tenant on or after January 1, 2006, and prior to January 1, 2010, on a dwelling unit, a credit for rental reductions must have been validly claimed on such dwelling unit pursuant to § 58.1-339 of the Code of Virginia for all or part of the month of December 1999, and such tenant must have been an occupant of such dwelling unit on December 31, 2005.*

The allowable tax credit amount shall be 50% of the total rent reductions allowed during the taxable year to the eligible tenants occupying the tax credit units. The amount of the rent reduction shall be equal to the market rent minus the tax credit rent. For this purpose, the tax credit rent shall include any rental subsidy payable on behalf of the eligible tenant under any governmental or private program.

If there are comparable units (other than tax credit units) in the same property, the market rent shall be determined by the authority to be the rent charged to other tenants for such comparable units. For the purpose of determining the amount of rent charged to other tenants for comparable units in the same property, the authority shall assume that the other tenants commenced and, if applicable, renewed their leases as of the same date or dates, and for the same term or terms as the eligible tenants and at the rents in effect on such date or dates.

If there are no other such comparable units in the same property, then the market rent shall be determined by the authority to be the rent charged for comparable units in the same market area. Such rent shall be (i) the rent most recently charged for the tax credit unit to a person (who may be the eligible tenant to be assisted) unrelated to the owner within the one-year period prior to the date of filing of the application, plus a rental increase in an amount determined by the authority to reflect increases in rents in the market area of such tax credit unit since the date such rent was last charged, or (ii) if no rental history as described in (i) exists, the HUD fair market rent allowed for a comparable unit in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease); provided, however, that the owner may demonstrate to the authority that the rent for a comparable unit in the same market area is higher than (i) or (ii) above, as applicable, and to the extent so demonstrated to the satisfaction of the authority, such higher rent shall be used.

Notwithstanding anything to the contrary herein, the market rent shall in no event exceed 150% of the HUD fair market rent allowed for comparable units in the same market area (as reduced, to the extent determined by the authority, for any utilities which are not to be included in the tax credit rent under the terms of the lease).

If the tax credit unit is subsidized or assisted under any governmental or private program, the comparable units in the same property or market area, as applicable, shall include only those units similarly subsidized or assisted.

Because the intent of the state code is to provide tax credits for the rental of dwelling units only, tax credits shall not be allocated or claimed for the leasing of land only, including without limitation mobile home lots. Tax credits may be allocated and claimed for the leasing of both a mobile home lot and the mobile home located thereon.

To be eligible for the program, a dwelling unit must contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Such accommodations may be served by centrally located equipment such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other apartments, would constitute a unit.

In order to satisfy the requirement in § 58.1-339 or ~~58.1-339.8~~ 58.1-339.9, as applicable, of the state code that the owner be an individual or corporation engaged in the business of the

rental of dwelling units, the owner must intend or have intended at the time of application and must intend at all times thereafter to report, for federal income tax purposes, all rental and other income and any related expenses of the tax credit unit with respect to each tax year for which the tax credits are to be claimed for such tax credit unit.

The amount of credit for each individual or corporation for each taxable year shall not exceed \$10,000 or the total amount of tax imposed by Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia, whichever is less. If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount which exceeds the tax liability may be carried over for credit against income taxes of such individual or corporation in the next five taxable years until the total amount of the tax credit has been taken.

Credits granted to a partnership or an electing small business corporation (S corporation) shall be passed through to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

The total amount of tax credits which may be approved by the authority in any fiscal year prior to fiscal year 1996-1997 shall not exceed \$1,000,000. Commencing in fiscal year 1996-1997, the total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed \$250,000. Commencing in fiscal year 2000-2001, the total amount of tax credits which may be approved by the authority in any fiscal year shall not exceed \$50,000. With the exception of tax credits claimed for units occupied by previously homeless tenants, no tax credits will be approved for a unit for any period after June 30, 1996, and before January 1, 2000, unless a tax credit was validly claimed for such unit for all or part of the month of June 1996. No tax credits will be approved for a unit for any period on or after January 1, 2000, and prior to January 1, 2006, unless a tax credit was validly claimed for such unit for all or part of the month of December 1999. *No tax credits will be approved for a unit for any period on or after January 1, 2006, unless a tax credit was validly claimed for such unit for all or part of the month of December 1999 and unless the tenant was an occupant of such unit on December 31, 2005.* No tax credits may be claimed for taxable years after December 31, ~~2005~~ 2010.

The authority may charge to each owner fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority. Such fees shall be payable at such time or times as the executive director shall require.

13 VAC 10-160-55. Review and selection of application; allocation of tax credits.

After January 1, 2000, no tax credits shall be allocated by the authority, except allocations made prior to January 1, 2000, may be increased as provided in 13 VAC 10-160-120.

Upon compliance with the state code and these rules and regulations, the owner to whom an allocation has been made prior to January 1, 2000, shall be entitled to tax credits annually, in such amount as is determined by the authority pursuant to these rules and regulations, for each year beginning in the year for which such allocation is made and

ending December 31, ~~2005~~ 2010, unless sooner terminated or reduced pursuant to these rules and regulations.

13 VAC 10-160-60. Eligibility of tenants and verification.

The occupancy of units entitled to tax credits is limited to elderly tenants, tenants with disabilities or previously homeless tenants whose incomes, as of initial occupancy of the tax credit unit by such tenants (or, if any such tax credit unit was occupied by such a tenant on January 1 of the first calendar year for which the tax credits were claimed for such tax credit unit, as of such January 1), did not exceed 80% of the median income for the area. Preference in occupancy of tax credit units must have been given to eligible tenants whose incomes were less than or equal to 50% of the median income for the area. The United States Department of Housing and Urban Development income limits for subsidized programs, as adjusted by family size, must have been used in determining such 80% and 50% of median income for the area.

In the case of tax credits to be claimed for any period after June 30, 1996, and before January 1, 2000, in order to be eligible an elderly tenant or a tenant with a disability must have been an occupant of the tax credit unit on June 30, 1996. In the case of tax credits to be claimed for any period on and after January 1, 2000, *and prior to January 1, 2006*, in order to be eligible the tenant must occupy a unit for which a tax credit was validly claimed for such unit for all or a part of the month of December 1999. *In the case of tax credits to be claimed for any period on and after January 1, 2006, in order to be eligible the tenant must occupy a unit for which a tax credit was validly claimed for such unit for all or a part of the month of December 1999 and must have been an occupant of such unit on December 31, 2005.*

Owners must obtain written income verification for eligible tenants who occupy a tax credit unit. The verification of income must be sent by the owner to each employer or the agency providing benefits along with a stamped, self-addressed return envelope. Such verification must be retained by the owner and a copy submitted to the authority (together with an executed confirmation of resident eligibility form and the verification of age, disability or previous homelessness) at the time that the eligible tenant was determined by the owner to be income eligible. Verification of income must be current as of a date no earlier than 90 days prior to the date (see first paragraph in this section) as of which the income of the eligible tenant was determined for eligibility purposes.

With respect to tax credits claimed for rental of tax credit units to tenants with disabilities, owners must have obtained a written verification of disability. Verification of said disability must have been obtained from a physician, diagnostic or vocational rehabilitation service center or the Social Security Administration.

With respect to tax credits claimed for rental of tax credit units to elderly tenants, owners must have verified the age of all persons claiming to exceed 62 years of age. Verification of Social Security benefits paid on the person's behalf is acceptable if a birth certificate could not have been obtained; provided, however, that any person receiving survivor Social Security benefits who did not exceed 62 years of age or did

Proposed Regulations

not have a disability is not eligible for occupancy of a tax credit unit.

With respect to tax credits claimed for rental of tax credit units to previously homeless tenants, owners must obtain a written verification that such tenant resided in a domestic violence shelter or homeless shelter during the 12 months preceding commencement of the lease term for the tax credit unit. Such written verification must be obtained from the homeless shelter or domestic violence shelter in which the previously homeless tenant resided.

The initial lease term for all eligible tenants occupying a tax credit unit must not be less than a 12-month period.

13 VAC 10-160-80. Tax credit period.

Each period for which an owner may claim tax credits for any tax credit unit shall commence upon the date that the tax credit unit is occupied by an eligible tenant pursuant to a lease providing for a 12-month term and for the payment of rent in the amount of the tax credit rent. Such period shall not commence prior to the allocation of the tax credits by the authority to the owner, except that if the tax credit unit is so occupied from the first day of the month in which the allocation of tax credits is made, such period shall commence on such first day of the month. Such period shall continue until termination of occupancy as described in 13 VAC 10-160-90 or until December 31, ~~2005~~ 2010, whichever occurs first. However, in no event shall any such period commence and continue unless the tax credit unit is and remains in a state of repair and condition satisfactory to the authority, all documentation required by 13 VAC 10-160-60 has been and is submitted to the authority in accordance herewith, and all other applicable requirements of the state code and these rules and regulations have been and are satisfied. If the owner shall be entitled to claim tax credits on any tax credit unit for a portion of a month during such period, the rent reduction shall be calculated pro rata based upon the number of days in such month that the owner is so entitled to claim tax credits or, with respect to the termination of occupancy, shall be calculated as provided in 13 VAC 10-160-90.

13 VAC 10-160-90. Maintenance of records; submission requirements; termination of occupancy.

Owners shall be responsible for obtaining and maintaining all documentation required by the authority to evidence that the tax credit units qualify for tax credits under the program. Owners will be responsible for providing this documentation to the authority for review within 30 days following the end of each calendar year; provided, however, that the documents listed in subdivisions 2 a, b, c and g of this section must be submitted at the time that the eligible tenant was determined by the owner to be eligible. The tax credit unit will not qualify for tax credits if all required documents, in the form required by the authority, are not so provided. Required documentation to be submitted to the authority includes, but is not limited to, the following:

1. A listing (including dates of occupancy) of all tenants who occupy or occupied a tax credit unit entitled to a tax credit for that year.

2. A complete certification package for each eligible tenant receiving the reduced rent. The certification must include:

- a. A completed and executed confirmation of resident eligibility form.
- b. Verification of income.
- c. Verification of age, disability or previous homelessness.
- d. A certification from the tenant verifying:
 - (1) What unit type/size was occupied;
 - (2) Number of months said unit was occupied;
 - (3) The amount of rent paid;
 - (4) How many months that amount of rent was paid; and
 - (5) In the case of the tax credits claimed for any period after June 30, 1996, and before January 1, 2000 (except for tax credits claimed for units occupied by previously homeless tenants), occupancy of the tax credit unit by the tenant on June 30, 1996.
- e. A certification of the owner that preference in occupancy of the tax credit units was given to eligible tenants whose incomes were less than or equal to 50% of the median income for the area (the waiting list for tax credit units during the calendar year identifying the persons applying for such units and their incomes shall be maintained by the owner and shall be available for inspection by the authority).
- f. Rent rolls for the comparable units in the same property as the tax credit units setting forth the rents charged to other tenants, if rents for such comparable units are to be used to determine the amount of the rent reduction pursuant to 13 VAC 10-160-30.
- g. Copies of leases for each tax credit unit.
- h. In the case of the tax credits claimed for any period after June 30, 1996, and before January 1, 2000, other than tax credits claimed for units occupied by previously homeless persons, a certification of the owner that a tax credit for rental reductions was validly claimed on the tax credit unit for all or part of the month of June 1996, and that the tenant receiving such rental reductions was an occupant of such tax credit unit on June 30, 1996.
- i. In the case of the tax credits claimed for any period on and after January 1, 2000, *and prior to January 1, 2006*, a certification of the owner that a tax credit was validly claimed for the unit for all or part of the month of December 1999.
j. In the case of the tax credits claimed for any period on and after January 1, 2006, a certification of the owner that a tax credit was validly claimed for the unit for all or part of the month of December 1999 and that the tenant was an occupant of such unit on December 31, 2005.

In the event of termination of occupancy, the rent reduction shall be calculated pro rata based upon the number of days determined in the following manner. In the event of death of

the only elderly person, person with a disability or previously homeless person occupying a tax credit unit, the owner must obtain a copy of the death certificate or must provide other acceptable documentation of death; and the number of days for which an owner is entitled to tax credits on such deceased person's tax credit unit shall be determined by the date of death. If the eligible tenant abandons the tax credit unit, the earliest of the date the owner discovers the tax credit unit is vacant, the date any utility company terminates service on the tax credit unit, or the date 30 days after abandonment will be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the tax credit unit shall not be so abandoned but the eligible tenant shall not occupy the tax credit unit for a period of 30 days (or such longer period of time as the executive director may approve), the end of such period shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit. If the lease is terminated for any reason other than those set forth above in this paragraph, the effective date of termination shall be used to determine the number of days for which the tax credit unit is entitled to the tax credit.

VA.R. Doc. No. R06-56; Filed September 28, 2005, 10:32 a.m.

* * * * *

Title of Regulation: 13 VAC 10-180. Rules and Regulations for the Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-90).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: October 31, 2005 - 10 a.m.

Public comments may be submitted until October 31, 2005.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or e-mail judson.mckellar@vhda.com.

Summary:

The proposed amendments (i) remove the exemption for qualified census tracts from the documentation requirements to certify the existence of a revitalization area; (ii) require scattered site developments to serve only one primary market area; (iii) delete the point category for plans and specifications or a work write-up, which will now be required with each application; (iv) revise the point category for hard-to-develop areas; (v) provide a point category for developments located in low poverty census tracts; (vi) add a point category for dedicated Internet access; (vii) revise the point category for access to public transportation; (viii) add a point category for EarthCraft certification; (ix) require tenant relocation assistance without points; (x) revise the point category that penalizes developers that do not build a development as represented in the application; (xi) add a point category for training in universal design; (xii) provide a pool of credits for acquisition rehabilitation projects in Northern Virginia; and (xiii) make other miscellaneous administrative clarification changes.

13 VAC 10-180-10. Definitions.

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

"Applicant" means an applicant for credits under this chapter and also means the owner of the development to whom the credits are allocated.

"Credits" means the low-income housing tax credits as described in § 42 of the IRC.

"Elderly housing" means any development intended to provide housing for elderly persons as an exemption to the provisions regarding familial status under the United States Fair Housing Act (42 USC § 3601 et seq.).

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"IRS" means the Internal Revenue Service.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Low-income jurisdiction" means any city or county in the Commonwealth with an area median income at or below the Virginia nonmetro area median income established by the U.S. Department of Housing and Urban Development ("HUD").

"Principal" means any person (including any individual, joint venture, partnership, limited liability company, corporation, nonprofit organization, trust, or any other public or private entity) that (i) with respect to the proposed development will own or participate in the ownership of the proposed development or (ii) with respect to an existing multi-family rental project has owned or participated in the ownership of such project, all as more fully described hereinbelow. The person who is the owner of the proposed development or multifamily rental project is considered a principal. In determining whether any other person is a principal, the following guidelines shall govern: (i) in the case of a partnership that is a principal (whether as the owner or otherwise), all general partners are also considered principals, regardless of the percentage interest of the general partner; (ii) in the case of a public or private corporation or organization or governmental entity that is a principal (whether as the owner or otherwise), principals also include the president, vice president, secretary, and treasurer and other officers who are directly responsible to the board of directors or any equivalent governing body, as well as all directors or other members of the governing body and any stockholder having a 25% or more interest; (iii) in the case of a limited liability company that is a principal (whether as the owner or otherwise), all members are also considered principals, regardless of the percentage interest of the member; (iv) in the case of a trust that is a principal (whether as the owner or otherwise), all persons having a 25% or more beneficial ownership interest in the assets of such trust; (v) in the case of any other person that is a principal (whether as the owner or otherwise), all persons having a 25% or more ownership interest in such other person are also considered principals; and (vi) any person that directly or indirectly controls, or has

Proposed Regulations

the power to control, a principal shall also be considered a principal.

"Qualified application" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"Qualified low-income buildings" or "qualified low-income development" means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of credits thereunder.

"Revitalization area" means any area for which the chief executive officer (or the equivalent) of the local jurisdiction in which the development is to be located certifies as follows: (i) either (a) the area is blighted, deteriorated, deteriorating or, if not rehabilitated, likely to deteriorate by reason that the buildings, improvements or other facilities in such area are subject to one or more of the following conditions-dilapidation, obsolescence, overcrowding, inadequate ventilation, light or sanitation, excessive land coverage, deleterious land use, or faulty or inadequate design, quality or condition or (b) the industrial, commercial or other economic development of such area will benefit the city or county but such area lacks the housing needed to induce manufacturing, industrial, commercial, governmental, educational, entertainment, community development, healthcare or nonprofit enterprises or undertakings to locate or remain in such area; and (ii) private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in such area and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area. The area within a redevelopment project, conservation project, or rehabilitation district established by the city or county pursuant to Chapter 1 (§ 36-1 et seq.) of Title 36 of the Code of Virginia ~~or within a qualified census tract as defined in § 42(d)(5)(c)(ii) of the IRC~~ shall be deemed a revitalization area without any such certification. Any such revitalization area must either (i) have established boundaries at least a year old at the time applications are submitted and include discussions from the locality of the type of developments that will be encouraged, the potential sources of funding, and services to be offered in the area; or (ii) be subject to a plan using Hope VI funds from HUD. A comprehensive plan does not qualify as certification of a revitalization area.

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 (including, without limitation, a market study that shows adequate demand for the housing units to be produced by the applicant's proposed development) 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.

All sites in an application for a scattered site development may only serve one primary market area. If the executive director determines that the sites subject to a scattered site development are served by different primary market areas, separate applications for credits must be filed for each primary market area in which scattered sites are located within the deadlines established 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 \$7,500 per unit.

Each application shall include 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.

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 (Rural Development), 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 developments receiving an allocation of tax credits under § 42 of the IRC in which the principal or principals have 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, for any such development, the applicant must indicate whether the appropriate state housing credit agency has ever filed a Form 8823 with the IRS reporting noncompliance with the requirements of the IRC and that such noncompliance had not been corrected at the time of the filing of such Form 8823. 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 principal or principals 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. No application will be accepted from any applicant with a principal that has or had an ownership or participation interest in a development at the time the authority reported such development to the IRS as no longer in compliance and no longer participating in the federal low-income housing tax credit program.

Each application shall include, in a form or forms required by the executive director, a certification that the design of the proposed development meets all applicable amenity and design requirements required by the executive director for the type of housing to be provided by the proposed development.

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.

Each applicant shall commit in the application to provide relocation assistance to displaced households, if any, at such level required by the director.

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 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

Proposed Regulations

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 and each separate pool may be further divided into separate tiers. The division of such pools and tiers 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 therefore 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 the 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 \$650,000 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 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 unconditional 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; applicants receiving points under this subdivision 1 a are not eligible for points under subdivision 5 a below)

b. Written evidence satisfactory to the authority (i) 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. 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 form prescribed by the authority with any required attachments, providing such information necessary for the authority to send a letter 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)

c. Documentation in a form approved by the authority from the chief executive officer (or the equivalent) of the local jurisdiction in which the development is to be located (including the certification described in the definition of revitalization area in 13 VAC 10-180-10) that the area in which the proposed development is to be located is a revitalization area and the proposed development is an integral part of the local government's plan for revitalization of the area. (25 points)

d. If the proposed development is located in a ~~Difficult Development Area as defined by HUD or is in an Enterprise Zone or a Housing Revitalization Zone designated by the state~~ qualified census tract as defined in § 42(d)(5)(C)(ii) of the IRC and is in a revitalization area. (5 points)

e. 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; Applicants

Proposed Regulations

receiving points under this subdivision may not require an annual minimum income requirement for prospective tenants that exceeds the greater of \$3,600 or 2.5 times the portion of rent to be paid by such tenants.)

f. Any of the following: (i) firm financing commitment(s) from the local government, local housing authority, Federal Home Loan Bank affordable housing funds, or the Rural Development for a below-market rate loan or grant; (ii) a resolution passed by the locality in which the proposed development is to be located committing such financial support to the development in a form approved by the authority; or (iii) a commitment to donate land, buildings or waive tap fee waivers from the local government. (The amount of such financing or dollar 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.)

g. Any development subject to (i) HUD's Section 8 or Section 236 programs or (ii) Rural Development's 515 program, at the time of application. (20 points)

h. Any development receiving (i) a real estate tax abatement on the increase in the value of the development or (ii) new project-based subsidy from HUD or Rural Development for the greater of 5 units or 10% of the units of the proposed development. (10 points)

i. Any proposed development located in a census tract that has less than a 10% poverty rate (based upon Census Bureau data) with no other tax credit units in such census tract. (25 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. If the average actual gross square footage per unit for a given unit type is less than the lowest gross square footage per unit for a given unit type established by the executive director or greater than the highest gross square footage per unit for a given unit type established by the executive director, the lowest or highest, as the case may be, gross square footage per unit for a given unit type established by the executive director shall be used in the above calculation rather than the actual gross square footage per unit for a given unit type.)

b. 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 2-bedroom units have 1.5 bathrooms and 3-bedroom units have 2 bathrooms. (15 points multiplied by the percentage of units meeting these requirements)

(b) If a community/meeting room with a minimum of 800 square feet is provided. (5 points)

(c) Brick covering 30% or more of the exterior walls. (20 points times the percentage of exterior walls covered by brick)

(d) If all kitchen and laundry appliances meet the EPA's Energy Star qualified program requirements. (5 points)

(e) If all the windows meet the EPA's Energy Star qualified program requirements. (5 points)

(f) If every unit in the development is heated and air conditioned with either (i) heat pump units with both a SEER rating of 14.0 or more and a HSPF rating of 9.0 or more or thru-the-wall heat pump equipment that has an EER rating of 12.0 or more or (ii) air conditioning units with a SEER rating of 14.0 or more, combined with a gas furnace with an AFUE rating of 90% or more. (10 points)

(g) If the development has a minimum STC (sound transmission class) rating of 52 for the floor construction between units. (3 points)

(h) If the water expense is submetered (the tenant will pay monthly or bimonthly bill). (5 points)

(i) If each bathroom contains only low-flow faucets and showerheads as defined by the authority. (3 points)

(j) If each unit has a phone and cable hook-up adjacent to each other that are dedicated for Internet access. (1 point)

(2) The following points are available to applications electing to serve elderly and/or physically disabled tenants ~~as elected in subdivision 4-a of this section:~~

(a) If all cooking ranges have front controls. (1 point)

(b) If all units have an emergency call system. (3 points)

(c) If all bathrooms have an independent or supplemental heat source. (1 point)

(d) If all entrance doors to each unit have two eye viewers, one at 48 inches and the other at standard height. (1 point)

(3) The following points are available to proposed developments which rehabilitate or adaptively reuse an existing structure:

(a) 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. (3 points)

(b) 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)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 b of this section is 60 points.

c. Any nonelderly development in which the greater of 5 units or 10% of the units (i) provide federal project-based rent subsidies or equivalent assistance in order to ensure occupancy by extremely low-income persons; (ii) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) are actively marketed to people with special needs in accordance with a plan submitted as part of the application for credits (if special needs includes mobility impairments, the units described above must include roll-in showers and roll-under sinks and ranges). (50 points)

d. Any nonelderly development in which the greater of 5 units or 10% of the units (i) have rents within HUD's Housing Choice Voucher (HCV) payment standard; (ii) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) are actively marketed to people with mobility impairments including HCV holders in accordance with a plan submitted as part of the application for credits. (30 points)

e. Any nonelderly development in which 4.0% of the units (i) conform to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act and (ii) are actively marketed to people with mobility impairments in accordance with a plan submitted as part of the application for credits. (15 points)

f. Any development located within one-half mile of ~~a~~ *an existing* commuter rail, light rail or subway station or one-quarter mile of one or more *existing* public bus lines ~~or other public transportation usable by development occupants~~. (10 points)

g. *Any development for which the applicant agrees to obtain EarthCraft certification prior to the issuance of an IRS Form 8609 with the proposed development's architect certifying in the application that the development's design will meet the criteria for such EarthCraft certification.* (15 points)

4. Tenant population characteristics. ~~a-~~ Commitment by the applicant to give a leasing preference to individuals and families with children in developments that will have no more than 20% of its units with one bedroom or less. (15 points; plus 0.75 points for each percent of the low-income units in the development with three or more bedrooms up to

an additional 15 points for a total of no more than 30 points ~~under this subdivision a)~~

~~b. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points times the number of certified occupied units divided by the greater of (i) the number of certified occupied units or (ii) the number of units of the proposed development)~~

5. Sponsor characteristics.

a. Evidence that the principal or principals, as a group or individually, for the proposed development have developed at least three tax credit developments that contain at least three times the number of housing units in the proposed development. (50 points; applicants receiving points under this subdivision 5 a are not eligible for points under subdivision 1 a above)

b. Evidence that the principal or principals for the proposed development have developed at least one tax credit development that contains at least the number of housing units in the proposed development. (10 points)

c. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for an uncorrected major violation of health, safety and building codes. (minus 50 points for a period of three years after the violation has been corrected)

d. Any applicant that includes a principal that was a principal in a development at the time the authority reported such development to the IRS for noncompliance that has not been corrected by the time a Form 8823 is filed by the authority. (minus 15 points for a period of three years after the time the authority filed Form 8823, unless the executive director determines that such principal's attempts to correct such noncompliance was prohibited by a court, local government or governmental agency, in which case, no negative points will be assessed to the applicant)

e. Any applicant that includes a principal that is or was a principal in a development that (i) did not build a development as represented in the application for credit (minus two times the number of points assigned to the item or items not built *or minus 20 points for failing to provide a minimum building requirement*, for a period of three years after the last Form 8609 is issued for the development, in addition to any other penalties the authority may seek under its agreements with the applicant), or (ii) has a reservation of credits terminated by the authority (minus 10 points a period of three years after the credits are returned to the authority).

f. Any applicant that includes a management company in its application that is rated unsatisfactory by the executive director or if the ownership of any applicant includes a principal that is or was a principal in a development that hired a management company to manage a tax credit development after such management company received a rating of unsatisfactory from the executive director

Proposed Regulations

during the extended use period of such development. (minus 25 points)

g. Evidence that a US Green Building Council LEED certified design professional participated in the design of the proposed development. (10 points)

h. Evidence that the proposed development's architect has completed the Fair Housing Accessibility First program offered by HUD or an equivalent organization and the certificate is attached with the architect's certification. (5 points)

i. Evidence that the proposed development's architect has attended the authority's Universal Design symposium and the certificate of attendance is attached with the architect's certification. (5 points)

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. (180 points multiplied by the percentage by which the total amount of the per unit credit amount of the proposed development is less than the applicable standard per unit credit amount established by the executive director, negative points will be assessed using the percentage by which the total amount of the per unit credit amount of the proposed development exceeds the applicable standard per unit credit amount established by the executive director.)

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. (75 points multiplied by the percentage by which the total amount of the per unit cost of the proposed development is less than the applicable standard per unit cost amount established by the executive director.)

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 subdivisions 3 b and 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.

7. Bonus points.

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 housing units in the proposed development both rent restricted to and occupied by households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

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 (50 points for proposed developments in low-income jurisdictions) multiplied by (ii) the percentage of housing units in the proposed development rent restricted to households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

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 local housing authority or qualified nonprofit organization (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 local housing authority or 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 refinancing of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. (60 points; plus 5 points if the local housing authority or qualified nonprofit

organization submits a homeownership plan satisfactory to the authority in which the local housing authority or qualified nonprofit organization commits to sell the units in the development to tenants.)

In calculating the points for subdivisions 7 a and b above, any units in the proposed development required by the locality to exceed 60% of the area median gross income will not be considered when calculating the percentage of low-income units of the proposed development with incomes below those required by the IRC in order for the development to be a qualified low-income development, provided that the locality submits evidence satisfactory to the authority of such requirement.

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 that is assigned a total number of points less than a threshold amount of 350 points (275 points for developments financed with tax-exempt bonds) shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

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, if any, to the appropriate tier within such pool and shall be ranked within such pool or tier, if any. The amount of credits made available to each pool will be determined by the executive director. Available credits will include unreserved per capita dollar amount credits from the current calendar year under § 42(h)(3)(C)(i) of the IRC, any unreserved per capita credits from previous calendar years, and credits returned to the authority prior to the final ranking of the applications and may include up to 45% 10% of next calendar year's per capita credits as shall be determined by the executive director. Those applications assigned more points shall be ranked higher than those applications assigned fewer points. However, if any set-asides established by the executive director cannot be satisfied after ranking the applications based on the number of points, the executive director may rank as many applications as necessary to meet the requirements of such set-aside (selecting the highest ranked application, or applications, meeting the requirements of the set-aside) over applications with more 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 Commonwealth, 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 highest combination of points from subdivision 7 above, and each application so selected shall

receive (in order based upon the number of such points, beginning with the application with the highest number of such points) a reservation of credits. If two or more of the tied applications receive the same number of points from subdivision 7 above 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) a reservation of credits.

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 and tier, 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

Proposed Regulations

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.

Not more than 20% of the credits in any pool may be reserved to developments intended to provide elderly housing, unless the feasible credit amount, as determined by the executive director, of the highest ranked elderly housing development in any pool exceeds 20% of the credits in such pool, then such elderly housing development shall be the only elderly housing development eligible for a reservation of credits from such pool. However, if credits remain available for reservation after all eligible nonelderly housing developments receive a reservation of credits, such remaining credits may be made available to additional elderly housing developments. The above limitation of credits available for elderly housing shall not include elderly housing developments with project-based subsidy providing rental assistance for at least 20% of the units that are submitted as rehabilitation developments or assisted living facilities licensed under Chapter 17 of Title 63.2 of the Code of Virginia.

~~The above limitation of credits available for elderly housing shall not include assisted living facilities licensed under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.~~

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 move the proposed development and the credits available to another pool. If any credits remain in any pool after moving proposed developments and credits to another pool, the executive director may for developments that meet the requirements of § 42(h)(1)(E) of the IRC only, 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 with 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, or developments. 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 total amount of credits that may be awarded in any credit year after credit year 2001 to any applicant or to any related applicants for one or more developments shall not exceed 15% of Virginia's per capita dollar amount of credits for such credit year (the "credit cap"). However, if the amount of credits to be reserved in any such credit year to all applications assigned a total number of points at or above the threshold amount set forth above shall be less than Virginia's dollar amount of credits available for such credit year, then the authority's board of commissioners may waive the credit cap to the extent it deems necessary to reserve credits in an amount at least equal to such dollar amount of credits. Applicants shall be deemed to be related if any principal in a proposed development or any person or entity related to the applicant or principal will be a principal in any other proposed development or developments. For purposes of this paragraph, a principal shall also include any person or entity who, in the determination of the executive director, has exercised or will exercise, directly or indirectly, substantial control over the applicant or has performed or will perform (or has assisted or will assist the applicant in the performance of), directly or indirectly, substantial responsibilities or functions customarily performed by applicants with respect to applications or developments. For the purpose of determining whether any person or entity is related to the applicant or principal, persons or entities shall be deemed to be related if the executive director determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within three years of the filing of the application for the credits. In determining in any credit year whether an applicant has a substantial relationship with another applicant with respect to any application for which credits were awarded in any prior credit year, the executive director shall determine whether the applicants were related as of the date of the filing of such prior credit year's application or within three years prior thereto and shall not consider any relationships or any changes in relationships subsequent to such date. Substantial relationships shall include, but not be limited to, the following relationships (in each of the following relationships, the persons or entities involved in the relationship are deemed to be related to each other): (i) the persons are in the same immediate family (including, without limitation, a spouse, children, parents, grandparents, grandchildren, brothers,

sisters, uncles, aunts, nieces, and nephews) and are living in the same household; (ii) the entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners that (by themselves or together with any other related persons and entities) have, in the aggregate, 5.0% or more ownership interest in each entity; (iii) the entities are under the common control (e.g., the same person or persons and any related persons serve as a majority of the voting members of the boards of such entities or as chief executive officers of such entities) of one or more persons or entities (including related persons and entities); (iv) the person is a general partner, member or employee in the entity or is an owner (by himself or together with any other related persons and entities) of 5.0% or more ownership interest in the entity; (v) the entity is a general partner or member in the other entity or is an owner (by itself or together with any other related persons and entities) of 5.0% or more ownership interest in the other entity; or (vi) the person or entity is otherwise controlled, in whole or in part, by the other person or entity. In determining compliance with the credit cap with respect to any application, the executive director may exclude any person or entity related to the applicant or to any principal in such applicant if the executive director determines that (i) such person or entity will not participate, directly or indirectly, in matters relating to the applicant or the ownership of the development to be assisted by the credits for which the application is submitted, (ii) such person or entity has no agreement or understanding relating to such application or the tax credits requested therein, and (iii) such person or entity will not receive a financial benefit from the tax credits requested in the application. A limited partner or other similar investor shall not be determined to be a principal and shall be excluded from the determination of related persons or entities unless the executive director shall determine that such limited partner or investor will, directly or indirectly, exercise control over the applicant or participate in matters relating to the ownership of the development substantially beyond the degree of control or participation that is usual and customary for limited partners or other similar investors with respect to developments assisted by the credits. If the award of multiple applications of any applicant or related applicants in any credit year shall cause the credit cap to be exceeded, such applicant or applicants shall, upon notice from the authority, jointly designate those applications for which credits are not to be reserved so that such limitation shall not be exceeded. Such notice shall specify the date by which such designation shall be made. In the absence of any such designation by the date specified in such notice, the executive director shall make such designation as he shall determine to best serve the interests of the program. Each applicant and each principal therein shall make such certifications, shall disclose such facts and shall submit such documents to the authority as the executive director may require to determine compliance with credit cap. If an applicant or any principal therein makes any misrepresentation to the authority concerning such applicant's or principal's relationship with any other person or entity, the executive director may reject any or all of such applicant's pending applications for reservation or allocation of credits, may terminate any or all reservations of credits to the applicant, and may prohibit such applicant, the principals therein and any persons and entities then or thereafter having

a substantial relationship (in the determination of the executive director as described above) with the applicant or any principal therein from submitting applications for credits for such period of time as the executive director shall determine.

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 shall, 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 executive director shall make a written explanation available to the general public for any allocation of housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the authority.

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

Proposed Regulations

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.

Notwithstanding the provisions of this section, the executive director may make a reservation of credits to any applicant that proposes a nonelderly development intended to serve people with disabilities and (i) provides rent subsidies or equivalent assistance in order to ensure occupancy by extremely low-income persons; (ii) conforms to HUD regulations interpreting the accessibility requirements of § 504 of the Rehabilitation Act; and (iii) will be actively marketed to people with disabilities in accordance with a plan submitted as part of the application for credits and approved by the executive director. Any such reservations made in any calendar year may be up to 3.0% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year.

Notwithstanding the provisions of this section, the executive director may make a reservation of credits, to any applicant that proposes to acquire and rehabilitate a nonelderly development within Arlington County, Fairfax County, Alexandria City, Fairfax City or Falls Church City that the executive director determines (i) cannot be acquired within the schedule for the competitive scoring process described in this section and (ii) cannot be financed with tax-exempt bonds using the authority's normal underwriting criteria for its multifamily tax-exempt bond program. Any proposed development subject to an application submitted under this paragraph must meet the following criteria: (i) at least 80% of the units in the development must be low-income housing units, (ii) at least 20% of the units in the development must be low-income housing units for residents at 50% of the area median income or less, (iii) the development must be eligible for points under subdivision 3 b (1) (g) of this section or a combination of at least 20 points under subdivisions 3 b (1) (b) through 3 b (1) (j), excluding subdivision 3 b (1) (c), and (iv) the executive director's review of the application must confirm

that the portion of the developer's fee to be deferred is at least 5.0% of the total development costs. Any such reservations made in any calendar year may be up to 15% of the Commonwealth's annual state housing credit ceiling for the applicable credit year. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year. Applicants and the principals of such applicant applying for credits under this paragraph may not submit an application for credits for the same development under the competitive scoring process in this section.

13 VAC 10-180-90. Monitoring for IRS compliance.

A. Federal law requires the authority to monitor developments receiving credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any noncompliance of which it becomes aware. Compliance with the requirements of § 42 of the IRC is the responsibility of the owner of the building for which the credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the authority's allocation plan of credits. The authority's obligation to monitor for compliance with the requirements of § 42 of the IRC does not make the authority liable for an owner's noncompliance, nor does the authority's failure to discover any noncompliance by an owner excuse such noncompliance.

B. The owner of a low-income housing development must keep records for each qualified low-income building in the development that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).
2. The percentage of residential rental units in the building that are low-income units.
3. The rent charged on each residential rental unit in the building (including any utility allowances).
4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) of the IRC (as in effect before the amendments made by the federal Revenue Reconciliation Act of 1989).
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented.
6. The annual income certification of each low-income tenant per unit.
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937, 42 USC § 1401 et seq. ("section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under

section 8, the documentation requirement of this subdivision 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under § 42(g) of the IRC.

8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) of the IRC (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development).

The owner of a low-income housing development must retain the records described in this subsection B for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

In addition, the owner of a low-income housing development must retain any original local health, safety, or building code violation reports or notices issued by the Commonwealth or local government (as described in subdivision C 6 of this section) for the authority's inspection. Retention of the original violation reports or notices is not required once the authority reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

C. The owner of a low-income housing development must certify annually to the authority, on the form prescribed by the authority, that, for the preceding 12-month period:

1. The development met the requirements of the 20-50 test under § 42(g)(1)(A) of the IRC or the 40-60 test under § 42(g)(2)(B) of the IRC, whichever minimum set-aside test was applicable to the development.
2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B) of the IRC) of any building in the development, or that there was a change, and a description of the change.
3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving section 8 housing assistance payments, the statement from a public housing authority described in subdivision 7 of subsection B of this section (unless the owner has obtained a waiver from the IRS pursuant to § 42(g)(8)(B) of the IRC).
4. Each low-income unit in the development was rent-restricted under § 42(g)(2) of the IRC.
5. All units in the development were for use by the general public (as defined in IRS Regulation § 1.42-9) and that no finding of discrimination under the Fair Housing Act has occurred for the development. (A finding of discrimination includes an adverse final decision by the Secretary of HUD, 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency,

Proposed Regulations

42 USC § 3616(a)(1), or adverse judgment from federal court.)

6. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and that the Commonwealth or local government unit responsible for making local health, safety, and building code inspections did not issue a violation report for any building or low-income unit in the development. (If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification. In addition the owner must state whether the violation has been corrected.)

7. There was no change in the eligible basis (as defined in § 42(d) of the IRC) of any building in the development, or if there was a change, the nature of the change (e.g., a common area has become commercial space or a fee is now charged for a tenant facility formerly provided without charge).

8. All tenant facilities included in the eligible basis under § 42(d) of the IRC of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.

9. If a low-income unit in the development became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.

10. If the income of tenants of a low-income unit in the development increased above the limit allowed in § 42(g)(2)(D)(ii) of the IRC, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income.

11. An extended low income housing commitment as described in § 42(h)(6) of the IRC was in effect (for buildings subject to § 7108(c)(1) of the federal Omnibus Budget Reconciliation Act of 1989).

12. All units in the development were used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(iii) of the IRC or single-room-occupancy units rented on a month-by-month basis under § 42(i)(3)(B)(iv) of the IRC).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing development must provide to the authority, on a form prescribed by the authority, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the development's compliance period.

D. The authority will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the authority will

conduct on-site inspections of all the buildings in the development by the end of the second calendar year following the year the last building in the development is placed in service and, for at least 20% of the development's low-income housing units, inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for the tenants in those units. In addition, at least once every three years, the authority will conduct on-site inspections of all the buildings in each low-income housing development and, for at least 20% of the development's low-income units, inspect the units, the low-income certifications, the documentation the owner has received to support the certifications, and the rent record for the tenants in those units. The authority will determine which low-income housing developments will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the authority, at its option, may request an owner of a low-income housing development not selected for the review procedure set forth above in a particular year to submit to the authority for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their development.

All low-income housing developments may be subject to review at any time during the compliance period.

E. The authority has the right to perform, and each owner of a development receiving credits shall permit the performance of, an on-site inspection of any low-income housing development through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

The owner of a low-income housing development should notify the authority when the development is placed in service. The authority reserves the right to inspect the property prior to issuing IRS Form 8609 to verify that the development conforms to the representations made in the Application for Reservation and Application for Allocation.

F. The authority will provide written notice to the owner of a low-income housing development if the authority does not receive the certification described in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of § 42 of the IRC.

Such written notice will set forth a correction period which shall be that period specified by the authority during which an owner must supply any missing certifications and bring the development into compliance with the provisions of § 42 of the IRC. The authority will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The authority may extend the correction period for up to 6 months, but only if the authority determines there is good cause for granting the extension.

The authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including any permitted extensions) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subdivisions 2 and 7 of subsection C of this section, respectively, that results in a decrease in the qualified basis of the development under § 42(c)(1)(A) of the IRC is noncompliance that must be reported to the IRS under this subsection F. If the authority reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the authority need not file Form 8823 in subsequent years to report that building's noncompliance.

The authority will retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective Form 8823. In all other cases, the authority must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the authority receives the certifications and records.

G. If the authority decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the authority is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by Rural Development under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the authority must enter into an agreement with Rural Development or tax-exempt bond issuer. Under the agreement, Rural Development or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the authority. The authority may assume the accuracy of the information provided by Rural Development or the tax-exempt bond issuer without verification. The authority will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) of the IRC are met. However, if the information provided by Rural Development or tax-exempt bond issuer is not sufficient for the authority to make this determination, the authority will request the necessary additional income or rent information from the owner of the buildings. For example, because Rural Development determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under section 8, the authority may have to calculate the tenant's income for purposes of § 42 of the IRC and may need to request additional income information from the owner.

H. The owners of low-income housing developments must pay to the authority such fees in such amounts and at such times as the authority shall reasonably require the owners to pay in

order to reimburse the authority for the costs of monitoring compliance with § 42 of the IRC.

I. The owners of low-income housing developments that have submitted IRS Forms 8821, Tax Information Authorization, naming the authority as the appointee to receive tax information on such owners shall submit from time to time renewals of such Forms 8821 as required by the authority throughout the extended use period.

J. The requirements of this section shall continue throughout the extended use period, notwithstanding the use of the term compliance period, *unless except to the extent modified or waived by the authority executive director.*

VA.R. Doc. No. R06-55; Filed September 28, 2005, 10:33 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 9. ENVIRONMENT

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: The State Water Control Board adopted revisions to the Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed (9 VAC 25-40) and the Water Quality Management Planning Regulation (9 VAC 25-720), which were published in final version in 21:23 VA.R. 3236-3249 July 25, 2005, and at the same time the amendments to the regulations were suspended by the board pursuant to § 2.2-4015 A 4 of the Administrative Process Act. The changes made since the 21:23 VA.R. publication are shown in brackets.

The board deferred action on 9 VAC 25-720-60 (James River Basin) and 9 VAC 25-720-120 (York River), therefore, these sections have been removed and are not being printed at this time. The board is expected to take final action on these sections at a future meeting.

Titles of Regulations: 9 VAC 25-40. Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed (amending 9 VAC 25-40-10, 9 VAC 25-40-30, 9 VAC 25-40-40, and 9 VAC 25-40-50; adding 9 VAC 25-40-25, 9 VAC 25-40-70; and repealing 9 VAC 25-40-20).

9 VAC 25-720. Water Quality Management Planning Regulation (amending 9 VAC 25-720-10, 9 VAC 25-720-30, 9 VAC 25-720-40, 9 VAC 25-720-50, 9 VAC 25-720-70, 9 VAC 25-720-110.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 303 of the federal Clean Water Act.

Effective Date: November 16, 2005.

Agency Contact: John Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, or e-mail jmkennedy@deq.virginia.gov.

Summary:

The amendments (i) revise the existing point source policy for nutrient enriched waters to establish technology-based, annual average total nitrogen and total phosphorus concentration requirements for certain dischargers located in Virginia's Chesapeake Bay watershed, and (ii) revise the Water Quality Management Planning Regulation to establish total nitrogen and total phosphorus annual waste load allocations for certain dischargers within Virginia's portion of the Chesapeake Bay Watershed, and authorize a trading and offsets program to assist in the achievement and maintenance of the waste load allocations.

The State Water Control Board deferred making a decision on 9 VAC 25-720-60 and 9 VAC 25-720-120, which included nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers. The amendments to these sections will be considered at a future meeting of the State Water Control Board.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

CHAPTER 40.

~~POLICY~~ REGULATION FOR NUTRIENT ENRICHED WATERS AND DISCHARGERS WITHIN THE CHESAPEAKE BAY WATERSHED.

9 VAC 25-40-10. Purpose.

This ~~policy~~ regulation provides for the control of discharges of nutrients from point sources affecting state waters that ~~have been~~ are designated "nutrient enriched waters" in 9 VAC 25-260-350 or are located within the Chesapeake Bay watershed, which consists of the following Virginia river basins: Potomac River Basin (9 VAC 25-260-390 and 9 VAC 25-260-400), James River Basin (9 VAC 25-260-410, 9 VAC 25-260-415, 9 VAC 25-260-420, and 9 VAC 25-260-430), Rappahannock River Basin (9 VAC 25-260-440), Chesapeake Bay and small coastal basins (9 VAC 25-260-520, Sections 2 through 3g), and the York River Basin (9 VAC 25-260-530).

The provisions of this regulation and the Water Quality Management Planning Regulation (9 VAC 25-720) constitute the nutrient reduction requirements for point source discharges in the Chesapeake Bay Watershed to protect the Chesapeake Bay and its tidal rivers.

9 VAC 25-40-20. Authority. (Repealed.)

~~The board has adopted this policy under the authority of §§ 62.1-44.15(3), 62.1-44.15(10) and 62.1-44.15(14) of the Code of Virginia.~~

9 VAC 25-40-25. Definitions.

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

"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.

"Expansion" or "expands" means initiating construction [~~of a~~ at an existing] facility after July 1, 2005, to increase treatment

capacity, except that the term does not apply in those cases where a Certificate to Construct was issued on or before July 1, 2005.

"Point source dischargers" or "dischargers" do not include permitted discharges of noncontact cooling water or storm water.

9 VAC 25-40-30. Strategy for "nutrient enriched waters" outside of Chesapeake Bay Watershed.

~~As specified here, the board shall reopen the NPDES permits of certain point source dischargers to "nutrient enriched waters" and shall impose effluent limitations on nutrients in the discharges authorized by those permits and certain new permits.~~

A. All dischargers authorized by NPDES ~~VPDES~~ permits issued on or before July 1, 1988, to discharge ~~4~~ 1.0 MGD or more to "nutrient enriched waters" shall be required to meet a monthly average total phosphorus effluent limitation of ~~2 mg/l~~ as quickly as possible and in any event within three years following modification of the NPDES permit ~~2.0 mg/l~~.

~~At the time of modification of the NPDES permit, any discharger who voluntarily accepts a permit to require installation and operation of nitrogen removal facilities to meet a monthly average total nitrogen effluent limitation of 10 mg/l for the months of April through October shall be allowed an additional year to meet the phosphorus effluent limitation in 9 VAC 25-40-30 A.~~

B. All New source dischargers as defined in ~~9 VAC 25-30-10~~ with a permit issued ~~that commence discharging 9 VAC 25-21~~ 9 VAC 25-31 with a permit issued after July 1, 1988, and a design flow greater than or equal to 0.05 are authorized by ~~VPDES permits to discharge 0.050 MGD who propose to discharge or more to "nutrient enriched waters"~~ shall be required to meet a monthly average total phosphorus effluent limitation of ~~2 mg/l~~ 2.0 mg/l.

C. This ~~policy regulation~~ shall not be construed to relax any effluent limitation concerning a nutrient that is imposed under any other requirement of state or federal law. ~~No time extensions outlined in 9 VAC 25-40-30 A for installation and operation of nitrogen removal facilities shall be granted to a discharger if such an effluent limitation or a time extension is already imposed under any other requirement of state or federal law or regulation.~~

D. Any discharger to "nutrient enriched waters" that is located within the Chesapeake Bay Watershed is not subject to the requirements of this section.

9 VAC 25-40-40. Permit amendments.

Whenever the board determines that a permittee has the potential for discharging monthly average total phosphorus concentrations greater than or equal to ~~2 mg/l~~ 2.0 mg/l or monthly average total nitrogen concentrations greater than or equal to ~~10 mg/l~~ ~~4.0 x 10¹~~ 10 mg/l to "nutrient enriched waters," the board may reopen the ~~NPDES~~ ~~VPDES~~ permit to impose monitoring requirements for nutrients in the discharge.

9 VAC 25-40-50. Possibility of further limitations.

The board anticipates that, following implementation of the foregoing requirements and evaluation of effects of this ~~policy~~ regulation and of the results of the nonpoint source control programs, further limitations on discharges of phosphorus or of other nutrients may be necessary to control undesirable growths of aquatic plants.

9 VAC 25-40-70. Strategy for Chesapeake Bay Watershed.

~~[A. In recognition that nutrient reductions from point source discharges have a significant role in the restoration of the Chesapeake Bay and its tidal rivers since they provide a more immediate benefit to water quality and are more reliable than reductions from nonpoint sources, it shall be the policy of the board that point source dischargers within the Chesapeake Bay Watershed utilize biological nutrient removal technology or its equivalent whenever feasible, as provided by subsection B of this section. For the purposes of this chapter and the related sections of 9 VAC 25-720, the terms "point source dischargers" or "dischargers" do not include permitted discharges of noncontact cooling water or storm water operate installed nutrient removal technologies at the treatment efficiency levels for which they were designed.~~

~~B. A.] As specified herein, the board shall issue and reissue the VPDES permits of certain point source dischargers within the Chesapeake Bay Watershed and shall impose effluent concentration limitations on nutrients in the discharges authorized by those permits include technology-based effluent concentration limitations in the individual permit for any facility that has installed technology for the control of nitrogen and phosphorus whether by new construction, expansion, or upgrade. Such limitations shall be based upon the technology installed by the facility and shall be expressed as annual average concentrations.~~

~~1. Except as provided under subdivision 4 of this subsection, all significant dischargers, as defined in 9 VAC 25-720, authorized by VPDES permits issued on or before [the effective date of this chapter] shall achieve an annual average total nitrogen effluent limitation of not more than 8.0 mg/l and an annual average total phosphorus effluent limitation of not more than 1.0 mg/l; provided, however, these dischargers must achieve an annual total nitrogen waste load allocation and an annual total phosphorus waste load allocation as required by the Water Quality Management Planning Regulation (9 VAC 25-720). The applicable limitations shall be achieved within four years following reissuance or major modification of the VPDES permit, but in no case later than December 31, 2010 an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued before July 1, 2005, that expands his facility to discharge 100,000 gallons or more per day, or an equivalent load directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters shall install state-of-the-art nutrient removal technology at the time of the expansion and achieve an annual average total nitrogen effluent concentration of 3.0 milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter.~~

Final Regulations

2. Except as provided under subdivision 4 of this subsection, ~~all dischargers that do not meet the definition of a significant discharger and are authorized by VPDES permits issued on or before July 1, 2004, to discharge 0.040 MGD or more shall be required to achieve an annual average total nitrogen effluent limitation of 8.0 mg/l and an annual average total phosphorus effluent limitation of 1.0 mg/l. These limitations shall be included in reissued or modified permits after December 31, 2010, and shall be achieved within four years following reissuance or major modification of the VPDES permits~~ an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued before July 1, 2005, that expands his facility to discharge 100,000 gallons or more per day up to and including 499,999 gallons per day, or an equivalent load, directly into nontidal waters shall install, at a minimum, biological nutrient removal technology at the time of the expansion and achieve an annual average total nitrogen effluent concentration of 8.0 milligrams per liter and an annual average total phosphorus effluent concentration of 1.0 milligrams per liter.

3. Except as provided under subdivision 4 of this subsection, ~~all new dischargers or expanded discharges of nitrogen or phosphorus authorized by VPDES permits issued after [the effective date of this chapter] to discharge 0.040 MGD or more shall achieve an annual average total nitrogen effluent limitation of 3.0 mg/l and an annual average total phosphorus effluent limitation of 0.30 mg/l~~ an owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit first issued on or after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall install:

a. At a minimum, biological nutrient removal technology at any facility authorized to discharge up to and including 99,999 gallons per day, or an equivalent load, directly into tidal and nontidal waters or up to and including 499,999 gallons per day, or an equivalent load, to nontidal waters and achieve an annual average total nitrogen effluent concentration of 8.0 milligrams per liter and an annual average total phosphorus effluent concentration of 1.0 milligrams per liter; and

b. State-of-the-art nutrient removal technology at any facility authorized to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters and achieve an annual average total nitrogen effluent concentration of 3.0 milligrams per liter and an annual average total phosphorus effluent concentration of 0.3 milligrams per liter.

4. ~~On a case-by-case basis, a discharger may demonstrate to the satisfaction of the board through treatability, engineering, or other studies that biological nutrient removal technology or its equivalent at a point source discharge cannot achieve the effluent limitations of subdivision 1, 2 or 3 of this subsection, as applicable. In these cases, the board shall require alternative effluent limitations the board deems appropriate for that discharger; the board may establish a technology-based standard and associated~~

concentration limitation less stringent than the applicable standard specified in subdivision 1, 2 or 3 of this subsection, as applicable, based on a demonstration by an owner or operator that the specified standard is not technically or economically feasible for the affected facility or that the technology-based standard and associated concentration limitation would [degrade receiving waters or] require the owner or operator to construct treatment facilities not otherwise necessary to comply with his waste load allocation without reliance on nutrient credit exchanges pursuant to § 62.1-44.19:18 of the Code of Virginia, provided, however, the discharger must achieve an annual total nitrogen waste load allocation and an annual total phosphorus waste load allocation as required by the Water Quality Management Planning Regulation (9 VAC 25-720).

5. Any effluent limitation concerning a nutrient that is imposed under any other requirement of state or federal law or regulation that is more stringent than those established herein shall not be affected by this regulation.

[G. B.] In accordance with Article 1.1 (§ 10.1-1187.1 et seq.) of Chapter 11.1 of Title 10.1 of the Code of Virginia, the board may approve an alternate compliance method to the technology-based effluent concentration limitations as required by subsection [B A] of this section. Such alternate compliance method shall be incorporated into the permit of an Exemplary Environmental Enterprise (E3) facility or an Extraordinary Environmental Enterprise (E4) facility to allow the suspension of applicable technology-based effluent concentration limitations during the period the E3 or E4 facility has a fully implemented environmental management system that includes operation of installed nutrient removal technologies at the treatment efficiency levels for which they were designed.

~~G. [D. C.] Notwithstanding [subsections A and B subsection A] of this section, point source dischargers within the Chesapeake Bay Watershed are also governed by the Water Quality Management Planning Regulation (9 VAC 25-720).~~

9 VAC 25-720-10. Definitions.

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

"Assimilative capacity" means the greatest amount of loading that a water can receive without violating water quality standards, significantly degrading waters of existing high quality, or interfering with the beneficial use of state waters.

"Best management practices (BMP)" means a schedule of activities, prohibition of practices, maintenance procedures and other management practices to prevent or reduce the pollution of state waters. BMPs include treatment requirements, operating and maintenance procedures, schedule of activities, prohibition of activities, and other management practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

"Best practicable control technology currently available (BPT)" means control measures required of point source discharges

(other than POTWs) as determined by the EPA pursuant to § 304(b)(1) of the CWA (33 USC § 1251 et seq.) as of 1987.

"Board" means the State Water Control Board (SWCB).

"Chesapeake Bay Watershed" means the following Virginia river basins: Potomac River Basin (9 VAC 25-260-390 and 9 VAC 25-260-400), James River Basin (9 VAC 25-260-410, 9 VAC 25-260-415, 9 VAC 25-260-420, and 9 VAC 25-260-430), Rappahannock River Basin (9 VAC 25-260-440), Chesapeake Bay and small coastal basins (9 VAC 25-260-520, Sections 2 through 3g), and the York River Basin (9 VAC 25-260-530).

"Clean Water Act or Act (CWA)" means 33 USC § 1251 et seq. as amended, as of 1987.

~~*"Delivered waste load" means the discharged load from a point source in a river basin that is adjusted by a delivery factor for any alteration of that load occurring from biological, chemical, and physical processes during riverine transport to tidal waters. Delivery factors are calculated using the Chesapeake Bay Program watershed model.*~~

"Delivery factor" means an estimate of the number of pounds of total nitrogen or total phosphorus delivered to tidal waters for every pound discharged from a permitted facility, as determined by the specific geographic location of the permitted facility, to account for attenuation that occurs during riverine transport between the permitted facility and tidal waters. Delivery factors shall be calculated using the Chesapeake Bay Program watershed model.

"Discharge" means when used without qualification, a discharge of a pollutant or any addition of any pollutant or combination of pollutants to state waters or waters of the contiguous zone or ocean or other floating craft when being used for transportation.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates or concentrations of pollutants that are discharged from ~~joint~~ point sources into state waters.

"Effluent limitation guidelines" means a regulation published by EPA under the Act and adopted by the board.

"Effluent limited segment (EL)" means a stream segment where the water quality does and probably will continue to meet state water quality standards after the application of technology-based effluent limitations required by §§ 301(b) and 306 of the CWA (33 USC § 1251 et seq.) as of 1987.

"Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

"Equivalent load" means 2,300 pounds per year of total nitrogen and 300 pounds per year of total phosphorus at a flow volume of 40,000 gallons per day; 5,700 pounds per year of total nitrogen and 760 pounds per year of total phosphorus at a flow volume of 100,000 gallons per day; and 28,500 pounds per year of total nitrogen and 3,800 pounds per year of total phosphorus at a flow volume of 500,000 gallons per day.

"Load or loading" means the introduction of an amount of matter or thermal energy into a receiving water. Loading may be either man-caused (pollutant loading) or natural (background loading).

"Load allocation (LA)" means the portion of a receiving water's loading capacity attributable either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which may range from accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished.

"Nonpoint source" means a source of pollution, such as a farm or forest land runoff, urban storm water runoff, mine runoff, or salt water intrusion that is not collected or discharged as a point source.

"Point source" means any discernible, defined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agricultural land.

"Pollutant" means any substance, radioactive material, or heat that causes or contributes to, or may cause or contribute to, pollution. It does not mean:

1. Sewage from vessels; or
2. Water, gas, or other material that is injected into a well to facilitate production of oil, dry gas, or water derived in association with oil or gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes if approved by the Department of Mines, Minerals and Energy unless the board determines that such injection or disposal will result in the degradation of ground or surface water resources.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that: (a) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner, which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the board, are "pollution" for the terms and purposes of this water quality management plan.

"Publicly owned treatment works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this

Final Regulations

definition only if they convey wastewater to a POTW providing treatment.

~~"Significant discharges discharger" means a point source discharger within the Chesapeake Bay Watershed that is listed in any of the following subsections: 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, or 9 VAC 25-720-120 C; or a new or expanded point source discharger authorized by a VPDES permit issued after July 1, 2004, to discharge 2,300 pounds per year or more of total nitrogen or 300 pounds per year or more of total phosphorus (i) a point source discharger to the Chesapeake Bay watershed with a design capacity of 0.5 million gallons per day or greater, or an equivalent load; (ii) a point source discharger to the Chesapeake Bay watershed [east downstream] of the fall line with a design capacity of 0.1 million gallons per day or greater, or an equivalent load; (iii) a planned or newly expanding point source discharger to the Chesapeake Bay watershed that is expected to be in operation by 2010 with a permitted design of 0.5 million gallons per day or greater, or an equivalent load; or (iv) a planned or newly expanding point source discharger to the Chesapeake Bay watershed [east downstream] of the fall line with a design capacity of 0.1 million gallons per day or greater, or an equivalent load, that is expected to be in operation by 2010.~~

"State waters" means all waters, on the surface and under the ground and wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

"Surface water" means all waters in the Commonwealth except ground waters as defined in § 62.1-255 of the Code of Virginia.

"Total maximum daily load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, natural background loading and usually a safety factor. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Toxic pollutant" means any agent or material including, but not limited to, those listed under § 307(a) of the CWA (33 USC § 1251 et seq. as of 1987), which after discharge will, on the basis of available information, cause toxicity.

"Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

~~["Trading" means the transfer of assigned waste load allocations or credits for total nitrogen or total phosphorus among point source dischargers. It does not include the transfer of total nitrogen for total phosphorus, or the reverse.]~~

"Virginia Pollution Discharge Elimination System (VPDES) permit" means a document issued by the board, pursuant to ~~9 VAC 25-30~~ 9 VAC 25-31, authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Waste load allocation (WLA)" means the portion of a receiving water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality limited segment (WQL)" means any stream segment where the water quality does not or will not meet applicable water quality standards, even after the application of technology-based effluent limitations required by §§ 301(b) and 306 of the CWA (33 USC § 1251 et seq. as of 1987).

"Water quality management plan (WQMP)" means a state- or area-wide waste treatment management plan developed and updated in accordance with the provisions of §§ 205(j), 208 and 303 of the CWA (33 USC § 1251 et seq. as of 1987).

"Water quality standards (WQS)" means narrative statements that describe water quality requirements in general terms, and of numeric limits for specific physical, chemical, biological or radiological characteristics of water. These narrative statements and numeric limits describe water quality necessary to meet and maintain reasonable and beneficial uses such as swimming and, other water based recreation, public water supply and the propagation and growth of aquatic life. The adoption of water quality standards under the State Water Control Law is one of the board's methods of accomplishing the law's purpose.

9 VAC 25-720-30. ~~Reserved. Relationship to 9 VAC 25-40, Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed.~~

The provisions of this chapter and 9 VAC 25-40, Regulation for Nutrient Enriched Waters and Dischargers within the Chesapeake Bay Watershed, constitute the nutrient reduction requirements for point source discharges in the Chesapeake Bay Watershed to protect the Chesapeake Bay and its tidal rivers.

9 VAC 25-720-40. ~~Reserved Trading and offsets Implementing Nitrogen and Phosphorus Waste Load Allocations in the Chesapeake Bay Watershed.~~

A. Nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C may be [~~traded~~ exchanged] among significant dischargers within the same river basin to assist in the achievement and maintenance of the total basin delivered waste load allocations in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program established under Article 4.02 (§ 62.1-44.19:12 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. [~~Trades Exchanges~~] must account for the delivery factor applicable to each discharge based upon its location within the river basin and calculated by the Chesapeake Bay Program watershed model.

B. Any proposed trade shall not result in degradation or adverse impacts to local water quality or violations of water quality standards.

C. Any trade of nitrogen or phosphorus waste load allocation among individual significant dischargers shall not result in the

exceedence of the total basin delivered waste load allocation within which the significant dischargers are located.

D. The board may authorize trading only through VPDES permits. Trades conducted in accordance with this chapter through VPDES permits shall not require any amendments to this chapter.

E. Any discharge of nitrogen or phosphorus load from a new significant discharger or any increase in the discharge of nitrogen or phosphorus load from an expansion of an existing significant discharger that would exceed the waste load allocation for that significant discharger shall be accompanied by one of the following actions within the same river basin: (i) a trade for an equivalent or greater load reduction of the same pollutant from one or more existing dischargers; (ii) in accordance with the criteria listed below, the installation, monitoring and maintenance of best management practices that achieve an offsetting reduction of nonpoint source delivered load of nitrogen or phosphorus that the board determines is at least twice the reduction in delivered load compared to the new or increased delivered load from the significant discharger; or (iii) both actions in combination.

The board may approve use of the second option (clause (ii)) in the previous paragraph in accordance with the following:

- 1. The VPDES permit for the new or expanded significant discharger includes an annual average total nitrogen effluent limitation of 3.0 mg/l or an annual average total phosphorus effluent limitation of 0.30 mg/l, as appropriate, or alternative limits as required by 9 VAC 245-40-70 B 4;*
- 2. Best management practices are installed within the locality or localities served by the new or expanded discharger, unless the board determines that installation of the needed best management practices in another locality provides greater water quality benefits;*
- 3. Credit may be given for improvements to best management practices beyond that already required under other federal or state law to the extent that additional reduction in delivered nitrogen or phosphorus load is provided;*
- 4. Credit may not be given for portions of best management practices financed by government programs; and*
- 5. The installation, monitoring and maintenance of the best management practices are required by the VPDES permit of the new or expanded significant discharger and the best management practices are installed subsequent to the issuance of the VPDES permit.*

F. Any trade or offset involving a new significant discharger must account for the delivery factor that is assigned to the discharger based on its location within the river basin and must recognize that new significant dischargers have no assigned waste load allocations.

To ensure the total basin delivered loads of nitrogen and phosphorus are not exceeded, any trading or offsets conducted in accordance with this section shall use delivered loads. The following table contains the delivery factors for both nitrogen and phosphorus assigned to the identified Chesapeake Bay Program watershed model segments within

each river basin. A delivered load equals the discharged load multiplied by the delivery factor.

<i>River-Basin</i>	<i>CBP Watershed Model Segment</i>	<i>Nitrogen Delivery Factor</i>	<i>Phosphorus Delivery Factor</i>
<i>Shenandoah-Potomac</i>	<i>170</i>	<i>0.55</i>	<i>0.75</i>
<i>Shenandoah-Potomac</i>	<i>180</i>	<i>0.82</i>	<i>0.75</i>
<i>Shenandoah-Potomac</i>	<i>190</i>	<i>0.42</i>	<i>0.74</i>
<i>Shenandoah-Potomac</i>	<i>200</i>	<i>0.65</i>	<i>0.74</i>
<i>Shenandoah-Potomac</i>	<i>220</i>	<i>0.83</i>	<i>0.75</i>
<i>Shenandoah-Potomac</i>	<i>550</i>	<i>0.58 or 1.00*</i>	<i>0.44 or 1.00*</i>
<i>Shenandoah-Potomac</i>	<i>740</i>	<i>0.74</i>	<i>0.75</i>
<i>Shenandoah-Potomac</i>	<i>900</i>	<i>1.00</i>	<i>1.00</i>
<i>Shenandoah-Potomac</i>	<i>910</i>	<i>1.00</i>	<i>1.00</i>
<i>Shenandoah-Potomac</i>	<i>970</i>	<i>1.00</i>	<i>1.00</i>
<i>Shenandoah-Potomac</i>	<i>980</i>	<i>1.00</i>	<i>1.00</i>
<i>Rappahannock</i>	<i>230</i>	<i>0.61</i>	<i>1.03</i>
<i>Rappahannock</i>	<i>560</i>	<i>1.00</i>	<i>1.00</i>
<i>Rappahannock</i>	<i>580</i>	<i>1.00</i>	<i>1.00</i>
<i>Rappahannock</i>	<i>930</i>	<i>1.00</i>	<i>1.00</i>
<i>York</i>	<i>235</i>	<i>0.27</i>	<i>0.43</i>
<i>York</i>	<i>240</i>	<i>0.42</i>	<i>0.43</i>
<i>York</i>	<i>250</i>	<i>0.02</i>	<i>0.58</i>
<i>York</i>	<i>260</i>	<i>0.51</i>	<i>0.58</i>
<i>York</i>	<i>590</i>	<i>1.00</i>	<i>1.00</i>
<i>York</i>	<i>940</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>265</i>	<i>0.02</i>	<i>1.10</i>
<i>James</i>	<i>270</i>	<i>0.30</i>	<i>1.10</i>
<i>James</i>	<i>280</i>	<i>0.61</i>	<i>1.10</i>
<i>James</i>	<i>290</i>	<i>0.81</i>	<i>1.00</i>
<i>James</i>	<i>300</i>	<i>0.37</i>	<i>0.42</i>
<i>James</i>	<i>310</i>	<i>0.54</i>	<i>0.39</i>
<i>James</i>	<i>600</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>610</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>620</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>630</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>950</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>955</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>960</i>	<i>1.00</i>	<i>1.00</i>
<i>James</i>	<i>965</i>	<i>1.00</i>	<i>1.00</i>
<i>C. Bay Eastern Shore</i>	<i>430</i>	<i>1.00</i>	<i>1.00</i>
<i>C. Bay Eastern Shore</i>	<i>440</i>	<i>1.00</i>	<i>1.00</i>

*NOTE: *Drainage to Occoquan Reservoir – delivery factors = 0.58 for nitrogen; 0.44 for phosphorus. Drainage outside*

Final Regulations

~~Ocequan Reservoir delivery factors = 1.00 for both nitrogen and phosphorus.~~

B. The nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C are considered to be bioavailable to aquatic life. On a case-by-case basis, a discharger may demonstrate to the satisfaction of the board that a significant portion of the nutrients discharged by the facility is not bioavailable to aquatic life. In these cases, the board may limit the permitted discharge to reflect only that portion of the assigned waste load allocation that is bioavailable. [Such limits shall be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay watershed and water quality models.]

C. Unless otherwise noted, the nitrogen and phosphorus waste load allocations assigned to individual significant dischargers in 9 VAC 25-720-50 C, 9 VAC 25-720-60 C, 9 VAC 25-720-70 C, 9 VAC 25-720-110 C, and 9 VAC 25-720-120 C are considered total loads including nutrients present in

9 VAC 25-720-50. Potomac, Shenandoah River Basin.

the intake water from the river, as applicable. On a case-by-case basis, an industrial discharger may demonstrate to the satisfaction of the board that a significant portion of the nutrient load originates in its intake water. In these cases, the board may limit the permitted discharge to reflect only the net nutrient load portion of the assigned waste load allocation. [Such limits shall be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay watershed and water quality models.

D. The board may amend this regulation to adjust individual nitrogen and phosphorus waste load allocations. Reasons for considering such an adjustment include, but are not limited to:

1. A discharger completes or does not complete a plant expansion as evidenced by issuance of a Certificate To Operate by December 31, 2010; or
2. A river basin nutrient load allocation is not achieved.

Any adjustment to an individual waste load allocation must ensure water quality standards are maintained.]

REGISTRAR'S NOTICE: Subsections A and B are not amended; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

~~The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers, the associated delivery factors used for trading or offset purposes, and the total nitrogen and total phosphorus delivered waste load allocation allocations for the [basin listed facilities]. These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~

CBP Watershed Model Segment	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr)
499	B37R	Coors Brewing Company	VA0073245	55,000 54,820	0.42	23,000	4,100 4,112	0.74	3,000
499	B14R	Fishersville Regional STP	VA0025291	24,000 48,729	0.42	10,000	1,800 3,655	0.74	1,400
499	B32R	INVISTA - Waynesboro (Outfall 101)	VA0002160	29,000 78,941	0.42	12,000	1,300 1,009	0.74	940
499	B39R	Luray STP	VA0062642	19,000 19,492	0.42	8,200	1,500 1,462	0.74	1,100
499	B35R	Massanutten PSA STP	VA0024732	18,000 18,273	0.42	7,700	1,400 1,371	0.74	1,000
499	B37R	Merck - Stonewall WWTP [(Outfall 101)]	VA0002178	96,000 [96,184 14,619]	0.42	40,000	15,000 [15,365 1,096]	0.74	11,000
499	B12R	Middle River Regional STP	VA0064793	83,000 82,839	0.42	35,000	6,200 6,213	0.74	4,600
499	B23R	North River WWTF [(2)]	VA0060640	190,000 [194,916 253,391]	0.42	82,000	15,000 [14,619 19,004]	0.74	11,000

Final Regulations

100	B22R	Pilgrims Pride - VA Poultry Growers - Hinton	VA0002313	27,000 27,410	0.42	12,000	1,400 1,371	0.74	1,000
	B38R	Pilgrims Pride - Alma	VA0001961	18,273			914		
100	B31R	Stuarts Draft WWTP	VA0066877	29,000 48,729	0.42	12,000	2,200 3,655	0.74	1,600
100	B32R	Waynesboro STP	VA0025151	49,000 48,729	0.42	20,000	3,600 3,655	0.74	2,700
100	B23R	Weyers Cave STP	VA0022349	6,100 6,091	0.42	2,600	460 457	0.74	340
200	B58R	Berryville STP	VA0020532	5,500 8,528	0.65	3,600	440 640	0.74	300
200	B55R	Front Royal STP	VA0062812	49,000 48,729	0.65	32,000	3,600 3,655	0.74	2,700
200	B49R	Georges Chicken LLC	VA0077402	31,000 31,065	0.65	20,000	1,600 1,553	0.74	1,100
200	B48R	Mt. Jackson STP [(3)]	VA0026441	7,300 [7,300 8,528]	0.65	4,800	550 [548 640]	0.74	440
200	B45R	New Market STP	VA0022853	6,100 6,091	0.65	4,000	460 457	0.74	340
200	B45R	North Fork (SIL) WWTF	VA0090263	23,000 23,390	0.65	15,000	1,800 1,754	0.74	1,300
200	B49R	Stoney Creek SD STP	VA0028380	7,300 7,309	0.65	4,800	550 548	0.74	440
	B50R	North Fork Regional WWTP (1)	VA0090328	9,137			685		
200	B51R	Strasburg STP	VA0020311	12,000 11,939	0.65	7,800	900 895	0.74	660
200	B50R	Woodstock STP	VA0026468	9,700 24,364	0.65	6,300	730 1,827	0.74	540
220	A06R	Basham Simms WWTF [(4)]	VA0022802	12,000 [12,182 18,273]	0.83	10,000	910 [914 1,371]	0.75	690
220	A09R	Broad Run WRF [(5)]	VA0091383	120,000 [121,822 134,005]	0.83	100,000	3,000 [3,046 3,350]	0.75	2,300
220	A08R	Leesburg WPCF	MD0066184	120,000 121,822	0.83	100,000	9,100 9,137	0.75	6,800
220	A06R	Round Hill Town WWTF	VA0026212	6,100 9,137	0.83	5,000	460 685	0.75	340
550	A25R	DSC - Section 1 WWTF [(6)]	VA0024724	36,000 [36,547 42,029]	1.00	36,000	2,200 [2,193 2,522]	1.00	2,200
550	A25R	DSC - Section 8 WWTF [(7)]	VA0024678	36,000 [36,547 42,029]	1.00	36,000	2,200 [2,193 2,522]	1.00	2,200
550	A25E	H L Mooney WWTF	VA0025101	220,000 219,280	1.00	220,000	13,000 13,157	1.00	13,000
550	A22R	UOSA - Centreville	VA0024988	1,300,000 1,315,682	0.58	760,000	16,000 16,446	0.44	7,200
550	A19R	Vint Hill WWTF [(8)]	VA0020460	5,500 [5,482 8,680]	0.58	3,200	550 [548 868]	0.44	240
740	B08R	Opequon WRF	VA0065552	100,000 102,336	0.74	76,000	7,700 7,675	0.75	5,700
740	B08R	Parkins Mills STP [(9)]	VA0075191	26,000 [36,547 60,911]	0.74	19,000	1,900 [2,744 4,568]	0.75	1,400
900	A13E	Alexandria SA WWTF	VA0025160	490,000 493,381	1.00	490,000	30,000 29,603	1.00	30,000
900	A12E	Arlington County Water PCF	VA0025143	360,000 365,467	1.00	360,000	22,000 21,928	1.00	22,000

Final Regulations

900	A16R	Noman M Cole Jr PCF	VA0025364	640,000 612,158	1.00	640,000	37,000 36,729	1.00	37,000
940	A12R	Blue Plains (VA Share)	DC0021199	580,000 581,458	1.00	580,000	26,000 26,166	1.00	26,000
970	A26R	Quantico WWTF	VA0028363	20,000 20,101	1.00	20,000	1,200 1,206	1.00	1,200
980	A28R	Aquia WWTF	VA0060968	59,000 73,093	1.00	59,000	3,600 4,386	1.00	3,600
980	A31E	Colonial Beach STP	VA0026409	18,000 18,273	1.00	18,000	1,800 1,827	1.00	1,800
980	A30E	Dahlgren WWTF	VA0026514	9,100 9,137	1.00	9,100	940 914	1.00	940
980	A29E	Fairview Beach	MD0056464	1,800 1,827	1.00	1,800	180 183	1.00	180
980	A30E	US NSWC-Dahlgren WWTF	VA0021067	6,600 6,578	1.00	6,600	660 658	1.00	660
	A31R	Purkins Corner STP	VA0070106	1,096			110		
980	A26R	Widewater WWTF	VA0090387	4,600	1.00	4,600	270	1.00	270
		TOTALS:		4,916,700 [5,121,242 5,156,169]		3,887,100	245,200 [252,860 246,635]		243,130

NOTE: (1) Shenandoah Co. - North Fork Regional WWTP waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by December 31, 2010, the WLAs will be deleted and facility removed from Significant Discharger List.

[(2) Harrisonburg-Rockingham Regional S.A.-North River STP: waste load allocations (WLAs) based on a design flow capacity of 20.8 million gallons per day (MGD). If plant is not certified to operate at 20.8 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 194,916 lbs/yr; TP = 14,619 lbs/yr, based on a design flow capacity of 16.0 MGD.

(3) Mount Jackson STP: waste load allocations (WLAs) based on a design flow capacity of 0.7 million gallons per day (MGD). If plant is not certified to operate at 0.7 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,309 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(4) Purcellville-Basham Simms STP: waste load allocations (WLAs) based on a design flow capacity of 1.5 million gallons per day (MGD). If plant is not certified to operate at 1.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 12,182 lbs/yr; TP = 914 lbs/yr, based on a design flow capacity of 1.0 MGD.

(5) Loudoun Co. S.A.-Broad Run WRF: waste load allocations (WLAs) based on a design flow capacity of 11.0 million gallons per day (MGD). If plant is not certified to operate at 11.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 121,822 lbs/yr; TP = 3,046 lbs/yr, based on a design flow capacity of 10.0 MGD.

(6) Dale Service Corp.-Section 1 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(7) Dale Service Corp.-Section 8 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(8) Fauquier Co. W&SA-Vint Hill STP: waste load allocations (WLAs) based on a design flow capacity of 0.95 million gallons per day (MGD). If plant is not certified to operate at 0.95 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 5,482 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(9) Parkins Mill STP: waste load allocations (WLAs) based on a design flow capacity of 5.0 million gallons per day (MGD). If plant is not certified to operate at 5.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD.]

9 VAC 25-720-70. Rappahannock River Basin.

REGISTRAR'S NOTICE: Subsections A and B are not amended; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers, ~~the associated delivery factors used for trading or offset purposes, and the total nitrogen and total phosphorus delivered waste load allocation allocations for the [basin listed facilities]. These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a~~

Final Regulations

~~discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~

GBP Watershed Model Segment	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr)
230	E09R	Culpeper WWTP (1)	VA0061590	55,000 54,820	0.64	33,000	4,100 4,112	1.03	4,200
230	E02R	Marshall WWTP	VA0031763	7,800 7,797	0.64	4,800	580 585	1.03	600
	E09R	Mountain Run STP [(2)]	VA0090212	[48,273 30,456]			[4,374 2,284]		
230	E13R	Orange STP	VA0021385	18,000 36,547	0.64	11,000	1,400 2,741	1.03	1,400
230	E11R	Rapidan STP	VA0090948	7,300 7,309	0.64	4,400	550 548	1.03	560
230	E02R	Remington WWTP [(3)]	VA0076805	24,000 [24,364 30,456]	0.64	15,000	1,800 [1,827 2,284]	1.03	1,900
230	E02R	South Wales Utility Clevengers Corner STP [(4)]	VA0080527	11,000 [7,309 10,964]	0.64	6,700	820 [548 822]	1.03	850
230	E02R	Warrenton Town STP	VA0021172	30,000 30,456	0.64	18,000	2,300 2,284	1.03	2,400
230	E18R	Wilderness WWTP	VA0083411	9,100 15,228	0.64	5,600	680 1,142	1.03	710
560	E20E	FMC WWTF	VA0068110	66,000 65,784	1.00	66,000	4,900 4,934	1.00	4,900
560	E20E	Fredericksburg WWTF	VA0025127	43,000 42,638	1.00	43,000	3,200 3,198	1.00	3,200
560	E21E	Haymount WWTF [(5)]	VA0089125	12,000 [7,966 11,695]	1.00	12,000	870 [530 877]	1.00	870
560	E24E	Haynesville CC WWTP	VA0023469	2,800 2,802	1.00	2,800	210	1.00	210
	E21E	Hopyard Farms STP	VA0089338	6,091			457		
560	E20E	Little Falls Run WWTF	VA0076392	97,000 97,458	1.00	97,000	7,300 7,309	1.00	7,300
560	E20E	Massaponax WWTF	VA0025658	97,000 97,458	1.00	97,000	7,300 7,309	1.00	7,300
560	E23R	Montross Westmoreland WWTP	VA0072729	1,200 [1,218 1,584]	1.00	1,200	[91 119]	1.00	91
	E21E	Oakland Park STP	VA0086789	1,706			128		
560	E23E	Tappahannock WWTP	VA0071471	9,700 9,746	1.00	9,700	730 731	1.00	730
560	E26E	Urbanna WWTP	VA0026263	1,200 1,218	1.00	1,200	91	1.00	91
560	E21R	US Army - Ft. A P Hill WWTP	VA0032034	6,400 6,457	1.00	6,400	480 484	1.00	480
560	E23E	Warsaw Aerated Lagoons	VA0026891	3,600 3,655	1.00	3,600	270 274	1.00	270
580	C01E	Omega Protein - Reedville	VA0003867	16,000 21,213	1.00	16,000	1,200 1,591	1.00	1,200
580	C01E	Reedville Sanitary District	VA0060712	2,400 2,436	1.00	2,400	180 183	1.00	180
930	C01E	Kilmarnock WTP	VA0020788	6,100 6,091	1.00	6,100	460 457	1.00	460

Final Regulations

		TOTALS:		526,600 [575,140 602,062]		462,900		39,512 [43,135 45,155]		39,902
--	--	---------	--	-----------------------------------	--	---------	--	--------------------------------	--	--------

NOTE: (1) Town of Culpeper WWTP waste load allocations (WLAs) based on a design flow capacity of 4.5 million gallons per day (MGD). If plant is not certified to operate at 4.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD.

[(2) Mountain Run STP: waste load allocations (WLAs) based on a design flow capacity of 2.5 million gallons per day (MGD). If plant is not certified to operate at 2.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 18,273 lbs/yr; TP = 1,371 lbs/yr, based on a design flow capacity of 1.5 MGD.

(3) Fauquier Co. W&SA-Remington STP: waste load allocations (WLAs) based on a design flow capacity of 2.5 million gallons per day (MGD). If plant is not certified to operate at 2.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 24,364 lbs/yr; TP = 1,827 lbs/yr, based on a design flow capacity of 2.0 MGD.

(4) Clevengers Corner STP: waste load allocations (WLAs) based on a design flow capacity of 0.9 million gallons per day (MGD). If plant is not certified to operate at 0.9 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,309 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(5) Haymount STP: waste load allocations (WLAs) based on a design flow capacity of 0.96 million gallons per day (MGD). If plant is not certified to operate at 0.96 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,066 lbs/yr; TP = 530 lbs/yr, based on a design flow capacity of 0.58 MGD.]

9 VAC 25-720-110. Chesapeake Bay - Small Coastal - Eastern Shore River Basin.

REGISTRAR'S NOTICE: Subsections A and B are not amended; therefore, the text of those subsections is not set out.

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers, ~~the associated delivery factors used for trading or offset purposes, and the total nitrogen and total phosphorus delivered waste load allocation allocations for the [basin listed facilities]. These individual significant discharger waste load allocations may be revised through the watershed trading program contained in 9 VAC 25-720-30. The waste load allocation listed below for a discharger, or the waste load allocation revised in accordance with 9 VAC 25-720-30, shall be achieved within four years following reissuance or modification of the discharger's VPDES permit, but in no case later than December 31, 2010.~~

CBP Watershed Model Segment	Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	TN Delivery Factor	TN Waste Load Delivered Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)	TP Delivery Factor	TP Waste Load Delivered Allocation (lbs/yr)
449	C16E	Cape Charles Town WWTP [(1)]	VA0021288	6,100 6,091	1.00	6,100	460 457	1.00	460
449	C11E	Onancock WWTP [(2)]	VA0021253	3,000 [3,046 9,137]	1.00	3,000	[230-685]	1.00	230
449	C13E	Shore Memorial Hospital	VA0027537	1,200 1,218	1.00	1,200	91	1.00	91
449	C10E	Tangier WWTP	VA0067423	1,200 1,218	1.00	1,200	91	1.00	91
449	C10R	Tyson Foods - Temperanceville	VA0004049	20,000 22,842	1.00	20,000	980	1.00	980
		TOTALS:		31,500 [34,415 40,506]		31,500	1,852 [2,010 2,467]		1,852

[NOTE: (1) Cape Charles STP: waste load allocations (WLAs) based on a design flow capacity of 0.5 million gallons per day (MGD). If plant is not certified to operate at 0.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 3,046 lbs/yr; TP = 228 lbs/yr, based on a design flow capacity of 0.25 MGD.

(2) Onancock STP: waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 3,046 lbs/yr; TP = 228 lbs/yr, based on a design flow capacity of 0.25 MGD.]

VA.R. Doc. No. R04-78; Filed September 28, 2005, 8:11 a.m.

Title of Regulation: 9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-30).

Statutory Authority: § 62.1-44.15 of the Code of Virginia, Clean Water Act (33 USC § 1251 et seq.), and 40 CFR Part 131.

Effective Date: Effective upon filing notice of approval by U.S. EPA.

Summary:

The amendments designate seven surface waters for protection as exceptional state waters as follows: portions of Big Run, Doyles River, East Hawksbill Creek, Jeremys Run, East Branch Naked Creek, Piney River, and North Fork Thornton River.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

9 VAC 25-260-30. Antidegradation policy.

A. All surface waters of the Commonwealth shall be provided one of the following three levels, or tiers, of antidegradation protection. This antidegradation policy shall be applied whenever any activity is proposed that has the potential to affect existing surface water quality.

1. As a minimum, existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

2. Where the quality of the waters exceed water quality standards, that quality shall be maintained and protected unless the board finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Commonwealth's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the board shall assure water quality adequate to protect existing uses fully. Further, the board shall assure that there shall be achieved the highest statutory and regulatory requirements applicable to all new or existing point source discharges of effluent and all cost-effective and reasonable best management practices for nonpoint source control.

3. Surface waters, or portions of these, which provide exceptional environmental settings and exceptional aquatic communities or exceptional recreational opportunities may be designated and protected as described in subdivisions 3 a, b and c of this subsection.

a. Designation procedures.

(1) Designations shall be adopted in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and the board's public participation guidelines.

(2) Upon receiving a nomination of a waterway or segment of a waterway for designation as an exceptional state water pursuant to the board's antidegradation policy, as required by 40 CFR 131.12, the board shall notify each locality in which the waterway or segment lies and shall make a good faith effort to provide notice to impacted riparian property owners. The written notice shall include, at a minimum: (i) a description of the location of the waterway or segment; (ii) the procedures and criteria for designation as well as the impact of the designation; (iii) the name of the person making the nomination; and (iv) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the nomination and the waterway or segment. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdiction upon request by the board. After receipt of the notice of the nomination, localities shall be provided 60 days to comment on the consistency of the nomination with the locality's comprehensive plan. The comment period established by subdivision 3 a (2) of this subsection shall in no way impact a locality's ability to comment during any additional comment periods established by the board.

b. Implementation procedures.

(1) The quality of waters designated in subdivision 3 c of this subsection shall be maintained and protected to prevent permanent or long-term degradation or impairment.

(2) No new, additional, or increased discharge of sewage, industrial wastes or other pollution into waters designated in subdivision 3 c of this subsection shall be allowed.

(3) Activities causing temporary sources of pollution may be allowed in waters designated in subdivision 3 c of this subsection even if degradation may be expected to temporarily occur provided that after a minimal period of time the waters are returned or restored to conditions equal to or better than those existing just prior to the temporary source of pollution.

c. Surface waters designated under this subdivision are as follows:

(1) Little Stony Creek in Giles County from the first footbridge above the Cascades picnic area, upstream to the 3,300-foot elevation.

(2) Bottom Creek in Montgomery County and Roanoke County from Route 669 (Patterson Drive) downstream to the last property boundary of the Nature Conservancy on the southern side of the creek.

(3) Lake Drummond, located on U.S. Fish and Wildlife Service property, is nominated in its entirety within the cities of Chesapeake and Suffolk excluding any ditches and/or tributaries.

Final Regulations

(4) North Creek in Botetourt County from the first bridge above the United States Forest Service North Creek Camping Area to its headwaters.

(5) Brown Mountain Creek, located on U.S. Forest Service land in Amherst County, from the City of Lynchburg property boundary upstream to the first crossing with the national forest property boundary.

(6) Laurel Fork, located on U.S. Forest Service land in Highland County, from the national forest property boundary below Route 642 downstream to the Virginia/West Virginia state line.

(7) North Fork of the Buffalo River, located on U.S. Forest Service land in Amherst County, from its confluence with Rocky Branch upstream to its headwaters.

(8) Pedlar River, located on U.S. Forest Service land in Amherst County, from where the river crosses FR 39 upstream to the first crossing with the national forest property boundary.

(9) Ramseys Draft, located on U.S. Forest Service land in Augusta County, from its headwaters (which includes Right and Left Prong Ramseys Draft) downstream to the Wilderness Area boundary.

(10) Whitetop Laurel Creek, located on U.S. Forest Service land in Washington County, from the national forest boundary immediately upstream from the second railroad trestle crossing the creek above Taylors Valley upstream to the confluence of Green Cove Creek.

(11) Ragged Island Creek in Isle of Wight County from its confluence with the James River at a line drawn across the creek mouth at N36°56.306'/W76°29.136' to N36°55.469'/W76°29.802' upstream to a line drawn across the main stem of the creek at N36°57.094'/W76°30.473' to N36°57.113'/W76°30.434', excluding wetlands and impounded areas and including only those tributaries completely contained within the Ragged Island Creek Wildlife Management Area on the northeastern side of the creek.

(12) *Big Run in Rockingham County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Big Run within the confines of Shenandoah National Park.*

(13) *Doyles River in Albemarle County from its headwaters to the first crossing with the Shenandoah National Park boundary and Jones Falls Run from its headwaters to its confluence with Doyles River and all tributaries to these segments of Doyles River and Jones Fall Run within the confines of Shenandoah National Park.*

(14) *East Hawksbill Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Hawksbill Creek within the confines of Shenandoah National Park.*

(15) *Jeremys Run in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Jeremys Run within the confines of Shenandoah National Park.*

(16) *East Branch Naked Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Branch Naked Creek within the confines of Shenandoah National Park.*

(17) *Piney River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the Piney River within the confines of Shenandoah National Park.*

(18) *North Fork Thornton River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the North Fork Thornton River within the confines of Shenandoah National Park.*

B. Any determinations concerning thermal discharge limitations made under § 316(a) of the Clean Water Act will be considered to be in compliance with the antidegradation policy.

VA.R. Doc. No. R04-110; Filed September 28, 2005, 8:10 a.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

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

Title of Regulation: 10 VAC 5-20. Banking and Savings Institutions (adding 10 VAC 5-20-50).

Statutory Authority: §§ 6.1-194.32 and 12.1-13 of the Code of Virginia.

Effective Date: September 30, 2005.

Agency Contact: Nicholas Kyros, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9657, FAX (804) 371-9416, toll-free 1-800-552-7945 or e-mail nick.kyros@scc.virginia.gov.

Summary:

The regulation sets conditions for conversion of Virginia mutual savings associations into stock savings

associations. An application, various corporate documents, and a \$1,000 application fee is required in order to obtain preliminary approval from the Commissioner of Financial Institutions. After such approval, the plan of conversion must be approved by the association's members. After member approval and further filings are made, final approval of the conversion may be obtained from the commissioner.

AT RICHMOND, SEPTEMBER 21, 2005

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. BFI-2005-00075

Ex Parte: In re: proposed regulation governing the conversion of mutual associations to stock associations

ORDER ADOPTING A REGULATION

On June 21, 2005, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposed regulation governing the conversion of state mutual savings associations to state stock associations. The Order and proposed regulation were published in the Virginia Register on July 11, 2005. The Order directed interested parties to file written comments or requests for a hearing on the proposed regulation on or before July 28, 2005, and the proposed regulation was posted on the Commission's website. No comments or requests for hearing were filed.

NOW THE COMMISSION, having considered the record and the proposed regulation, concludes that the proposed regulation is a proper exercise of our authority under § 6.1-194.32 of the Code of Virginia and should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation, 10 VAC 5-20-50, attached hereto is adopted effective September 30, 2005.

(2) The regulation shall be posted on the Commission's website at <http://www/scc.virginia.gov/caseinfo.htm>.

(3) An attested copy hereof, together with a copy of the regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active matters.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order and regulation to all state mutual savings associations and such other interested parties as he shall designate.

10 VAC 5-20-50. Conversion of mutual to stock association.

A. Conversion authorized. As authorized by § 6.1-194.32 of the Code of Virginia, a state mutual savings and loan association may convert to a stock association in accordance with this section, the Virginia Non-Stock Corporation Act (§ 13.1-801 *et seq.* of the Code of Virginia), and regulations

promulgated by the federal Office of Thrift Supervision (OTS) relating to mutual-to-stock conversions.

B. Application for conversion. Upon the affirmative vote of 2/3 of its board of directors, a state mutual association may file with the Bureau of Financial Institutions (bureau) an application to convert to a stock association. The application shall be accompanied by a filing fee of \$1,000.00.

The application shall conform to OTS requirements as to its form and content. (A copy of the conversion application submitted to the OTS may be submitted.) In addition, the application shall include:

1. A certified copy of the minutes of the meeting at which the board of directors authorized the association's officers to apply for conversion.

2. The proposed amended articles of incorporation and bylaws of the stock association to be formed.

3. The proposed form of notice to members of the meeting at which conversion will be formally considered and voted upon, which notice shall include a clear statement to account holders that the stock to which they may subscribe will not be an insured investment.

4. A statement of the time and manner in which such notice will be provided.

C. Plan of conversion. In addition to complying with the requirements of OTS regulations, a plan of conversion shall be filed with the bureau that provides:

1. A statement of the business purposes to be accomplished by the conversion.

2. That the word "mutual" will not be in the name of the association after its conversion to stock form of ownership.

3. That no reduction in the association's reserves or net worth will result from the conversion.

D. Preliminary approval. The Commissioner of Financial Institutions (commissioner) shall review the application and, if (i) the application, plan of conversion, and articles of amendment comply with the requirements of state law and regulations, (ii) the proposed plan of conversion appears to be fair and equitable to members of the association, and (iii) there is an intention to retain FDIC insurance of deposit accounts, the commissioner shall issue preliminary approval of the conversion. Such preliminary approval shall be given subject to a concurring shareholder vote and to continued compliance with all applicable laws and regulations.

Prior to granting preliminary approval, the commissioner may require the applicant to submit such additional information as may be necessary for making a determination of fairness [7] and may require that changes in the application be made where necessary to protect the interests of the applicant's members.

E. Special meeting of members. When it has received the commissioner's preliminary approval, the board of directors may call a special meeting of the members of the association for the purpose of considering and voting upon the conversion and the proposed amendments to the association's articles of

Final Regulations

incorporation. Written notice of such meeting shall conform to the applicable provisions of law and shall be mailed to each member entitled to vote on the matters to be taken up. The plan of conversion, or a summary of it, shall accompany the notice. Notice of the meeting may not be waived.

Conduct of the special meeting and voting on the proposed amendments to the articles of incorporation shall be governed by the applicable provisions of the Non-Stock Corporation Act. Voting rights of members shall be determined in accordance with § 6.1-194.17 of the Code of Virginia. The plan of conversion shall be approved in accordance with § 13.1-886 E of the Code of Virginia [,] and a certified copy of the minutes of the special meeting shall be filed promptly with the bureau.

F. Formal approval; effective date of conversion. Upon receiving (i) evidence that the plan of conversion and the amended articles have been duly approved by the association's members, (ii) evidence that the accounts of the stock association will continue to be insured by the FDIC, and (iii) a copy of the amended articles of incorporation, as approved, the commissioner, when satisfied that all applicable laws and regulations have been complied with, shall issue formal approval authorizing the conversion. Thereafter, the effective date of the conversion shall be the date when the Clerk of the State Corporation Commission issues a certificate of amendment giving legal effect to the association's amended articles of incorporation.

G. Actions performed by the commissioner under this section shall be subject to review pursuant to the State Corporation Commission Rules of Practice and Procedure (5 VAC 5-20).

VA.R. Doc. No. R05-238; Filed September 21, 2005, 2:08 p.m.



TITLE 11. GAMING

VIRGINIA RACING COMMISSION

Notice of Expiration of Regulatory Action

Title of Regulations: 11 VAC 10-70. Stewards (11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170).

11 VAC 10-90. Appeals to the Commission (11 VAC 10-90-10, 11 VAC 10-90-30 and 11 VAC 10-90-50).

The Virginia Racing Commission has notified the Registrar of Regulations that the regulatory action published in 21:22 VA.R. 3094-3098 July 11, 2005, and effective on June 17, 2005, expired on August 9, 2005.

The Office of the Attorney General has advised that the Virginia Racing Commission's action in adopting these regulations is exempt from the Virginia Administrative Process Act pursuant to § 2.2-4002 A 18 of the Code of Virginia, which exempts the Virginia Racing Commission from the Administrative Process Act when acting in matters related to

any specific race meeting. Because the regulations were adopted specifically for and limited to a specific race meeting (thoroughbred race meeting), the effective dates of the regulations are the dates of the race meeting for which the regulations were specifically adopted and to which they were specifically limited.

The thoroughbred race meeting for which the regulations were adopted and to which they were limited began on June 17, 2005, and ended on August 9, 2005. By operation of law (§ 2.2-4018 A 18 of the Administrative Process Act), the thoroughbred race meeting regulations thus became effective on June 17, 2005, and expired on August 9, 2005.

VA.R. Doc. No. R05-228; Filed September 15, 2005, 9:27 a.m.

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia when acting by and through its duly appointed stewards or in matters related to any specific race meeting.

The Virginia Racing Commission adopted the regulations to apply to the harness race meeting scheduled to begin on September 16, 2005, and end on November 14, 2005.

Titles of Regulations: 11 VAC 10-70. Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).

11 VAC 10-90. Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).

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

Effective Dates: September 16, 2005, through November 14, 2005. (Note: If the harness race meeting is extended beyond November 14, 2005, the regulations will expire on the last date of the harness race meeting.)

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

Summary:

The amendments clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments provide the authority of the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present and clarify that such disciplinary actions must be determined by a preponderance of the evidence. These amendments are made to conform the regulation to Chapter 700 of the 2005 Acts of Assembly.

11 VAC 10-70-20. Appointment.

~~Three~~ The commission shall appoint stewards, all of whom shall be employees of the commission, ~~shall be appointed for each race meeting licensed by the commission. The commission, in its discretion, may appoint one or more stewards for the satellite facilities licensed by the commission.~~ To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association.

11 VAC 10-70-30. Senior Commonwealth Steward.

One of the ~~three~~ stewards employed by the commission ~~for each race meeting~~ shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards ~~at the race meetings that do not pertain to the operation of the satellite wagering facilities. In matters pertaining to the operation of satellite facilities, a single~~ Any steward shall preside ~~at all~~ may conduct hearings pertaining to the operation of satellite wagering facilities.

11 VAC 10-70-40. General powers and authority.

~~The~~ A steward or ~~the~~ stewards ~~for each race meeting or satellite facility licensed by the commission~~ shall be responsible to the commission ~~for the conduct of the race meeting or for the operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission.~~ The steward or stewards, shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities *in accordance with the Code of Virginia and the regulations of the commission.*

11 VAC 10-70-50. General powers. (Repealed.)

~~The~~ A steward or ~~the~~ stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting ~~or and at a all satellite facility facilities~~ licensed by the commission ~~and shall be responsible to the commission.~~ The powers of the stewards shall include:

- ~~1.~~ 1. Reviewing the conduct of all racing officials, track management, permitted personnel, other persons responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;
- ~~2.~~ 2. Determining all questions, disputes, protests, complaints, ~~or and~~ objections concerning live horse racing ~~which arise during a race meeting or at a satellite facility~~ and simulcast horse racing and enforcing their rulings;
- ~~2.~~ 3. Taking disciplinary action against any holder of a permit ~~or participant~~ found violating federal laws, state laws, local ordinances or regulations of the commission;
- ~~3.~~ 4. Reviewing applications for permits and either granting or denying ~~the~~ permits to participate in horse racing at race

meetings or satellite facilities. *Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;*

- ~~4.~~ 5. Enforcing the regulations of the commission in all matters pertaining to horse racing ~~or and~~ satellite facilities;
- ~~5.~~ 6. Issuing rulings pertaining to the conduct of horse racing ~~or and~~ satellite facilities;
- ~~6.~~ 7. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";
- ~~7.~~ 8. Requesting assistance from other commission employees, *law-enforcement officials*, racing officials, members of *the horse racing industry* or the licensee's security service in the investigation of possible *statutory or rule infractions violations*;
- ~~8.~~ 9. Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters ~~or and~~ satellite facilities; ~~and~~
- ~~9.~~ 10. Substituting another qualified person where any racing official is unable to perform his duties.;
11. *Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;*
12. *Placing horses on the Stewards' List for unsatisfactory performance; and*
13. *Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.*

11 VAC 10-70-60. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings or satellite facilities, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;
2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";
3. Being present in the stewards' stand during the running of all races at race meetings;

Final Regulations

4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;
5. Determining the identification of horses;
6. Determining eligibility of horses for races restricted to Virginia breds;
7. Determining eligibility of a horse or person to participate in a race;
8. Supervising the taking of entries and the drawing of post positions;
9. Approving or denying requests for horses to be excused from racing;
10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;
11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign ~~on the infield results board~~ when there are alleged violations;
12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign ~~on the infield results board~~ when there are alleged violations;
13. Causing the "official" sign to be posted ~~on the infield results board~~ after determining the official order of finish for the purposes of the pari-mutuel payout;
14. Reviewing the video tapes of the previous day's races and determining the jockeys ~~whom the stewards feel~~ who should review the films for instructional purposes;
15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;
16. Reporting their findings of their periodic inspections of the facilities to the commission;
17. Filing with the commission a written daily report ~~at during race meetings which~~. *Such report shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;*
18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities and any recommendation for improvement that they deem appropriate; and
19. ~~Observing the conduct of simulcast horse racing at satellite facilities. Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:~~

- a. Issue a reprimand;
- b. Assess a fine;

- c. Require forfeiture or redistribution of a purse or award;
- d. Place a permit holder or participant on probation with or without conditions;
- e. Suspend a permit holder or participant with or without conditions;
- f. Revoke a permit;
- g. Exclude from the grounds under the jurisdiction of the commission; or
- h. Any combination of the above.

11 VAC 10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by *trainers, owners, jockeys or drivers* after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;
2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;
3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;
4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;
5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;
6. Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official ~~and~~. The stewards may call and examine any witness *regarding the protest*;
7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and
8. A *participant or* holder of a permit may not withdraw a protest without the permission of the stewards.

11 VAC 10-70-80. Period of authority.

The period of authority *for each steward* shall ~~commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission. The period of authority for the steward or stewards at satellite facilities shall commence and terminate at a period of time designated by the~~ *be established by contractual arrangement between each steward and the commission.*

11 VAC 10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other ~~two~~ stewards shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the ~~deputy~~ *substitute* steward, the reason for his appointment, and the races over which the substitute officiated.

11 VAC 10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the ~~holder of a permit person being disciplined~~, setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the ~~holder of the permit person being disciplined~~, but in either case, *the mode of delivery* shall be duly ~~acknowledged certified~~ by the ~~holder of a permit sender~~. *The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.*

11 VAC 10-90-10. Generally Request for review; stay.

A holder of ~~or applicant for a license or permit or a participant~~ who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A *denial of a license or permit* or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. *At the written request of an aggrieved party, a stay in the implementation of a disciplinary action* may be granted by the ~~executive secretary chairman~~ of the commission *or a commissioner designated by the chairman*. *Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.*

11 VAC 10-90-30. Content of request.

The request shall state:

1. The disciplinary action ~~of or denial of a permit~~ by the steward or stewards being contested;
2. The basis for the request; and
3. Any additional information the ~~applicant for or holder of a licensee, permit holder or participant~~ may wish to include concerning the request.

11 VAC 10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions

are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.

2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a ~~proposed~~ *recommended* written decision for their consideration. *The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.*

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the ~~holder of or applicant for a permit person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision~~ at least 10 days before the date set for the review.

a. *The written notice shall describe the charges, basis thereof and possible penalties.*

b. *The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.*

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the ~~applicant for or holder of a permit person requesting the review~~ elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission *or hearing officer* may issue subpoenas to compel the attendance of witnesses or ~~for~~ the production of ~~reports, books, papers, registration documents or any other materials~~ *and other relevant evidence* it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

b. Oaths shall be administered to all witnesses;

c. The commission may examine any witnesses;

d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;

e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;

Final Regulations

f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; and

g. The commission may grant a continuance of any review for good cause; ~~and.~~

~~h. A record of the proceedings shall be made.~~

6. ~~The Review proceeding is a hearing~~ proceedings regarding riding or driving infractions shall be on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.

7. In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been found obtained at the time of the stewards hearing. *If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.*

VA.R. Doc. No. R06-53; Filed September 15, 2005, 9:25 a.m.

to administrator qualifications and require all back-up administrators to have the same qualifications as administrators, (iii) increase license fees, (iv) switch from annual inspections to biennial inspections, and (v) eliminate the restriction requiring home care agencies to provide services only in a defined geographic area.

Other changes include adding a statutorily-required background check requirement for compensated employees, clarifying the type of insurance coverage required, requiring home visits to be part of the inspection protocol, clarifying the quality improvement assessment indicators, removing any requirements that contradict with Medicaid and Medicare certification requirements, detailing consumer complaint procedures, clarifying financial control standards for initial licensure, and adding provisions for drop sites.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

CHAPTER 381.

REGULATIONS FOR THE LICENSURE OF HOME CARE ORGANIZATIONS

PART I.

DEFINITIONS AND GENERAL INFORMATION.

12 VAC 5-381-10. Definitions.

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

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding. A person's degree of independence in performing these activities is part of determining the appropriate level of care and services. [*A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform personal care tasks in order to live independently.*]

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a client by (i) a practitioner or by his authorized agent and under his direction or (ii) the client at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.

"Administrator" means a person designated in writing by the governing body as having the necessary authority for the day-to-day management of the organization. The administrator must be [~~a full-time~~ an] employee [of the organization]. The administrator [~~and,~~] the director of nursing [, or other clinical director] may be the same individual if that individual is dually qualified.

"Available at all times during operating hours" means an individual is readily available on the premises or by telecommunications.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Titles of Regulations: 12 VAC 5-380. Regulations for the Licensure of Home Health Agencies (REPEAL).

12 VAC 5-381. Regulations for the Licensure of Home Care Organizations (adding 12 VAC 5-381-10 through 12 VAC 5-381-360).

Statutory Authority: §§ 32.1-12 and 32.1-162.12 of the Code of Virginia.

Effective Date: January 1, 2006.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services and Consumer Protection, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149 or e-mail carrie.eddy@vdh.virginia.gov.

Summary:

This regulatory action repeals the existing Regulations for the Licensure of Home Health Agencies (12 VAC 5-380) and promulgates the Regulations for the Licensure of Home Care Organizations (12 VAC 5-381).

The changes (i) add supervision, continuing education, and qualification requirements for personnel, (ii) add one year of experience or training in direct health care delivery services

"Barrier crimes" means certain offenses, specified in § 32.1-162.9:1 of the Code of Virginia, [~~which that~~] automatically bar an individual convicted of those offenses from employment with a home care organization.

[~~"Bylaws" means a set of rules adopted by the governing body for governing the organization. Bylaws are the written framework for governance that establishes the roles and responsibilities of a governing body and its members.~~]

"Chore services" means assistance with nonroutine, heavy home maintenance for persons unable to perform such tasks. Chore services include minor repair work on furniture and appliances; carrying coal, wood and water; chopping wood; removing snow; yard maintenance; and painting.

["Client record" means the centralized location for documenting information about the client and the care and services provided to the client by the organization. A client record is a continuous and accurate account of care or services, whether hard copy or electronic, provided to a client, including information that has been dated and signed by the individuals who prescribed or delivered the care or service.]

"Client's residence" means the place where the individual or client makes his home such as his own apartment or house, a relative's home or an assisted living facility, but does not include a hospital, nursing facility or other extended care facility.

[~~"Clinical note" means a written statement contained within a client's home care record, dated and signed by the person delivering the care, treatment or service, describing the treatment or services delivered and the effect of the care, treatment or services on the client's medical condition.~~]

"Commissioner" means the State Health Commissioner.

"Companion services" means assisting persons unable to care for themselves without assistance. Companion services include transportation, meal preparation, shopping, light housekeeping, companionship, and household management.

"Contract services" means services provided through agreement with another agency, organization, or individual on behalf of the organization. The agreement specifies the services or personnel to be provided on behalf of the organization and the fees to provide these services or personnel.

"Criminal record report" means the statement issued by the Central Criminal Record Exchange, [Virginia] Department of State Police.

"Department" means the Virginia Department of Health.

[~~"Direction" means the authority to carry out policy and give procedural guidance to accomplish a function or activity.~~]

"Discharge [or termination] summary" means a final written summary filed in a closed [~~medical~~] record of the service delivered, goals achieved and final disposition at the time of client's discharge [or termination] from service.

"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or

compounding necessary to prepare the substance for that delivery [~~as defined in § 54.1-3401 of Title 54.1 of the Code of Virginia~~].

["Drop site" means a location that HCO staff use in the performance of daily tasks such as obtaining supplies, using fax and copy machines, charting notes on care or services provided, and storing client records. These locations may also be called charting stations, workstations, or convenience sites.]

"Employee" means an individual who has the status of an employee as defined by the U.S. Internal Revenue Service.

[~~"Full time" means a minimum of a 37 1/2 hour work week.~~]

["Functional limitations" means the level of a client's need for assistance based on an assessment conducted by the supervising nurse. There are three criteria to assessing functional status: (i) the client's impairment level and need for personal assistance, (ii) the client's lack of capacity, and (iii) how the client usually performed the activity over a period of time. If a person is mentally and physically free of impairment, there is not a safety risk to the individual, or the person chooses not to complete an activity due to personal preference or choice, then that person does not need assistance.]

"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the home care organization.

"Home attendant" means a nonlicensed individual performing [~~home care~~ skilled], pharmaceutical and personal care services, under the supervision of the appropriate health professional, to a client in the client's residence. Home attendants are also known as [certified nurse aides or CNAs,] home care aides, home health aides, or personal care aides.

"Home care organization" [or "HCO"] means a public or private entity providing an organized program of home [~~care~~ health], pharmaceutical or personal care services [, according to § 32.1-162.1 of the Code of Virginia] in the residence of a client or individual [~~in Virginia~~ to maintain the client's health and safety in his home]. A home care organization does not include any family members, relatives or friends providing caregiving services to persons who need assistance to remain independent and in their own homes.

[~~"Home care record" means a continuous and accurate written account of services provided to a client, including information that has been dated and signed by the individuals who prescribed or delivered the treatment or care.~~]

"Home health agency" means a public or private agency or organization, or part of an agency or organization, that meets the requirements for participation in Medicare under 42 CFR 440.70 (d), by providing skilled nursing services and at least one other therapeutic service, e.g., physical, speech or occupational therapy; medical social services; or home health aide services, and also meets the capitalization requirements under 42 CFR 489.28.

"Homemaker services" means assistance to persons with the inability to perform one or more instrumental activities of daily

Final Regulations

living. Homemaker services may also include assistance with bathing areas the client cannot reach, fastening client's clothing, combing hair, brushing dentures, shaving with an electric razor, and providing stabilization to a client while walking. Homemaker services do not include feeding, bed baths, transferring, lifting, putting on braces or other supports, cutting nails or shaving with a blade.

["~~Immediately~~" means within 24 consecutive hours.]

"Infusion therapy" means the procedures or processes that involve the administration of injectable medications to clients via the intravenous, subcutaneous, epidural, or intrathecal routes. Infusion therapy does not include oral, enteral, or topical medications.

"Instrumental activities of daily living" means meal preparation, housekeeping/light housework, shopping for personal items, laundry, or using the telephone. A client's degree of independence in performing these activities is part of determining the appropriate level of care and services.

["Licensed practical nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a licensed practical nurse.]

"Licensee" means a licensed home care provider.

"Medical plan of care" means a written plan of services, and items needed to treat a client's medical condition, that is prescribed, signed and periodically reviewed by the client's primary care physician.

"Nursing services" means client care services, including, but not limited to, the curative, restorative, or preventive aspects of nursing that are performed or supervised by a registered nurse according to a medical plan of care.

"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that is responsible for the day-to-day administrative management and operation of the organization.

"Organization" means a home care organization.

"Person" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a home care organization.

"Personal care services" means the provision of [nonskilled services, including] assistance in the activities of daily living [,] and may include instrumental activities of daily living [,] related to the needs of the client [~~to maintain the client's health and safety in their home~~ , who has or is at risk of an illness, injury or disabling condition. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently.]

"Primary care physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title

54.1 of the Code of Virginia, or licensed in an adjacent state and identified by the client as having the primary responsibility in determining the delivery of the client's medical care. [The responsibility of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.]

"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia or having appropriate training, including competency testing, and experience commensurate with assigned responsibilities.

"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of client care and services, pursue opportunities to improve client care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing health care services to meet the needs of clients and others.

["Registered nurse" means a person who holds a current license issued by the Virginia Board of Nursing or a current multistate licensure privilege to practice nursing in Virginia as a registered nurse.]

"Service area" means a clearly delineated geographic area in which the organization arranges for the provision of home care services, personal care services, or pharmaceutical services to be available and readily accessible to persons.

["Skilled services" means the provision of the home health services listed in 12 VAC 5-381-300.]

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, documented, face-to-face guidance and instruction.

"Surety bond" means a consumer safeguard that directly protects clients from injuries and losses resulting from the negligent or criminal acts of contractors of the home care organization that are not covered under the organization's liability insurance. A fidelity type of surety bond, which covers dishonest acts such as larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction or willful misapplication, will meet the requirements of surety bond coverage for the purposes of this chapter.

"Sworn disclosure [statement]" means a document [~~to be completed, signed, and submitted for employment. The document discloses~~ disclosing] an applicant's criminal convictions and pending criminal charges occurring in Virginia or any other state.

"The center" means the Center for Quality Health Care Services and Consumer Protection of the Virginia Department of Health.

[~~12 VAC 5-381-20. Responsibility of the department.~~

~~A. The department, pursuant to Article 7.1 (§ 32.1-162.7 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia, is charged with the responsibility for ensuring that home care organizations provide client care according to the~~

~~requirements specified by the Code of Virginia and the regulations of the Board of Health.~~

~~B. The center acts as agent for the department in administering the licensing program, which includes investigating complaints made by the public against home care organizations.~~

~~C. Section 32.1-162.12 of the Code of Virginia requires the Board of Health to adopt standards and regulations for the licensure of home care organizations. The department is the authorized agent for the board.~~

~~D. In developing or revising licensing regulations for home care organizations, the department adheres to the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and the public participation process. The department solicits input from licensees, associations of licensees, experts in related fields, advocacy organizations, consumers and the general public in the development or revision of licensing regulations through informal and formal comment periods and, if necessary, public hearings.~~

12 VAC 5-381-30 12 VAC 5-381-20]. License.

A. A license to operate a home care organization is issued to a person. Persons planning to seek federal certification or national accreditation pursuant to § 32.1-162.8 of the Code of Virginia must first obtain state licensure.

B. The commissioner shall issue or renew a license to establish or operate a home care organization if the commissioner finds that the home care organization is in compliance with the law and this regulation.

C. A separate license shall be required for home care organizations maintained at separate locations, even though they are owned or are operated under the same management.

D. Every home care organization shall be designated by an appropriate name. The name shall not be changed without first notifying the center.

E. Licenses shall not be transferred or assigned.

F. Any person establishing, conducting, maintaining, or operating a home care organization without a license shall be guilty of a Class 6 felony according to § 32.1-162.15 of the Code of Virginia.

~~12 VAC 5-381-40 12 VAC 5-381-30]. Exemption from licensure.~~

A. This chapter is not applicable to those individuals and home care organizations listed in § 32.1-162.8 of the Code of Virginia. Organizations planning to seek federal certification as a home health agency or national accreditation must first obtain state licensure and provide services to clients before applying for national accreditation or federal certification.

In addition, this chapter is not applicable to those providers of only homemaker, chore or companion services as defined in 12 VAC 5-381-10.

B. A licensed organization requesting exemption must file a written request and pay the required fee stated in ~~[12 VAC 5-381-80 12 VAC 5-381-70]~~ D.

C. The home care organization shall be notified in writing if the exemption from licensure has been granted. The basis for the exemption approval will be stated and the organization will be advised to contact the center to request licensure should it no longer meet the requirement for exemption.

D. Exempted organizations are subject to complaint investigations in keeping with state law.

~~12 VAC 5-381-50 12 VAC 5-381-40]. License application; initial and renewal.~~

A. The center provides prelicensure consultation and technical assistance regarding the licensure process. The purpose of such consultation is to explain the regulation and ~~[review an applicant's proposed program plans, forms, and other documents as they relate to the regulation the survey process]~~. Prelicensure consultations are arranged after ~~[an a completed]~~ initial application ~~[has been filed is on file with the center]~~.

B. Licensure applications are obtained from the center. The center shall consider an application complete when all requested information and the appropriate fee, stated in ~~[12 VAC 5-381-80 12 VAC 5-381-70]~~, is submitted. If the center finds the application incomplete, the applicant will be notified in writing.

C. The activities and services of each applicant and licensee shall be subject to an inspection by the center to determine if the organization is in compliance with the provisions of this chapter and state law.

D. A completed application for initial licensure must be submitted at least 60 days prior to the organization's planned opening date to allow the center time to process the application. An incomplete application shall become inactive six months after it is received by the center. Applicants must then reapply for licensure with a completed application and application fee. An application for a license may be withdrawn at any time.

E. Licenses are renewed annually. The center shall ~~[send a make]~~ renewal ~~[application applications available]~~ at least 60 days prior to the expiration date of the current license.

F. It is the home care organization's responsibility to complete and return a renewal application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided a complete and accurate application was filed on time.

~~12 VAC 5-381-60 12 VAC 5-381-50]. Compliance appropriate for [type of HCO all types of HCOs].~~

All organizations shall be in compliance with Part I (12 VAC 5-381-10 et seq.) and Part II (~~[12 VAC 5-381-160 12 VAC 5-381-150]~~ et seq.) of this chapter. In addition, organizations shall be in compliance with Part III (12 VAC 5-381-300 et seq.), Part IV (12 VAC 5-381-350 et seq.), or Part V (12 VAC 5-381-360 et seq.) of this chapter as applicable to the services provided by the organization.

Final Regulations

[~~12 VAC 5-381-70~~ 12 VAC 5-381-60]. Changes to or reissue of a license.

A It is the responsibility of the organization's governing body to maintain a current and accurate license. Licenses that are misplaced or lost must be replaced.

B. An organization shall give written notification 30 working days in advance of any proposed changes that may require the reissuance of a license [~~as determined by the center~~]. Notices shall be sent to the attention of the Director of the Center for Quality Health Care Services and Consumer Protection.

The following changes require the reissuance of a license and payment of a fee:

1. Operator;
2. Organization name; or
3. Address.

C. The center will evaluate written information about any planned changes in operation that affect the terms of the license or the continuing eligibility for a license. A licensing representative may inspect the organization during the process of evaluating a proposed change.

D. The organization will be notified in writing whether a [~~license can be reissued or a~~] new application is needed.

[~~12 VAC 5-381-80~~ 12 VAC 5-381-70]. Fees.

A. The Center shall collect a fee of \$500 for each initial and renewal license application. Fees shall accompany the licensure application and are not refundable.

B. An additional late fee of \$50 shall be collected for an organization's failure to file a renewal application by the date specified.

C. A processing fee of \$250 shall be collected for each reissuance or replacement of a license and shall accompany the written request for reissuance or replacement.

D. A one time processing fee of \$75 for exemption from licensure shall accompany the written exemption request.

[~~12 VAC 5-381-90~~ 12 VAC 5-381-80]. On-site inspections.

A. A center representative shall make periodic unannounced on-site inspections of each home care organization as necessary but not less often than biennially. The organization shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the center [according to applicable law].

B. The home care organization shall make available to the center's representative any necessary records and shall allow access to interview the agents, employees, contractors, and any person under the organization's control, direction or supervision.

C. After the on-site inspection, the center's representative shall discuss the findings of the inspection with the administrator or his designee.

D. The administrator shall submit, within 15 working days of receipt of the inspection report, an acceptable plan for correcting any deficiencies found. The plan of correction shall contain:

1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action;
2. The expected correction date;
3. A description of the measures implemented to prevent a recurrence of the violation; and
4. The signature of the person responsible for the validity of the report.

E. The administrator will be notified whenever any item in the plan of correction is determined to be unacceptable.

F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

G. Completion of corrective actions shall not exceed 45 working days from the last day of the inspection.

[~~12 VAC 5-381-100~~ 12 VAC 5-381-90]. Home visits.

A. As part of any inspection, a center representative may conduct home visits.

B. The home care organization shall be responsible for arranging in-home visits with clients, family members, and caregivers for the center's representative.

C. The organization shall explain clearly to the client, family or caretaker that the permission for the representative's home visit is voluntary and that consent to the home visit will not affect the client's care or other health benefits.

[~~12 VAC 5-381-110~~ 12 VAC 5-381-100]. Complaint [~~investigation~~ investigations conducted by the center].

A. The center has the responsibility to investigate any complaints regarding alleged violations of this chapter and applicable law.

B. Complaints may be received in writing or orally and may be anonymous.

C. When the investigation is complete, the licensee and the complainant, if known, will be notified of the findings of the investigation.

D. As applicable, the administrator shall submit [, within 15 working days of receipt of the complaint report,] an acceptable plan of correction for any deficiencies found during a complaint investigation. [The plan of correction shall contain:

1. A description of the corrective action or actions to be taken and the personnel to implement the corrective action;
2. The expected correction date;
3. A description of the measures implemented to prevent a recurrence of the violation; and
4. The signature of the person responsible for the validity of the report.]

E. The administrator will be notified in writing whenever any item in the plan of correction is determined to be unacceptable.

F. The administrator shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

[~~12 VAC 5-381-120~~ 12 VAC 5-381-110]. Criminal records checks.

A. Section 32.1-162.9:1 of the Code of Virginia requires home care providers, as defined in § 32.1-162.7 of the Code of Virginia, to obtain a criminal record report on applicants for compensated employment from the Virginia Department of State Police. Section 32.1-162.9:1 of the Code of Virginia also requires that all applicants for employment in home care organizations provide a sworn disclosure statement regarding their criminal history.

B. The criminal record report shall be obtained within 30 days of employment. It shall be the responsibility of the organization to ensure that its employees have not been convicted of any of the barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia.

C. The organization shall not accept a criminal record report dated more than 90 days prior to the date of employment.

D. Only the original criminal record report shall be accepted. An exception is permitted for organizations using temporary staffing agencies for the provision of substitute staff. The organization shall obtain a letter from the temporary staffing agency containing the following information:

1. The name of the substitute staffing person;
2. The date of employment by the temporary staffing agency; and
3. A statement verifying that the criminal record report has been obtained within 30 days of employment, is on file at the temporary staffing agency, and does not contain any barrier crimes listed in § 32.1-162.9:1 of the Code of Virginia.

E. A criminal record report remains valid as long as the employee remains in continuous service with the same organization.

F. A new criminal record report and sworn statement shall be required when an individual terminates employment at one home care organization and begins work at another home care organization. The following exceptions are permitted:

1. When an employee transfers within 30 days to an organization owned and operated by the same entity. The employee's file shall contain a statement that the original criminal record report has been transferred or forwarded to the new work location.
2. When an individual takes a leave of absence, the criminal record report and sworn statement will remain valid as long as the period of separation does not exceed six consecutive months. If six consecutive months have passed, a new criminal record report and sworn disclosure statement are required.

G. ~~[The A]~~ sworn disclosure statement shall be completed by all applicants for employment. The sworn disclosure statement shall be attached to and filed with the criminal record report.

H. Any applicant denied employment because of convictions appearing on his criminal record report shall be provided a copy of the report by the hiring organization.

I. All criminal ~~[records record]~~ reports shall be confidential and maintained in locked files accessible only to the administrator or designee.

J. Further dissemination of the criminal record report and sworn disclosure statement information is prohibited other than to the commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

[~~12 VAC 5-381-130~~ 12 VAC 5-381-120]. Variances.

A. The center can authorize variances only to its own licensing regulations, not to regulations of another agency or to any requirements in federal, state, or local laws.

B. A home care organization may request a variance to a particular regulation or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of clients. The request for a variance must describe how compliance with the current regulation is economically burdensome and constitutes a special hardship to the home care organization and to the clients it serves. When applicable, the request should include proposed alternatives to meet the purpose of the requirements that will ensure the protection and well-being of clients. At no time shall a variance approved for one individual be extended to general applicability. The home care organization may at any time withdraw a request for a variance.

C. The center shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations provided safety, client care and services are not adversely affected.

D. The center may rescind or modify a variance if (i) conditions change; (ii) additional information becomes known that alters the basis for the original decision; (iii) the organization fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of clients.

E. Consideration of a variance is initiated when a written request is submitted to the Director, Center for Quality Health Care Services and Consumer Protection. The center shall notify the home care organization in writing of the receipt of the request for a variance. The center may attach conditions to a variance to protect the safety and well-being of the client.

F. ~~[When the decision is to deny a variance,]~~ The licensee shall be notified in writing.

G. If a variance is denied, expires, or is rescinded, routine enforcement of the regulation or portion of the regulation shall be resumed.

Final Regulations

H. The home care organization shall develop procedures for monitoring the implementation of any approved variances to assure the ongoing collection of any data relevant to the variance and the presentation of any later report concerning the variance as requested by the center.

[12 VAC 5-381-140 12 VAC 5-381-130]. Revocation or suspension of a license.

A. The commissioner is authorized to revoke or suspend any license if the licensee fails to comply with the provisions of Article 7.1 (§ 32.1-162.7 et seq.) of Chapter 5 of Title 32.1 of the Code of Virginia or the regulations of the board.

B. If a license is revoked, the commissioner may issue a new license when the conditions upon which revocation was based have been corrected and compliance with all provisions of the law and this chapter has been achieved.

C. When a license is revoked or suspended, the organization shall cease operations. If the organization continues to operate after its license has been revoked or suspended, the commissioner may request the Office of the Attorney General to petition the circuit court of the jurisdiction in which the home care organization is located for an injunction to cause such home care organization to cease operations.

D. Suspension of a license shall in all cases be for an indefinite time. The suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

[12 VAC 5-381-150 12 VAC 5-381-140]. [Surrender Return] of a license.

A. Circumstances under which a license must be [~~surrendered~~ returned] include, but are not limited to (i) transfer of ownership and (ii) discontinuation of services.

B. The licensee shall notify its clients and the center, in writing, 30 days before discontinuing services.

C. If the organization is no longer operational, or the license has been suspended or revoked, the license shall be returned to the center within five working days. The licensee shall notify [~~the organization's~~ its] clients and the center where all home care records will be located.

PART II.
ADMINISTRATIVE SERVICES.

[12 VAC 5-381-160 12 VAC 5-381-150]. Management and administration.

A. No person shall establish or operate a home care organization, as defined in § 32.1-162.7 of the Code of Virginia, without having obtained a license.

B. The organization must comply with:

1. This chapter (12 VAC 5-381);
2. Other applicable federal, state or local laws and regulations; and
3. The organization's own policies and procedures.

C. The organization shall submit or make available reports and information necessary to establish compliance with this chapter and applicable law.

D. The organization shall permit representatives from the center to conduct inspections to:

1. Verify application information;
2. Determine compliance with this chapter;
3. Review necessary records and documents; and
4. Investigate complaints.

E. The organization shall notify the center 30 days in advance of changes affecting the organization, including the:

1. Service area;
2. Mailing address of the organization;
3. Ownership;
4. Services provided;
5. Operator;
6. Administrator;
7. Organization name; and
8. Closure of the organization.

F. The current license from the department shall be posted for public inspection.

G. Service providers or community affiliates under contract with the organization must comply with the organization's policies and this chapter.

H. The organization shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services.

I. The organization shall have regular posted business hours and be fully operational during such business hours. In addition, the organization shall provide or arrange for services to their clients on an [~~emergency on-call~~] basis 24 hours a day, seven days a week. [~~However, this does not mean that an organization must accept new clients on an emergency basis during nonbusiness hours.~~]

J. The organization shall accept a client only when the organization can adequately meet that client's [~~medical, rehabilitation, or medical-social service~~] needs in the client's place of residence.

K. The organization must have a prepared plan for emergency operations in case of inclement weather or natural disaster to include contacting and providing essential care to clients, coordinating with community agencies to assist as needed, and maintaining a current list of clients who would require specialized assistance.

[L. The organization shall encourage and facilitate the availability of flu shots for its staff and clients.]

[~~42 VAC 5-381-170~~ 12 VAC 5-381-160]. Governing body.

A. The organization shall have a governing body that is legally responsible for the management, operation and fiscal affairs of the organization. The governing body of a hospital that operates a home care organization shall include in its internal organization structure an identified unit of home care services.

B. The governing body shall ~~[adopt written bylaws describing the organizational structure, including the]~~:

1. ~~[Organization's objectives~~ Determine which services are to be provided by the organization];
2. ~~[Scope of services~~ Ensure that the organization is staffed and adequately equipped to provide the services it offers to clients, whether provided directly by the organization or through contract];
3. ~~[Relationship of the organization's services to other services operated by the governing body~~ Comply with federal and state laws, regulations and local ordinances governing operations of the organization];
4. ~~[Establishment of~~ Establish] a quality improvement committee.

~~[At least every two years the governing body shall review and approve necessary changes to the organization's bylaws.]~~

C. The governing body shall review annually and approve the written policies and procedures of the organization.

D. The governing body shall review annually and approve the recommendations of the quality improvement committee, when appropriate.

[~~42 VAC 5-381-180~~ 12 VAC 5-381-170]. Administrator.

A. The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year within the last five years of supervisory or administrative management experience in home health care or a related health program.

B. The administrator shall be responsible for the day-to-day management of the organization, including but not limited to:

1. Organizing and supervising the administrative function of the organization;
2. Maintaining an ongoing liaison with the governing body, the professional personnel and staff;
3. Employing qualified personnel and ensuring adequate staff orientation, training, education and evaluation;
4. Ensuring the accuracy of public information materials and activities;
5. Implementing an effective budgeting and accounting system;
6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of organization committees and regulatory agencies;

7. Arranging and negotiating services provided through contractual agreement; and

8. Implementing the policies and procedures approved by the governing body.

C. ~~[An~~ The] individual ~~[who meets the qualifications of subsection A of this section shall be]~~ designated to perform the duties of the administrator when the administrator is absent from the organization ~~[shall be able to perform the duties of the administrator as identified in subsection B of this section]~~.

Organizations shall have one year from ~~[the effective date of this chapter~~ January 1, 2006,] to ensure that individuals currently designated ~~[meet the qualifications of subsection A of this section~~ are qualified]

D. The administrator or his designee shall be available at all times during operating hours and for emergency situations.

[~~42 VAC 5-381-190~~ 12 VAC 5-381-180]. Written policies and procedures.

A. The organization shall implement written policies and procedures approved by the governing body.

B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval, as necessary.

C. Administrative and operational policies and procedures shall include, but are not limited to:

1. Administrative records;
 2. Admission and discharge ~~[or termination from service]~~ criteria;
 3. Informed consent;
 4. Advance directives, including Durable Do Not Resuscitate Orders;
 5. Client rights;
 6. Contract services;
 7. Medication management ~~[, if applicable]~~;
 8. Quality improvement;
 9. Mandated reporting of abuse, neglect and exploitation pursuant to § 63.2-1606 of the Code of Virginia;
 10. Communicable and reportable diseases;
 11. ~~[Home care~~ Client] records, including confidentiality;
 12. Record retention, including termination of services;
 13. Supervision and delivery of services;
 14. Emergency and ~~[after-hour care on-call services]~~;
 15. Infection control;
 16. Handling consumer complaints; ~~[and~~
 17. Telemonitoring; and]
- ~~[17. 18.]~~ Approved variances.

Final Regulations

D. Financial policies and procedures shall include, but are not limited to:

1. Admission agreements;
2. Data collection and verification of services delivered;
3. Methods of billing for services by the organization and by contractors;
4. Client notification of changes in fees and charges;
5. Correction of billing errors and refund policy; and
6. Collection of delinquent client accounts.

E. Personnel policies and procedures shall include, but are not limited to a:

1. Written job description that specifies authority, responsibility, and qualifications for each job classification;
2. Process for maintaining an accurate, complete and current personnel record for each employee;
3. Process for verifying current professional licensing or certification and training of employees or independent contractors;
4. Process for annually evaluating employee performance and competency;
5. Process for verifying that contractors and their employees meet the personnel qualifications of the organization;
6. Process for obtaining a criminal background check; and
7. Process for reporting licensed and certified medical personnel for violations of their licensing or certification to the appropriate board within the Department of Health Professions.

F. Admission and discharge [or termination from service] policies and procedures shall include, but are not limited to:

1. Criteria for accepting clients for services offered;
2. The process for obtaining a plan of care [or service];
3. Criteria for determining discharge [or termination] from each service and referral to other agencies or community services; and
4. Process for notifying clients of intent to [~~discharge~~ discharge/terminate] or refer, including:
 - a. Oral and written notice and explanation of the reason for [~~discharge~~ discharge/termination] or referral;
 - b. The name, address, telephone number and contact name at the referral organization; and
 - c. Documentation in the [~~home care~~ client] record of the referral or notice.

G. Policies shall be made available for review, upon request, to clients and their designated representatives.

H. Policies and procedures shall be readily available for staff use at all times.

[~~12 VAC 5-381-200~~ 12 VAC 5-381-190]. **Financial controls.**

A. The organization shall document financial resources to operate based on a working budget showing projected revenue and expenses.

B. All financial records shall be kept according to generally accepted accounting principles (GAAP).

C. All financial records shall be audited at least triennially by an independent certified public accountant (CPA) or audited as otherwise provided by law.

D. The organization shall have documented financial controls to minimize risk of theft or embezzlement.

[~~12 VAC 5-381-210~~ 12 VAC 5-381-200]. **Personnel practices.**

A. Personnel management and employment practices shall comply with applicable state and federal laws and regulations.

B. The organization shall design and implement a staffing plan that reflects the types of services offered and shall provide qualified staff in sufficient numbers to meet the assessed needs of all clients.

C. Employees and contractors shall be licensed or certified as required by the Department of Health Professions.

D. The organization shall design and implement a mechanism to verify professional credentials.

E. Any person who assumes the responsibilities of any staff position or positions shall meet the minimum qualifications for that position or positions.

F. The organization shall obtain the required sworn statement and criminal record check for each compensated employee as specified in § 32.1-162.9:1 of the Code of Virginia.

G. Each employee position shall have a written job description that includes:

1. Job title;
2. Duties and responsibilities required of the position;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills, and abilities or professional qualifications required for entry level.

H. Employees shall have access to their current position description. There shall be a mechanism for advising employees of changes to their job responsibilities.

I. New employees and contract individuals shall be oriented commensurate with their function or job-specific responsibilities. Orientation shall include:

1. Objectives and philosophy of the organization;
2. [~~Practices of confidentiality~~ Confidentiality];
3. [~~Practices that assure client~~ Client] rights;
4. Mandated reporting of abuse, neglect, and exploitation;
5. Applicable personnel policies;

6. Emergency preparedness procedures;

7. Infection control practices and measures; [~~and~~

8. Cultural awareness; and]

[~~&~~ 9.] *Applicable laws, regulations, and other policies and procedures that apply to specific positions, specific duties and responsibilities.*

J. *The organization shall develop and implement a policy for evaluating employee performance.*

K. *Individual staff development needs and plans shall be a part of the performance evaluation.*

L. *The organization shall provide opportunities for and record participation in staff development activities designed to enable staff to perform the responsibilities of their positions.*

M. *All individuals who enter a client's home for or on behalf of the organization shall be readily identifiable by employee nametag, uniform or other visible means.*

N. *The organization shall maintain an organized system to manage and protect the confidentiality of personnel files and records.*

O. *Employee personnel records, whether hard copy or electronic, shall include:*

1. *Identifying information;*
2. *Education and training history;*
3. *Employment history;*
4. *Results of the verification of applicable professional licenses or certificates;*
5. *Results of reasonable efforts to secure job-related references and reasonable verification of employment history;*
6. *Results of performance evaluations;*
7. *A record of disciplinary actions taken by the organization, if any;*
8. *A record of adverse action by any licensing bodies and organizations, if any;*
9. *A record of participation in staff development activities, including orientation; and*
10. *The criminal record check and sworn affidavit.*

P. *Each employee personnel record shall be retained in its entirety for a minimum of three years after termination of employment.*

Q. *Personnel record information shall be safeguarded against loss and unauthorized use.*

R. *Employee health-related information shall be maintained separately within the employee's personnel file.*

[~~12 VAC 5-381-220~~ 12 VAC 5-381-210]. **Indemnity coverage.**

A. *The governing body shall ensure the organization and its contractors have appropriate indemnity coverage to compensate clients for injuries and losses resulting from services provided.*

B. *The organization shall purchase and maintain the following types and minimum amounts of indemnity coverage at all times:*

1. [~~Blanket~~] *Malpractice insurance consistent with § 8.01-581.15 of the Code of Virginia;*
2. *General liability insurance covering personal property damages, bodily injuries, product liability, and [~~liable~~ libel] and slander of at least \$1 million comprehensive general liability per occurrence; [and]*
3. *Surety bond coverage of \$50,000 minimum.*

[~~12 VAC 5-381-230~~ 12 VAC 5-381-220]. **Contract services.**

A. *There shall be a written agreement for the provision of services not provided by employees of the organization.*

B. *The written agreement shall include, but is not limited to:*

1. *The services to be furnished by each party to the contract;*
2. *The contractor's responsibility for participating in developing plans of care [or service];*
3. *The manner in which services will be controlled, coordinated, and evaluated by the primary home care organization;*
4. *The procedures for submitting [~~clinical and progress~~] notes [on the care or services provided], scheduling of visits, and periodic client evaluation;*
5. *The process for payment for services furnished under the contract; and*
6. *Adequate liability insurance and surety bond coverage.*

C. *The organization shall have a written plan for provision of [care or] services when a contractor is unable to deliver services.*

D. *The contractor shall conform to applicable organizational policies and procedures as specified in the contract, including the required [~~affidavit~~ sworn disclosure statement] and criminal record check.*

[~~12 VAC 5-381-240~~ 12 VAC 5-381-230]. **Client rights.**

A. *The organization shall establish and implement written policies and procedures regarding the rights of clients.*

B. *Client rights shall be reviewed with clients or client designees upon admission to the organization. The review shall be documented in the client's record.*

C. *Written procedures to implement the policies shall ensure that each client is:*

Final Regulations

1. Treated with courtesy, consideration and respect and is assured the right of privacy;
 2. Assured confidential treatment of his medical and financial records as provided by law;
 3. Free from mental and physical abuse, neglect, and property exploitation;
 4. Assured the right to participate in the planning of the client's home care, including the right to refuse services;
 5. Served by individuals who are properly trained and competent to perform their duties;
 6. Assured the right to voice grievances and complaints related to organizational services without fear of reprisal;
 7. Advised, before care is initiated, of the extent to which payment for the home care organization services may be expected from federal or state programs, and the extent to which payment may be required from the client;
 8. Advised orally and in writing of any changes in fees for services that are the client's responsibility. The home care organization shall advise the client of these changes as soon as possible, but no later than 30 calendar days from the date the home care organization became aware of the change;
 9. Provided with advance directive information prior to start of services; and
 10. Given at least five days written notice when the organization determines to terminate services.
- D. Before care is initiated, the home care organization shall inform the client, orally and in writing, of:
1. The nature and frequency of services to be delivered and the purpose of the service;
 2. Any anticipated effects of treatment, as applicable;
 3. A schedule of fees and charges for services;
 4. The method of billing and payment for services, including the:
 - a. Services to be billed to third party payers;
 - b. Extent to which payment may be expected from third party payers known to the home care organization; and
 - c. Charges for services that will not be covered by third party payers;
 5. The charges that the individual may have to pay;
 6. The requirements of notice for cancellation or reduction in services by the organization and the client; and
 7. The refund policies of the organization.

[~~12 VAC 5-381-250. Complaints~~ 12 VAC 5-381-240. Handling complaints received from clients].

- A. The organization shall establish and maintain complaint handling procedures that specify the:

1. System for logging receipt, investigation and resolution of complaints; [and]
 2. Format of the written record of the findings of each complaint investigated [;].
 - ~~[3. Method in which the adult protective services unit of the local social services department is to be informed and for what complaints; and~~
 - ~~4. Description of the appeal rights if a complainant is not satisfied with the resolution.]~~
- B. The organization shall designate staff responsible for complaint resolution, including:
1. Complaint intake, including acknowledgment of complaints;
 2. Investigation of the complaint;
 3. Review of the investigation of findings and resolution for the complaint; and
 4. Notification to the complainant of the proposed resolution within 30 days from the date of receipt of the complaint.
- C. The client or his designee shall be given a copy of the complaint procedures at the time of admission to service. The organization shall provide each client or his designee with the name, mailing address, and telephone number of the:
1. Organization contact person;
 2. State Ombudsman; and
 3. Center for Quality Health Care Services and Consumer Protection.
- D. The organization shall maintain documentation of all complaints received and the status of each complaint from date of receipt through its final resolution. Records shall be maintained from the date of last inspection and for no less than three years.

[~~12 VAC 5-381-260~~ 12 VAC 5-381-250]. Quality improvement.

- A. [~~An organization providing home care services~~ The organization] shall implement an ongoing, comprehensive, integrated, self-assessment program of the quality and appropriateness of care [or services] provided, including services provided under contract or agreement. [~~The quality improvement program shall address actual client outcomes (results of care), clinical, administrative, and cost-of-care issues.] The findings shall be used to correct identified problems and revise policies and practices, as necessary. Exclusive concentration on administrative or cost-of-care issues does not fulfill this requirement.~~
- B. The following data shall be evaluated to identify unacceptable or unexpected trends or occurrences [~~that influence client outcomes (results of care)]:~~

1. Staffing patterns and [~~clinical~~] performance to assure adequacy and appropriateness of services delivered;
- ~~[2. Unexpected results of admissions and discharges;~~

~~3. 2.] Supervision appropriate to the level of service;~~

[~~4. Emergency preparedness plan~~ 3. On-call responses];

[~~5. Home care~~ 4. Client] records for appropriateness of services [~~including (i) complications, (ii) admissions to inpatient facilities, (iii) follow-up on abnormal findings and laboratory test results, (iv) medication errors, and (v) specific diagnoses provided~~];

[~~6. 5.] Client satisfaction;~~

[~~7. 6.] Complaint resolution;~~

[~~8. 7.] Infections;~~

[~~9. 8.] Staff concerns regarding client care; and~~

[~~10. 9.] Provision of services appropriate to the clients' needs.~~

C. [~~The administrator or governing body shall appoint or designate~~] A quality improvement committee [~~, which is~~] responsible for the oversight and supervision of the program [~~. The committee ,~~] shall consist of:

1. [~~A physician with association to the organization~~ The director of skilled services or organization's register nurse as appropriate for the type of services provided];

2. A member of the administrative staff;

3. Representatives from each of the services provided by the organization, including contracted services; and

4. An individual with demonstrated ability to represent the rights and concerns of clients. The individual may be a member of the [~~organization~~ organization's] staff, a client, or a client's family member.

In selecting members of this committee, consideration shall be given to a candidate's abilities and sensitivity to issues relating to quality of care and services provided to clients.

D. Measures shall be implemented to resolve important problems or concerns that have been identified. Health care practitioners [~~as well as~~ , as applicable, and] administrative staff shall participate in the resolution of the problems or concerns that are identified.

E. Results of the quality improvement program shall be reported annually to the governing body and the administrator and available in the organization. The report shall be acted upon by the governing body and the organization. All corrective actions shall be documented.

[~~12 VAC 5-381-270~~ 12 VAC 5-381-260]. Infection control.

A. The organization shall implement a program to reduce the risk of infection.

B. Infection control activities shall include, but are not limited to:

1. Staff education regarding infection risk-reduction behaviors;

2. Use of universal precautions;

3. Handling, storing, processing and transporting of regulated medical waste according to applicable procedures;

4. Handling, storing, processing and transporting supplies and equipment in a manner that prevents the spread of infections; and

5. Monitoring staff performance in infection control practices.

C. Accumulated waste, including all contaminated sharps, dressings, or similar infectious waste, shall be disposed of in a manner compliant with the OSHA Bloodborne Pathogens standard (29 CFR 1910.1030).

[12 VAC 5-381-270. Drop sites.

A. The organization may operate one or more drop sites for the convenience of staff providing direct client care or service. However, such sites shall not:

1. Have staff assigned;

2. Accept referrals; or

3. Be advertised as part of the organization.

B. Any client records located at the site shall be safeguarded against loss or unauthorized use. Only authorized personnel shall have access to client records as specified by state and federal law.

It shall be the responsibility of the organization to assure that records maintained at the site are readily available for inspection staff.

C. Operation of a drop site as a business office shall constitute a separate organization and shall require licensure.

D. Drop sites shall be subject to inspection at any time.]

12 VAC 5-381-280. [~~Home-care Client~~] record system.

A. The organization shall maintain an organized [~~home-care client~~] record system according to accepted standards of practice. Written policies and procedures shall specify retention, reproduction, access, storage, content, and completion of the record.

B. The [~~home-care client~~] record information shall be safeguarded against loss or unauthorized use.

C. [~~Home-care Client~~] records shall be confidential. Only authorized personnel shall have access as specified by state and federal law.

D. Provisions shall be made for the safe storage of the original record and for accurate and legible reproductions of the original.

E. Policies shall specify arrangements for retention and protection of records if the organization discontinues operation and shall provide for notification to the center and the client of the location of the records.

F. An accurate and complete [~~home-care client~~] record shall be maintained for each client receiving [~~home-care~~] services and shall include, but shall not be limited to:

Final Regulations

1. Client identifying information;
 2. Identification of the primary care physician;
 3. Admitting information, including a client history;
 4. Information on the composition of the client's household, including individuals to be instructed in assisting the client;
 - ~~5. Documentation and results of all medical tests ordered by the physician or other health care professional and performed by the organization's staff;~~
 - ~~6. A medical plan of care including appropriate assessment and management of pain;~~
 - ~~7. 5.] An initial assessment of client [care] needs to develop a plan of [treatment care or services];~~
 - ~~8. 6.] A plan of care [or service] that includes the type and frequency of each service to be delivered either by organization personnel or contract services;~~
 - ~~9. Medication sheets, when applicable, which include the name, dosage, frequency of administration, possible side effects, route of administration, and date started, changed or discontinued for each medication administered;~~
 - ~~10. Copies of all summary reports sent to the primary care physician;~~
 - ~~11. Reports of case reviews;~~
 - ~~12. 7.] Documentation of client rights review; and~~
 - ~~13. 8.] A discharge [or termination of service] summary.~~
- [In addition, client records for skilled and pharmaceutical services shall include:
9. Documentation and results of all medical tests ordered by the physician or other health care professional and performed by the organization's staff;
 10. A medical plan of care including appropriate assessment and pain management;
 11. Medication sheets that include the name, dosage, frequency of administration, possible side effects, route of administration, date started, and date changed or discontinued for each medication administered; and
 12. Copies of all summary reports sent to the primary care physician.]
- G. Signed and dated [progress] notes [on the care or services provided] by each individual delivering service shall be written on the day the service is delivered and incorporated in the [home care client] record within seven working days.
- H. Entries in the [home care client] record shall be current, legible, dated and authenticated by the person making the entry. Errors shall be corrected by striking through and initialing.
- I. Originals or reproductions of individual client [home care] records shall be maintained in their entirety for a minimum of five years following discharge or date of last contact unless otherwise specified by state or federal requirements. Records

of minors shall be kept for at least five years after the minor reaches 18 years of age.

12 VAC 5-381-290. Home attendants.

Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications:

1. Have satisfactorily completed a nursing education program preparing for registered nurse licensure or practical nurse licensure;
2. Have satisfactorily completed a nurse aide education program approved by the Virginia Board of Nursing;
3. Have certification as a nurse aide issued by the Virginia Board of Nursing;
4. Be successfully enrolled in a nursing education program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving direct client care;
5. Have satisfactorily passed a competency evaluation program that meets the criteria of 42 CFR 484.36 (b). Home attendants of personal care services need only be evaluated on the tasks in 42 CFR 484.36 (b) as those tasks relate to the personal care services to be provided; or
6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," 2003 edition, of the Department of Medical Assistance Services. However, this training is permissible for home attendants of personal care services only.

PART III.

[HOME CARE SKILLED] SERVICES.

12 VAC 5-381-300. [Home care Skilled] services.

A. The organization shall provide a program of [specific home health] services that shall include one or more of the following:

1. Nursing services;
- ~~2. Home attendant services;~~
- ~~3. 2.] Physical therapy services;~~
- ~~4. 3.] Occupational therapy services;~~
- ~~5. 4.] Speech therapy services;~~
- ~~6. 5.] Respiratory therapy services; or~~
- ~~7. 6.] Medical social services.~~

B. All [skilled] services delivered shall be prescribed in a medical plan of care that contains at least the following information:

1. Diagnosis and prognosis;
2. Functional limitations;
3. Orders for all [home care skilled] services, including: (i) specific procedures, (ii) treatment modalities, and (iii) frequency and duration of the services ordered;
4. Orders for medications, when applicable; and

5. Orders for special dietary or nutritional needs, when applicable.

The medical plan of care shall be approved and signed by the client's primary care physician.

C. Verbal orders shall be [~~immediately~~] documented [~~within 24 consecutive hours~~] in the [~~health care client's~~] record by the health care professional receiving the order and shall be countersigned by the prescribing person.

D. The primary care physician shall be notified immediately of any changes in the client's condition that indicates a need to alter the medical plan of care.

E. The medical plan of care shall be reviewed, approved, and signed by the primary care physician at least every 60 days.

F. There shall be a director of [~~client care skilled~~] services, who shall be a physician licensed by the Virginia Board of Medicine or a registered nurse [~~licensed by the Virginia Board of Nursing~~], responsible for the overall direction and management of [~~client care skilled~~] services including the availability of services, the quality of services and appropriate staffing. The individual shall have the appropriate experience for the scope of services provided by the organization.

G. The organization shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration, and disposal of drugs and shall allow clients to procure their medications from a pharmacy of their choice.

H. All prescription drugs shall be prescribed and properly dispensed to clients according to the provisions of Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.

12 VAC 5-381-310. Nursing services.

A. [~~All nursing services shall be provided directly or under the supervision of a qualified registered nurse currently licensed by the Virginia Board of Nursing. Nursing services shall include, but are not limited to:~~ All nursing services shall be directly provided by an appropriately qualified registered nurse or licensed practical nurse, except for those nursing tasks that may be delegated by a registered nurse according to 18 VAC 90-20-420 through 18 VAC 90-20-460 of the regulations of the Virginia Board of Nursing and with a plan developed and implemented by the organization.]

- [~~1. Assessing a client's needs and admission for service as appropriate;~~
- ~~2. Implementing the medical plan of care and revising as necessary;~~
- ~~3. Providing those services requiring substantial and specialized nursing skill;~~

~~4. Educating the client and client's family regarding the disease process, self-care techniques and prevention strategies;~~

~~5. Initiating appropriate preventive and rehabilitative nursing procedures;~~

~~6. Coordinating and communicating with the client's primary care physician and other care providers regarding the client's needs;~~

~~7. Preparing clinical notes; and~~

~~8. Supervising licensed practical nurses and home health aides providing delegated nursing services.]~~

B. [~~If nursing duties are delegated, the organization shall develop and implement an organizational plan pursuant to 18 VAC 90-20-420 through 18 VAC 90-20-460. Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment by the registered nurse, and the organization's written policies not to exceed 90 days.]~~

[~~C. Licensed practical nurses shall be currently licensed by the Virginia Board of Nursing. The services provided by a licensed practical nurse may include, but are not limited to:~~

~~1. Delivering nursing services according to the organization's policies and standard nursing practices;~~

~~2. Assisting the registered nurse in performing specialized procedures;~~

~~3. Assisting the client with activities of daily living, including the teaching of self-care techniques;~~

~~4. Supervising home care aides; and~~

~~5. Preparing clinical notes.~~

~~12 VAC 5-381-320. Home attendant services.~~

~~A. Services of the home attendant may include, but are not limited to:~~

~~1. Assisting clients with (i) activities of daily living; (ii) ambulation and prescribed exercise; and (iii) other special duties with appropriate training and demonstrated competency;~~

~~2. Assisting with oral or topical medications that the client can normally self-administer;~~

~~3. Measuring and recording fluid intake and output;~~

~~4. Taking and recording blood pressure, pulse and respiration;~~

~~5. Recording and reporting to the appropriate health care professional changes in the client's condition;~~

~~6. Documenting services and observations in the home care record; and~~

~~7. Performing any other duties that the aide is qualified to do by additional training and demonstrated competency within state and federal guidelines.~~

Final Regulations

~~B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the client's care from the appropriate health care professional responsible for the care.~~

~~C. Home attendants shall work under the supervision of the appropriate health care professional responsible for the client's care.~~

~~D. The nurse or therapist responsible for the supervision of the home attendant shall make visits to the client's home as frequently as necessary, but not less than once every 30 calendar days. The results of the supervisory visit shall be documented in the home care record.~~

~~E. Relevant inservice education or training for home attendant shall consist of at least 12 hours annually. Inservice training may be in conjunction with on-site supervision.~~

~~12 VAC 5-381-330. 12 VAC 5-381-320.] Therapy services.~~

~~A. Physical therapy, occupational therapy, speech therapy, or respiratory therapy services shall be provided according to the medical plan of care by or under the direction of an appropriately qualified therapist currently licensed [or certified as required] in Virginia [, and may include, but are not limited to:~~

- ~~1. Assessing client needs or admission for service as appropriate;~~
- ~~2. Implementing a medical plan of care and revising as necessary;~~
- ~~3. Initiating appropriate preventive, therapeutic, and rehabilitative techniques according to the medical plan of care;~~
- ~~4. Educating the client and family regarding treatment modalities and use of equipment and devices;~~
- ~~5. Providing consultation to other health care professionals;~~
- ~~6. Communicating with the physician and other health care professionals regarding changes in the client's needs;~~
- ~~7. Supervising therapy assistants and home attendants as appropriate; and~~
- ~~8. Preparing clinical notes.]~~

~~[B. The therapy services shall be provided according to the medical plan of care by or under the direction of an appropriately qualified therapist and may include, but are not limited to:~~

- ~~1. Assessing client needs or admission for service as appropriate;~~
- ~~2. Implementing a medical plan of care and revising as necessary;~~
- ~~3. Initiating appropriate preventive, therapeutic, and rehabilitative techniques according to the medical plan of care;~~
- ~~4. Educating the client and family regarding treatment modalities and use of equipment and devices;~~

~~5. Providing consultation to other health care professionals;~~

~~6. Communicating with the physician and other health care professionals regarding changes in the client's needs;~~

~~7. Supervising therapy assistants and home attendants as appropriate; and~~

~~8. Preparing clinical notes.~~

~~G. B.] Therapy assistants may be used to provide therapy services.~~

~~1. The occupational therapy assistant shall be currently certified by the [American Occupational Therapy Association National Board for Certification in Occupational Therapy] and shall practice under the supervision of a [certified licensed] occupational therapist.~~

~~2. The physical therapy assistant shall be currently licensed by the Virginia Board of Physical Therapy and shall practice under the supervision of a licensed physical therapist.~~

~~[D. C.] Duties of therapy assistants shall be within [the their] scope of practice and may include, but are not limited to:~~

- ~~1. Performing services planned, delegated, and supervised by the appropriately licensed therapist; and~~
- ~~2. Preparing clinical notes.~~

~~[D. Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment of the licensed therapist, and the organization's written policies not to exceed 90 days.~~

~~12 VAC 5-381-330. Home attendants assisting with skilled services.~~

~~A. Home attendants assisting with providing skilled services may:~~

- ~~1. Assist clients with (i) activities of daily living, (ii) ambulation and prescribed exercise, and (iii) other special duties with appropriate training and demonstrated competency;~~
- ~~2. Assist with oral or topical medications that the client can normally self-administer;~~
- ~~3. Measure and record fluid intake and output;~~
- ~~4. Take and record blood pressure, pulse and respiration;~~
- ~~5. Record and report to the appropriate health care professional changes in the client's condition;~~
- ~~6. Document services and observations in the client's record; and~~
- ~~7. Perform any other duties that the attendant is qualified to do by additional training and demonstrated competency as allowed by state or federal guidelines.~~

~~B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the client's care from the appropriate health care professional responsible for the care.~~

C. Home attendants shall work under the supervision of the appropriate health care professional responsible for the client's care.

D. Relevant in-service education or training for home attendants shall consist of at least 12 hours annually. In-service training may be in conjunction with on-site supervision.]

12 VAC 5-381-340. Medical social services.

A. Medical social services shall be provided according to the medical plan of care by or under the direction of a qualified social worker who holds, at a minimum, a bachelor's degree with major studies in social work, sociology, or psychology from a four-year college or university accredited by the Council on Social Work Education and has at least [~~three~~ two] years experience in case work or counseling in a health care or social services delivery system.

The organization shall have one year from [~~the effective date of this chapter~~ January 1, 2006,] to ensure the designated individual meets the qualifications of this standard.

B. The duties of a social worker may include, but are not limited to:

1. Assessing the client's psychological status;
2. Implementing a medical plan of care and revising, as necessary;
3. Providing social work services including (i) short-term individual counseling, (ii) community resource planning, and (iii) crisis intervention;
4. Providing consultation with the primary care physician and other health care professionals regarding changes in the client's needs;
5. Preparing [~~clinical~~] notes [on the care or services provided]; and
6. Participating in discharge planning.

PART IV.
PHARMACEUTICAL SERVICES.

12 VAC 5-381-350. Pharmacy services.

A. All prescription drugs shall be prescribed and properly dispensed to the client according to the provisions of the Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushes for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.

B. Home attendants may assist only with those topical and oral medications that the client would normally self-administer. Any other drug shall be administered only by a licensed nurse or physician assistant.

C. The organization shall develop written policies and procedures for the administration of home infusion therapy medications that include, but are not limited to:

1. Developing a plan of care [or service];
2. Initiation of medication administration based on a prescriber's order and monitoring of the client for response to the treatment and any adverse reactions or side effects;
3. Assessment of any factors related to the home environment that may affect the prescriber's decisions for initiating, modifying, or discontinuing medications;
4. Communication with the prescriber concerning assessment of the client's response to therapy, any other client specific needs, and any significant change in the client's condition;
5. Communication with the client's provider pharmacy concerning problems or needed changes in a client's medication;
6. Maintaining a complete and accurate record of medications prescribed, medication administration data, client assessments, any laboratory tests ordered to monitor response to drug therapy and results, and communications with the prescriber and pharmacy provider;
7. Educating or instructing the client, family members, or other caregivers involved in the administration of infusion therapy in the proper storage of medication, in the proper handling of supplies and equipment, in any applicable safety precautions, in recognizing potential problems with the client, and actions to take in an emergency; and
8. Initial and retraining of all organization staff providing infusion therapy.

D. The organization shall employ a registered nurse, who [~~holds a current active license with the Virginia Board of Nursing,~~] has completed training in infusion therapy, and has the knowledge, skills, and competencies to safely administer infusion therapy, to supervise medication administration by staff. This person shall be responsible for ensuring compliance with applicable laws and regulations, adherence to the policies and procedures related to administration of medications, and conducting periodic assessments of staff competency in performing infusion therapy.

PART V.
PERSONAL CARE SERVICES.

12 VAC 5-381-360. Personal care services.

A. An organization may provide personal care services in support of the client's health and safety in his home. The organization shall designate a registered nurse [~~, who holds a current license with the Virginia Board of Nursing,~~] responsible for the supervision of personal care services.

B. The personal care services shall include:

1. Assistance with the activities of daily living [. A need for assistance exists when the client is unable to complete an activity due to cognitive impairment, functional disability, physical health problems, or safety. The client's functional

Final Regulations

level is based on the client's need for assistance most or all of the time to perform the tasks of daily living in order to live independently];

2. Taking and recording vital signs, if [~~indicated in the personal care plan~~ specified in the plan of service];

3. Recording and reporting to the supervisor any changes regarding the client's condition, behavior or appearance; and

4. Documenting the services delivered in the client's record.

Personal care services may also include the instrumental activities of daily living related to the needs of the client.

C. Such services shall be delivered based on a written plan [of services] developed by a registered nurse, in collaboration with the client and client's family. The plan shall include at least the following:

1. Assessment of the client's needs;
2. Functional limitations of the client;
3. Activities permitted;
4. Special dietary needs;
5. Specific personal care services to be performed; and
6. Frequency of service.

D. The plan shall be retained in the client's record. Copies of the plan shall be provided to the client receiving services and reviewed with the assigned home attendant prior to delivering services.

E. [~~Home attendants shall receive on-site supervision by a registered nurse or a licensed practical nurse holding a current license with the Virginia Board of Nursing and shall be delivering services to the client at the time of on-site supervisory visits~~ Supervision of services shall be provided as often as necessary as determined by the client's needs, the assessment of the registered nurse, and the organization's written policies not to exceed 90 days].

[~~F. The supervisory nurse shall visit the client's home to evaluate the personal care aide, the client's needs and the personal care plan as frequently as necessary, but at least once every 30 days. The personal care aide shall be delivering services to the client at the time of on-site supervisory visits.~~

~~G. F.]~~ A registered nurse or licensed practical nurse shall be available during all hours that personal care services are being provided.

[~~H. G.]~~ Home attendants providing personal care services shall receive at least 12 hours annually of inservice training and education. Inservice training may be in conjunction with on-site supervision.

DOCUMENT INCORPORATED BY REFERENCE

Personal Care Aide Training Curriculum, 2003 Edition, Virginia Department of Medical Assistance Services.

NOTICE: The form used in administering 12 VAC 5-381, Regulations for the Licensure of Home Care Organizations, is listed below.

[FORM

Application for Licensure, Home Care organizations, eff. 01/06.]



Virginia Department of Health

Center for Quality Health Care Services and Consumer Protection

APPLICATION FOR LICENSURE
Home Care Organizations

In accordance with § 32.1-162.9 of the Code of Virginia: “No person shall establish or operate a home care organization without a license unless he is exempt from licensure pursuant to § 32.1-162.8” of the Code of Virginia. Applications must be received 60 days in advance of effective date to allow for processing of the application. Application fees must accompany an application and are not refundable.

This application must be completed in its entirety -
Incomplete applications will not be processed.

ANY CHANGES DURING THE LICENSURE PERIOD AFFECTING THE INFORMATION CONTAINED
IN THIS APPLICATION MUST BE REPORTED TO THE CENTER 30 DAYS PRIOR TO THE EFFECTIVE DATE
OF THE PROPOSED CHANGE.

- Initial License for a: Multi-service organization Single service organization
 Renewal License for a: Multi-service organization Single service organization
 License Re-issue:

Organization Name:		
Legal Name:		
Street Address: City/County/Zip		
Mailing address: City/County/Zip		
Business Phone Number:		FAX Number:
Administrator of Record:		
E-Mail address:		
Owner Name:		
Operator Name:		

Final Regulations

Page 2, cont'd.
Application for Licensure

Service Area – List all counties and independent cities served by the organization.

Services provided by the organization. Check all that apply.

Services	Provided by	
	Organization Staff	Contract Personnel
Nursing Services	<input type="checkbox"/>	<input type="checkbox"/>
Home Attendant Services	<input type="checkbox"/>	<input type="checkbox"/>
Personal Care Services	<input type="checkbox"/>	<input type="checkbox"/>
Pharmaceutical Services	<input type="checkbox"/>	<input type="checkbox"/>
Parenteral	<input type="checkbox"/>	<input type="checkbox"/>
Intravenous	<input type="checkbox"/>	<input type="checkbox"/>
Therapy Services		
Occupational	<input type="checkbox"/>	<input type="checkbox"/>
Physical	<input type="checkbox"/>	<input type="checkbox"/>
Respiratory	<input type="checkbox"/>	<input type="checkbox"/>
Speech	<input type="checkbox"/>	<input type="checkbox"/>
Medical social services	<input type="checkbox"/>	<input type="checkbox"/>
Other, please specify:	<input type="checkbox"/>	<input type="checkbox"/>

I certify that all information contained in this application is accurate and true.

Signature of Administrator

Date

VA.R. Doc. No. R94-653; Filed September 28, 2005, 11:04 a.m.

Titles of Regulations: **12 VAC 5-500. Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (repealing 12 VAC 5-500-10 through 12 VAC 5-500-350).**

12 VAC 5-501. Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps (adding 12 VAC 5-501-10 through 12 VAC 5-501-350).

Statutory Authority: § 32.1-211 of the Code of Virginia.

Effective Date: January 1, 2006.

Agency Contact: Gary L. Hagy, Director, Division of Food and Environmental Services, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7455, FAX (804) 864-7475, or e-mail gary.hagy@vdh.virginia.gov.

Summary:

This action repeals the existing regulation and replaces it with a new regulation due to a major reorganization. The regulations establish minimum criteria for the construction of migrant labor camps in Virginia. These regulations (i) reference federal regulations that the Department of Health is responsible for enforcing; (ii) include the procedure for obtaining a permit to construct and a permit to operate a migrant labor camp; and (iii) establish minimum construction standards for water supplies serving migrant labor camps, requirements for the collection and disposal of trash and garbage, and storage of hazardous materials.

The changes include (i) requiring that camp wells not meeting the definition of waterworks comply with private well construction regulations rather than waterworks construction regulations, (ii) eliminating provisional permits, and (iii) removing the requirement that inspections be conducted biweekly.

Changes made to the proposed regulation increase the maximum civil penalty for violations to \$25,000.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

CHAPTER 501.
RULES AND REGULATIONS GOVERNING THE
CONSTRUCTION AND MAINTENANCE OF MIGRANT
LABOR CAMPS.

PART I.
DEFINITIONS AND GENERAL PROVISIONS.

12 VAC 5-501-10. Definitions.

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

"Approved water supply" means a waterworks that has a valid waterworks operation permit from the commissioner or a water supply that is evaluated, tested and, if found in compliance with the applicable standards, accepted and approved by the director or the director's designee.

"Board" means the State Board of Health.

"Camp operator" means a person who has charge, care, or control of a migrant labor camp.

~~*["Camp Owner" means a person who owns, leases or proposes to own or lease a migrant labor camp.]*~~

"Commissioner" means the State Health Commissioner or his designee who has been delegated powers in accordance with subdivision 2 of 12 VAC 5-501-30.

"Department" means the Virginia Health Department.

~~*["Local health] Director" means the director of a city, county or district health department or his designated representative who is assigned responsibility for implementation of these regulations at the local level.*~~

"Migrant labor camp" or "camp" means one or more structures, buildings, tents, barracks, trailers, vehicles, converted buildings, and unconventional enclosures of living space, reasonably contiguous, together with the land appertaining thereto, established, operated or used as living quarters for one or more persons, one or more of whom is a migrant worker engaged in agricultural or fishing activities, including related food processing. "Migrant labor camp" does not include (i) a summer camp, campground or hotel as defined in § 35.1-1 of the Code of Virginia, (ii) housing that, in the ordinary course of business, is regularly offered to the general public on a commercial basis and is provided to any migrant worker on the same or comparable terms and conditions as provided to the general public, or (iii) small businesses that are exempt under federal law as provided in the Fair Labor Standards Act (29 USC § 201 et seq.) and the Migrant and Seasonal Worker Protection Act (29 USC § 1801 et seq.).

"Migrant worker" means any individual from within or outside the Commonwealth who passes seasonally from one place to another for the purpose of employment (agricultural or fishing activities, including related food processing), who is not a year-round employee, and who occupies living quarters other than his permanent home during the period of such work.

~~*["Owner" means a person who owns, leases or proposes to own or lease a migrant labor camp.]*~~

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Variance" means a conditional waiver of a specific regulation granted by the commissioner or his designee pursuant to 12 VAC 5-501-120 to a specific camp operator relating to a specific situation or facility and may be for a specific period of time.

12 VAC 5-501-20. Purpose of regulations.

This chapter has been promulgated by the State Board of Health to ensure that safe and healthy living conditions are provided for migrant workers and their families while they are employed and living in the Commonwealth of Virginia. This chapter establishes standards and procedures that the State Health Commissioner will follow in determining whether a

Final Regulations

permit to operate a migrant labor camp should be issued, denied, revoked, or suspended. In a similar way the chapter also delineates the procedures and requirements with which a camp must comply in order for the camp operator to obtain and retain a permit.

12 VAC 5-501-30. Administration of regulations.

These regulations are administered by the following:

1. The State Board of Health, hereinafter referred to as the board, has responsibility to promulgate, amend and repeal regulations necessary to protect the public health.
2. The State Health Commissioner, hereinafter referred to as the commissioner, is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session (see § 32.1-20 of the Code of Virginia). The commissioner may delegate his powers under these regulations in writing to any subordinate.
3. The State Department of Health hereinafter referred to as "department" is designated as the primary agent of the commissioner for the purpose of administering these regulations.
4. The district or local health department is responsible for implementing and enforcing the regulatory activities required by these regulations.

12 VAC 5-501-40. Right of entry to inspect, etc.; warrants.

Upon presentation of appropriate credentials and upon consent of the owner, camp operator or custodian, the commissioner or his designee shall have the right to enter at any reasonable time onto any property to inspect, investigate, evaluate, conduct tests or take samples for testing as he reasonably deems necessary in order to determine compliance with the provisions of this chapter, any order of the board or commissioner, or any conditions in a permit, license or certificate issued by the board or commissioner. If the commissioner or his designee is denied entry, he may apply to an appropriate circuit court for an inspection warrant authorizing such investigation, evaluation, inspection, testing, or taking of samples for testing as provided in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 of the Code of Virginia.

PART II. PROCEDURAL REGULATIONS.

12 VAC 5-501-50. Continuing validity of existing permits.

Operational permits in effect prior to [~~the effective date of this chapter~~ January 1, 2006], unless otherwise revoked, shall remain valid until the expiration date of the permit.

12 VAC 5-501-60. Application of the Administrative Process Act.

The provisions of Article 3 (§ 2.2-4018 et seq.) of the Virginia Administrative Process Act shall govern the procedures for rendering all case decisions.

12 VAC 5-501-70. Emergency orders.

The commissioner may, pursuant to §§ 32.1-13 and 32.1-20 of the Code of Virginia, issue emergency orders as is

necessary to preserve the public health, safety, welfare and environment. Emergency orders arising out of matters governed by these regulations shall state the reasons and factual basis upon which the emergency order is issued. The emergency order shall state the time period for which it is effective.

12 VAC 5-501-80. Enforcement of regulations.

A. Notice. Whenever the commissioner or any district or local health department official has reason to believe that a violation of Title 32.1 or Title 35.1 of the Code of Virginia or of any provision of this chapter has occurred or is occurring, he shall so notify the alleged violator. Such notice shall be (i) in writing, with a request to the owner or camp operator to respond by providing any pertinent information on this issue they may wish; (ii) cite the statute, regulation or regulations that are allegedly being violated; and (iii) state the facts that form the basis for believing that the violation has occurred or is occurring. Such notification may be accompanied by a request that certain corrective action be taken.

B. Orders. Pursuant to the authority granted in §§ 32.1-26 and 35.1-6 of the Code of Virginia, the commissioner may issue orders to require any owner or camp operator, or other person, to comply with the provisions of these regulations. The order may require the following:

1. The immediate cessation and correction of the violation;
2. Appropriate remedial action to ensure that the violation does not continue or recur;
3. The submission of a plan to prevent future violations;
4. The submission of an application for a variance; and
5. Any other corrective action deemed necessary to comply with the regulations.

C. Hearing before the issuance of an order. Before the issuance of an order, pursuant to subsection B of this section, the commissioner must comply with the requirements of § 32.1-26 of the Code of Virginia.

D. Order - when effective. All orders issued pursuant to subsection B of this section shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the owner, camp operator or person violating these regulations. Violation of an order is a Class 1 misdemeanor. See § 32.1-27 of the Code of Virginia.

E. Compliance. The commissioner may act as the agent of the board to enforce all effective orders and these regulations. Should any owner or camp operator fail to comply with any effective order or these regulations, the commissioner may:

1. Institute a proceeding to revoke the camp operator's permit in accordance with 12 VAC 5-501-230;
2. Request the attorney for the Commonwealth to bring a criminal action;
3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Do any combination of the above.

F. Not exclusive means of enforcement. Nothing contained in 12 VAC 5-501-70 or this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulation or statute through an injunction, mandamus or criminal prosecution.

12 VAC 5-501-90. Penalties, injunctions, civil penalties, and charges for violations.

A. Any person willfully violating or refusing, failing, or neglecting to comply with any regulation or order of the board or commissioner or any provision of this chapter shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

B. Any person willfully violating or failing, neglecting or refusing to obey any lawful regulation or order of the board or commissioner or any provision of this chapter may be compelled in a proceeding instituted in an appropriate court by the board or commissioner to obey such regulations, order, or provision of this chapter and to comply therewith by injunction, mandamus, or other appropriate remedy.

C. Without limiting the remedies that may be obtained in subsection B of this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B of this section shall be subject, in the discretion of the court, to a civil penalty not to exceed [~~\$10,000~~ \$25,000] for each violation. Each day of violation shall constitute a separate offense.

D. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or order of the board or commissioner or any provision of this chapter, the board may provide, in an order issued by the board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit specified in subsection C of this section. Such civil charges shall be instead of any appropriate civil penalty that could be imposed under subsection C of this section.

12 VAC 5-501-100. OSHA enforcement.

Nothing contained herein shall be construed to bar the enforcement of occupational safety and health standards adopted by the Safety and Health Codes Board in the manner prescribed in Chapter 3 (§ 40.1-22 et seq.) of Title 40.1 of the Code of Virginia and regulations promulgated thereunder.

12 VAC 5-501-110. Suspension of regulations during disasters.

If, in the case of a manmade or natural disaster, the commissioner finds that certain regulations cannot be complied with and that the public health is better served by not fully complying with these regulations, he may authorize the suspension of the application of the regulations for specifically affected localities and institute a provisional regulatory plan until the disaster is abated.

12 VAC 5-501-120. Variances.

A. In accordance with § 40.1-6 (9) of the Code of Virginia, a variance to those occupational safety and health regulations set forth at 29 CFR Part 1910 may be granted by the

Commissioner of Labor and Industry. Applications for such variances shall be directed to him.

B. The State Health Commissioner or his designee may grant a variance to these regulations by following the appropriate procedures set forth in this subsection.

1. Requirements for a variance to these regulations. The commissioner may grant a variance if he finds that the hardship imposed, which may be economic, outweighs the benefits that may be received by the public and that granting such a variance does not subject the public to unreasonable health risks or environmental pollution.

2. Application for a variance to these regulations. Any camp operator who seeks a variance shall apply in writing within the time period specified in this subsection. The request should be sent to the local health department. Any request for a variance must be made in writing and received by the department prior to the denial of the migrant labor camp permit, or within 30 days after such denial. In the event a person applies for a variance within the 30-day period after the permit has been denied, the date for appealing the denial of the permit, pursuant to 12 VAC 5-501-160, shall commence from the date on which the department acts on the request for a variance. The application for a variance shall include:

- a. A citation to the regulation from which a variance is requested;
- b. The nature and duration of the variance requested;
- c. Any relevant analytical results including results of relevant tests conducted pursuant to the requirements of these regulations;
- d. Statements or evidence that establish that the public health, welfare and environment would not be adversely affected if the variance were granted;
- e. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
- f. Other information believed pertinent by the applicant; and
- g. Such other information as the district or local health department or commissioner may require.

C. Evaluation of an application for a variance to these regulations.

1. The commissioner shall act on any request for a variance to these regulations submitted pursuant to this subsection within 60 days of receipt of the request.
2. In evaluating a variance application, the commissioner shall consider such factors as the following:
 - a. The effect that such a variance would have on the operation of the migrant labor camp;
 - b. The cost and other economic considerations imposed by this requirement;

Final Regulations

c. The effect that such a variance would have on protection of the public health, safety, welfare and the environment; and

d. Such other factors as the commissioner may deem appropriate.

D. Disposition of a request for a variance to these regulations.

1. If the commissioner proposes to deny the variance, he shall provide the camp operator an opportunity to an informal hearing as provided in § 2.2-4019 of the Code of Virginia. Following this opportunity for an informal hearing, the commissioner may reject any application for a variance by sending a rejection notice to the applicant. The rejection notice shall be in writing and shall state the reasons for the rejection. A rejection notice constitutes a case decision.

2. If the commissioner proposes to grant a variance request submitted pursuant to this chapter, the applicant shall be notified in writing of this decision. Such notice shall identify the variance and the migrant labor camp involved, and shall specify the period of time for which the variance will be effective. Such notice shall provide that the variance will be terminated when the migrant labor camp comes into compliance with the applicable regulation and may be terminated upon a finding by the commissioner that the migrant labor camp has failed to comply with any requirements or schedules issued in conjunction with the variance. The effective date of the variance shall be as noted in the variance letter.

3. All variances to these regulations granted to any migrant labor camp are not transferable unless otherwise stated. Each variance shall be attached to the permit to which it is granted. Each variance is revoked when the permit to which it is attached is revoked.

4. No camp operator may challenge the terms or conditions of a variance after 30 calendar days have elapsed from the receipt of the variance.

12 VAC 5-501-130. Case decisions.

The commissioner or his designee may make case decisions based on informal hearings. An informal hearing is conducted by a district or local health department with the district or local health director presiding and held in conformance with § 2.2-4019 of the Code of Virginia. The district or local health department may record the hearing or create a written summary or record of the proceedings.

12 VAC 5-501-140. Request for hearing.

A request for a hearing shall be made by sending the request in writing to the district or local health department in the locality where the migrant labor camp is located. Requests for hearings shall cite the reasons for the hearing request and shall cite the sections of these regulations involved and must be received within 30 calendar days of the decision by the department that led to the hearing request.

12 VAC 5-501-150. Hearing.

Any owner, camp operator or named party whose rights, duties, or privileges have been, or may be affected by any

case decision of the board or its subordinates in the administration of these regulations shall have a right to a hearing.

12 VAC 5-501-160. Appeals.

A. Any appeal from a denial of a permit to operate a migrant labor camp must be made in writing and received by the local or state health department within 30 days of the date the denial letter was received.

B. Any request for hearing on the denial of an application for a variance pursuant to 12 VAC 5-501-120 D 1 must be made in writing and received within 30 days of receipt of the denial notice.

C. Pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), an aggrieved owner or camp operator may appeal a final decision of the commissioner to the appropriate circuit court.

12 VAC 5-501-170. Notice of intention to construct or remodel camp and submission of plans.

Any person planning to construct, substantially remodel, or enlarge for occupancy or use a migrant labor camp or any portion of the facility thereof, or to convert a property for use or occupancy as a camp shall give notice in writing to the local health director of his intent to do so at least 30 days before the date of beginning such construction, remodeling, enlargement, or conversion. The notice shall include the name of the city or county in which the property is located; the location of the property within that area; plans of the proposed construction, remodeling, enlargement or conversion; and the name, mailing address and telephone number of the person giving the notice. Upon receipt of such notice, the local health director shall forward to such person a copy of Article 6 (§ 32.1-203 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia relating to migrant labor camps and a copy of this chapter.

12 VAC 5-501-180. Permits.

A. No person shall own, establish, conduct, maintain, manage, or operate any migrant labor camp in this Commonwealth unless the migrant labor camp is permitted as provided in this section. All permits shall be in the name of the camp operator. Permits shall not be issued to newly constructed or extensively remodeled migrant labor camps until a certificate of occupancy has been issued by the building official. Only a person who complies with the requirements of these regulations shall be entitled to receive or retain such a permit.

B. Nontransference of migrant labor camp permits. Permits issued shall not be transferable from one person to another or from one location to another. A new camp operator shall be required to make a written application for a permit. The application forms are available from local health departments.

C. Requirements for posting permits. The permit shall be posted in a location in the camp readily visible and accessible to the migrant workers.

12 VAC 5-501-190. Application for permit.

A. Application for a permit to operate a migrant labor camp shall be made on a form prescribed by the board to the local health director of the county or city in which the migrant labor camp is located at least 30 days before such camp is to be opened. A separate application shall be submitted for each camp every year.

B. The local health director shall issue a permit after an inspection if the camp is found to be in compliance with this chapter.

C. If the camp is not found to be in compliance, the local health director may deny, revoke or suspend the permit or recommend denial of a variance.

D. Any expansion or modification of a permitted migrant labor camp shall require the obtaining of a new permit.

12 VAC 501-200. Issuance of permit.

Prior to the issuance of a permit, the director or his designee shall inspect the migrant labor camp to determine compliance with the requirements of these regulations. The department shall issue a permit to the applicant if its inspection reveals that the proposed migrant labor camp complies with all requirements of these regulations. The permit shall expire annually on December 31. Also, changes in the camp operator void the permit and the new camp operator must apply for a new permit.

12 VAC 5-501-210. Denial of a permit.

Whenever the department denies a permit to operate a migrant labor camp, it shall, within 10 days of the inspection, send the applicant a written explanation of the reasons why the permit was denied.

12 VAC 5-501-220. Suspension of a permit.

The director may suspend a permit to operate a migrant labor camp without an informal hearing if the director finds the continued operation constitutes a substantial and imminent threat to the public health. Upon receipt of such notice that a permit is suspended, the permit holder shall cease operation immediately and begin corrective action.

Whenever a permit is suspended, the holder of the permit or the camp operator shall be notified in writing by certified mail or by hand delivery. Upon service of notice that the permit is immediately suspended, the former permit holder shall be given an opportunity to request an informal hearing. If a permit holder wants to request an informal hearing, he must submit a request in writing to the director within 10 working days after he receives notice of the suspension. The written request shall be filed with the local health director by the former holder of the permit. If written request for an informal hearing is not filed within 10 working days, the suspension is sustained. Each holder of a suspended permit shall be afforded an opportunity for an informal hearing within three working days of receipt of a request for an informal hearing. The director may end the suspension at any time if the reasons for suspension no longer exist.

12 VAC 5-501-230. Revocation.

Prior to revocation, the director shall notify in writing the holder of the permit, or the camp operator, of the specific reason or reasons for which the permit is to be revoked. The permit shall be revoked at the end of the 30 days following service of such notice unless a written request for an informal conference is filed with the director within 10 days after the permit holder received the notice of revocation. If no request for an informal conference is filed within the 10-day period, the revocation of the permit shall be final.

12 VAC 5-501-240. Application after revocation.

Any person whose permit has been revoked may apply for a new permit, after complying with these regulations, by following the procedures of these regulations.

12 VAC 5-501-250. Compliance with regulations.

The camp operator shall be responsible for ensuring that the migrant labor camp is in compliance with these and any applicable occupational safety and health regulations throughout the period for which the permit is valid.

12 VAC 5-501-260. Inspections to be conducted.

The local health director or his designated representative shall make inspections of camps occupied by migrants to determine compliance with this chapter. If a camp is found not to be in compliance, the local health department may move to suspend or revoke the permit. Migrant labor camps shall be inspected as often as necessary during their occupancy to ensure compliance with the regulations.

12 VAC 5-501-270. Inspection report.

The [~~inspector~~ director or his designated representative who conducts an inspection of a camp] shall provide the camp operator with a copy of [~~the~~ a] completed inspection report after an inspection has been conducted. The report shall indicate that the camp is [either] in compliance or shall specify which specific standards [the director or his designated representative has reason to believe] have been [or are being] violated. The inspection report shall further specify needed corrective action or abatement procedures and a date by which this action is [~~required~~ requested] to be completed or the problem abated.

12 VAC 5-501-280. Correction.

The completed inspection report [~~may~~ shall] specify a reasonable period of time for the correction of the [suspected] violations found. Where a period of time for the correction is specified, the correction shall be accomplished within the period specified and in accordance with the following provisions:

1. Should a substantial and imminent health hazard be declared by the director, including, but not limited to, substantial fire damage, sewage backing into the living or food preparation and service areas, lack of refrigeration or lack of water, the operator shall immediately cease operations. Operations shall not be resumed until authorized by the director. Authorization shall not be granted until such violations are corrected.

Final Regulations

2. All [suspected] violations identified by the department [are] to be corrected within a reasonable period of time [for correction shall be corrected or] as soon as possible, but in any event, within the period of time specified. A follow-up inspection shall be conducted by the director or his designee to confirm the corrections.

PART III. STANDARDS.

12 VAC 5-501-290. Primary source of standards.

The occupational safety and health (OSHA) standards governing temporary labor camps (29 CFR 1910.142) promulgated by the Virginia Safety and Health Codes Board shall apply to migrant labor camps, subject to the exceptions and regulations in 12 VAC 5-501-300.

12 VAC 5-501-300. Exception to occupational safety and health standards.

A. Migrant housing facilities constructed or under construction prior to April 3, 1980, or where a contract for construction was signed prior to March 4, 1980, shall be governed by either: (i) 20 CFR 654.401 et seq.; (ii) 12 VAC 5-501-250; or (iii) variances granted thereto. The choice of governing standards shall be left to the discretion of the individual camp operator. The camp operator shall specify in his application the standard by which he elects to be governed.

B. Migrant housing facilities constructed or under construction on or after April 3, 1980, or where a contract for construction was signed on or after March 4, 1980, shall be governed by the requirements of 12 VAC 5-501-290 or variances granted thereto.

12 VAC 5-501-310. Trash and garbage collections.

The camp operator shall provide either a bulk container into which family trash containers may be emptied by the migrant families or provide for a regular trash and garbage collection service. Refuse from the individual garbage cans and the bulk containers shall be disposed of by the camp operator in a manner authorized by the Solid Waste Management Regulations (9 VAC 20-80) of the Virginia Waste Management Board.

12 VAC 5-501-320. Requirements for water supplies.

All migrant labor camps shall have an approved water supply.

12 VAC 5-501-330. Requirements of sewage disposal.

All migrant labor camps shall comply with the board's regulations governing the disposal of sewage ([~~42 VAC 5-600~~ 12 VAC 5-610]), promulgated pursuant to §§ 32.1-163 through 32.1-166 of the Code of Virginia. A copy of these regulations may be obtained from the local health department.

12 VAC 5-501-340. Storage of hazardous materials.

Agricultural pesticides or toxic chemicals shall be stored in secure, partitioned areas that are separate from food and living quarters. Pesticide storage areas shall be at least 100 feet from existing wells or surface water unless barriers or environmental safeguards are present that will prevent contamination of groundwater or surface water from a

discharge. The entry to the pesticide storage area shall be clearly marked indicating that pesticides or hazardous materials are stored within. When not in use, the pesticide storage area shall be locked to minimize the unauthorized entry into the storage area. Water and personal protective equipment, as required on the labels of the stored pesticides, shall be available for employee protection in the event of a discharge or other emergency.

12 VAC 5-501-350. Conformity with Uniform Statewide Building Code.

All newly constructed migrant labor camps shall comply with the Virginia Uniform Statewide Building Code ([~~13 VAC 5-62~~ 13 VAC 5-63]).

<p>NOTICE: The form used in administering 12 VAC 5-501, Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps, is listed below.</p>
--

[FORM

Migrant Labor Camp Inspection Report, EHS-174 (rev. 12/04).]

Final Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-40).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Date: November 16, 2005.

Agency Contact: Katina Goodwyn, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-1680 or e-mail katina.goodwyn@dmas.virginia.gov.

Summary:

The amendments modify the regulations setting out reimbursement methodology for multiple source generic drugs to implement the revised Virginia Maximum Allowable Cost (VMAC). The rate will be the higher of either: (i) the lowest Wholesale Acquisition Cost (WAC) plus 10%, or (ii) the second lowest WAC plus 6.0%. Criteria are established for the pricing methodology, posting of prices, maintaining a procedure for dispute of the DMAS prices, and expediting dispute resolution.

The requirement that agencies consider wholesalers as available suppliers is removed in the final regulation.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

12 VAC 30-80-40. Fee-for-service providers: pharmacy.

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the Centers for Medicare and Medicaid Services (CMS) upper limit of VMAC cost) subject to the conditions, where applicable, set forth in subdivisions 6 and 7 of this section:

1. The upper limit established by the CMS for multiple source drugs pursuant to 42 CFR 447.331 and 447.332, as determined by the CMS Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

2. ~~The Virginia Maximum Allowable Cost (VMAC) established by the Virginia Department of Medical Assistance Services to be inclusive of appropriate multiple source and specific high cost drugs plus a dispensing fee. The VMAC methodology shall be defined as the 75th percentile cost level, or the 60th percentile cost level for unit dose drugs, of the aggregate for each generic manufacturer's drug for each Generic Code Number (GCN). Manufacturers' costs are supplied by the most current First Data Bank file. Multiple source drugs may include but are not limited to Food and Drug Administration-rated products~~

~~such as drugs established by a Virginia Voluntary Formulary (VVF) drugs, Federal Upper Limit Drugs and any other state or federally approved listing. "Multisource drugs" means covered outpatient drugs for which there are two or more drug products that:~~

~~a. Are included in the Centers for Medicare and Medicaid Services' state drug rebate program;~~

~~b. Have been approved by the Federal Food and Drug Administration (FDA);~~

~~c. Are included in the Approved Products with Therapeutic Equivalence Evaluations as generically equivalent; and~~

~~d. Are sold or marketed in Virginia.~~

2. The methodology used to reimburse for generic drug products shall be the higher of either (i) the lowest Wholesale Acquisition Cost (WAC) plus 10% or (ii) the second lowest WAC plus 6.0%. This methodology shall reimburse for products' costs based on a Maximum Allowable Cost (VMAC) list to be established by the single state agency.

a. In developing the maximum allowable reimbursement rate for generic pharmaceuticals, the department or its designated contractor shall:

(1) Identify three different suppliers, including [~~either~~] manufacturers [~~or wholesalers~~], that are able to supply pharmaceutical products in sufficient quantities. The drugs considered must be listed as therapeutically and pharmaceutically equivalent in the Food and Drug Administration's most recent version of the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book). Pharmaceutical products that are not available from three different suppliers, including [~~either~~] manufacturers [~~or wholesalers~~], shall not be subject to the VMAC list.

(2) Identify that the use of a VMAC rate is lower than the Federal Upper Limit (FUL) for the drug. The FUL is a known, widely published price provided by CMS; and

(3) Distribute the list of state VMAC rates to pharmacy providers in a timely manner prior to the implementation of VMAC rates and subsequent modifications. DMAS shall publish on its website, each month, the information used to set the Commonwealth's prospective VMAC rates, including, but not necessarily limited to:

(a) The identity of applicable reference products used to set the VMAC rates;

(b) The Generic Code Number (GCN) or National Drug Code (NDC), as may be appropriate, of reference products;

(c) The difference by which the VMAC rate exceeds the appropriate WAC price; and

(d) The identity and date of the published compendia used to determine reference products and set the VMAC rate. The difference by which the VMAC rate

exceeds the appropriate WAC price shall be at least or equal to 10% above the lowest-published wholesale acquisition cost for products widely available for purchase in the Commonwealth and shall be included in national pricing compendia.

b. Development of a VMAC rate that does not have a FULL rate shall not result in the use of higher-cost innovator brand name or single source drugs in the Medicaid program.

c. DMAS or its designated contractor shall:

(1) Implement and maintain a procedure to add or eliminate products from the list, or modify VMAC rates, consistent with changes in the fluctuating marketplace. DMAS or its designated contractor will regularly review manufacturers' pricing and monitor drug availability in the marketplace to determine the inclusion or exclusion of drugs on the VMAC list; and

(2) Provide a pricing dispute resolution procedure to allow a dispensing provider to contest a listed VMAC rate. DMAS or its designated contractor shall confirm receipt of pricing disputes within 24 hours, via telephone or facsimile, with the appropriate documentation of relevant information, e.g., invoices. Disputes shall be resolved within three business days of confirmation. The pricing dispute resolution process will include DMAS' or the contractor's verification of accurate pricing to ensure consistency with marketplace pricing and drug availability. Providers will be reimbursed, as appropriate, based on findings. Providers shall be required to use this dispute resolution process prior to exercising any applicable appeal rights.

3. The provider's usual and customary charge to the public, as identified by the claim charge.

4. The Estimated Acquisition Cost (EAC), which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the General Assembly (as set forth in subdivision 8 of this section) or, in the absence thereof, by the following methodology set out in subdivisions a through c below.

a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.

b. The survey shall reflect statistical analysis of actual provider purchase invoices.

c. The agency will conduct surveys at intervals deemed necessary by DMAS.

5. Payment for pharmacy services will be as described above however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The dispensing fee of \$3.75 (effective July 1, 2003) for brand name drugs shall remain in effect. The dispensing fee for generic drugs is \$4.00.

6. The Program pays additional reimbursement for unit dose dispensing systems of dispensing drugs. DMAS defines its unit dose dispensing system coverage consistent with that of the Board of Pharmacy of the Department of Health Professions (18 VAC 110-20-420). This service is paid only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose per capita fee to be calculated by DMAS' fiscal agent based on monthly per nursing home resident service per pharmacy provider. Only one service fee per month may be paid to the pharmacy for each patient receiving unit dose dispensing services. ~~The maximum allowed drug cost for specific multiple source drugs will be the lesser of subdivisions 1 through 4 of this section as applicable~~ *Multisource drugs will be reimbursed at the maximum allowed drug cost for specific multiple source drugs as identified by the state agency or CMS' upper limits as applicable.* All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency. The original per capita fee shall be determined by a DMAS analysis of costs related to such dispensing, and shall be reevaluated at periodic intervals for appropriate adjustment. The unit dose dispensing fee is \$5.00 per recipient per month per pharmacy provider.

7. Determination of EAC was the result of a report by the Office of the Inspector General that focused on appropriate Medicaid marketplace pricing of pharmaceuticals based on the documented costs to the pharmacy. An EAC of AWP minus 10.25% shall become effective July 1, 2002.

The dispensing fee for generic drugs of \$4.00 and the dispensing fee for brand name drugs of \$3.75 (effective July 1, 2003) shall remain in effect, creating a payment methodology based on the previous algorithm (least of 1 through 5 of this subsection above) plus a dispensing fee where applicable.

8. Home infusion therapy.

a. The following therapy categories shall have a pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the CMS 1500 claim form.

b. The cost of the active ingredient or ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.

9. Supplemental rebate agreement. Based on the requirements in § 1927 of the Social Security Act, the

Final Regulations

Commonwealth of Virginia has the following policies for the supplemental drug rebate program for Medicaid recipients:

a. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for legend drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract A and Amendment #2 to Contract A has been authorized by CMS.

b. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract B and Amendment #2 to Contract B has been authorized by CMS.

c. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract C, and Amendments #1 and #2 to Contract C has been authorized by CMS.

d. Supplemental drug rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national drug rebate agreement.

e. Prior authorization requirements found in § 1927(d)(5) of the Social Security Act have been met.

f. Nonpreferred drugs are those that were reviewed by the Pharmacy and Therapeutics Committee and not included on the preferred drug list. Nonpreferred drugs will be made available to Medicaid beneficiaries through prior authorization.

g. Payment of supplemental rebates may result in a product's inclusion on the PDL.

DOCUMENT INCORPORATED BY REFERENCE

Approved Drug Products with Therapeutic Equivalence Evaluations, 25th Edition, 2005, U.S. Department of Health and Human Services.

VA.R. Doc. No. R05-57; Filed September 28, 2005, 11:35 a.m.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13 VAC 5-21. Virginia Certification Standards (amending 13 VAC 5-21-10 through 13 VAC 5-21-70; adding 13 VAC 5-21-45).**

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

Effective Date: November 16, 2005.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments clarify current provisions by (i) removing unused terms and clarifying the meaning of other terms and (ii) moving several sections within the regulation.

Changes made to proposed regulation (i) remove the requirement of an endorsement from a supervisor in order to obtain a certificate of competence from the board, (ii) eliminate the option of a substitution for attending the code module of the VBAC prior to obtaining a certificate, and (iii) subject a certificate holder to sanctions only if he has failed to comply with an order from the State Review Board or has failed to meet required training and testing requirements.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

13 VAC 5-21-10. Definitions.

A. 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 a 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.~~

~~"BCAAC" means the Building Code Academy Advisory Committee appointed by the BHCD under subdivision 7 of § 36-137 of the Code of Virginia to advise the BHCD and the DHCD Director on policies, procedures, operations, and other matters pertinent to enhancing the delivery of training services provided by the Building Code Academy.~~

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

~~"Certificate" means a document issued by BHCD as a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board BHCD and issued to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to the Uniform Statewide Building Code Chapter 6 (§ 36-97 et seq. of the Code of Virginia) and the Statewide Fire Prevention Code of Title 36 of the Code of Virginia, Chapter 9 (§ 27-94 et seq. of the Code of Virginia) of Title 27 of the Code of Virginia, and any regulations adopted thereunder, who have completed~~

training programs or in other ways demonstrated adequate knowledge.

"Certificate holder" means any a person certified by the BHCD under this chapter and classified by DHCD as active or inactive to whom the BHCD has issued a certificate.

"Code academy" means the Virginia Building Code Academy established under subdivision 14 of § 36-139 of the Code of Virginia, and educational institutions established in accordance with or individual or regional training academies accredited by DHCD pursuant to subdivision 7 of § 36-137 of the Code of Virginia, which are accredited by DHCD under 13 VAC 5-80 to conduct classes to prepare individuals pursuing occupations in the building, amusement device or fire inspection professions or to upgrade individuals in technical phases of building amusement device or fire regulations and codes.

"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.

"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).

"Training" means the facilitation of an individual's learning that is focused on the performance of the job duties and tasks related to the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by BHCD.

"Training code academy" means training conducted by a code academy and that is divided into the following types of modules: (i) core module means the general foundation training module for persons seeking to become qualified to perform inspections and other duties under the BHCD regulations, which includes emphasis on the legal authority and the regulatory foundation of enforcement and administration of Virginia's building and fire regulations; (ii) management module means the advanced training modules for persons seeking to become qualified to manage and supervise enforcement and inspections and other functions under the BHCD regulations; and (iii) technical module means the foundation and advanced training modules for the various specialty areas related to performing plans review, inspections and other job duties under the BHCD regulations, including but not limited to areas such as building, fire

protection, plumbing, electrical, mechanical, amusement device and elevators.

"Training DFP" means training conducted under the DFP, Regulations Establishing Certification Standards for Fire Inspectors (19 VAC 15-20).

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

"USBC" means the Virginia Uniform Statewide Building Code (43 VAC 5-64 13 VAC 5-63).

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

B. Words and terms used in this chapter that are defined in the USBC, VADR, or SFPC and that are not defined in this chapter shall have the meaning ascribed to them in those regulations unless the context clearly indicates otherwise.

13 VAC 5-21-20. Purpose.

The purpose of this chapter is to establish standards to be used by persons desiring to be issued for applicants for a BHCD certificate and standards to be used by DHCD in the evaluation and determination of a person's eligibility for the issuance of BHCD certificates.

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

A. Applicants An applicant for a BHCD certificate prior to certification in categories associated with the USBC or the SFPC shall provide to DHCD for verification, a written endorsement from the code official, or the code official's supervisor, or in the case of nongovernment employees, other such documentation as proof of compliance in the locality in which they are employed certifying that the applicant complies with the qualification section as listed in the USBC, or the SFPC or VADR as applicable for each type of certificate sought. When the applicant for a BHCD certificate in categories associated with the USBC or the SFPC is a nongovernment employee, [a written endorsement from the applicant's supervisor or a person having a similar relationship to] the applicant shall [be provided certifying provide documentation] that the applicant complies with the qualification section in the USBC or the SFPC as it would relate to the applicant's job responsibilities for each type of certificate sought.

B. An applicant for a BHCD certificate in categories associated with the VADR shall provide a written endorsement from the applicant's supervisor or a person having a similar relationship to the applicant certifying that the applicant is generally qualified to conduct activities related to the VADR.

B. C. Applicants for all BHCD certificates shall provide proof of successful completion of approved examinations for each type of certificate sought, except as provided for in 13 VAC 5-21-45. DHCD shall maintain a list of approved testing agencies and examinations that meet nationally accepted standards for each type of certificate. For information on approved testing agencies and examinations contact: DHCD, Division of

Final Regulations

Building and Fire Regulation, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7180.

~~C. Upon written request by the applicant with the endorsement as required under subsection A of this section, 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. Under § 36-139 of the Code of Virginia, the DHCD may also approve other training, experience and educational offerings as equivalent to and in place of code academy technical module training. The types of such combinations of education and experience may include military training, college classes, technical schools, or long-term work experiences, except that long-term work experiences shall not be the sole substitute. DHCD may convene meetings of the BCAAC to review and advise the DHCD concerning the appropriateness of applications for certification under this section.~~

13 VAC 5-21-41. Certification categories and training requirements.

~~A. DHCD shall maintain a list of [all] BHCD certification categories and [the list shall set out the] required training [necessary to attend and complete to obtain a certificate] . [This section also contains specific training requirements for some certification categories that may be duplicated on the list or that may be in addition to those set out on the list. Alternatives to the training requirements set out in 13 VAC 5-21-45 shall be permitted for all categories on the list except that no alternative shall be accepted for the code academy core module.]~~

For [further] information on BHCD certification categories and required training, contact: DHCD, Division of Building and Fire Regulation, 501 N. 2nd St., Richmond, VA 23219, (804) 371-7180.

~~B. Prior to receiving certification, all Applicants for all BHCD certification certificates shall attend and complete the code academy core module [, except as provided for in 13 VAC 5-21-45]. In addition to the completion of the core module, applicants for the following categories of BHCD certification are required to attend and complete additional the following code academy training prior to receiving certification in accordance with the following table , except as provided for in 13 VAC 5-21-45:~~

Category of BHCD Certification	Code Academy Training
Building official	Advanced official module
Fire official	Advanced official module and the 1031 school as administered by the Department of Fire Programs <i>DFP</i>
Building maintenance official	Advanced official module and the property maintenance module
Fire prevention inspector	The 1031 school as administered by the Department of Fire Programs

	<i>DFP</i>
Amusement device inspector	Amusement device inspection module

~~Exception: Applicants for BHCD provisional certification shall comply with 13 VAC 5-21-51 C.~~

13 VAC 5-21-45. Alternatives to examination and training requirements.

~~A. An applicant for a BHCD certificate with the written endorsement [or documentation] required by 13 VAC 5-21-31 may submit a written request to DHCD to approve an [equivalent] examination by a testing agency not on the list of approved testing agencies maintained by DHCD to satisfy the examination requirements of 13 VAC 5-21-31. [Such an applicant may also submit a written request to DHCD to approve any combination of education and experience to satisfy the examination requirements. DHCD shall consider the approval of any such requests based on whether adequate knowledge has been demonstrated for the type of certification sought.] DHCD may request the assistance of BCAAC in any such consideration.~~

~~B. Upon written application by any applicant for a BHCD certificate, DHCD may approve alternative training or a combination of training, education or experience to satisfy the training requirements of 13 VAC 5-21-41 [, provided that such alternatives or combinations are determined to be equivalent to that required]. [However, as provided in 13 VAC 5-21-41, no substitutions shall be approved for the code academy core module.] The types of combinations of education and experience may include military training, college classes, technical schools or long-term work experiences, except that long-term work experiences shall not be approved as the sole substitute to satisfy the training requirements. DHCD may request the assistance of BCAAC in any such consideration.~~

13 VAC 5-21-51. ~~Certification~~ Issuance of certificates.

~~A. A BHCD certificate under this chapter shall~~ Certificates will be issued when the DHCD determines a candidate an applicant has complied with 13 VAC 5-21-31 and 13 VAC 5-21-41 the applicable requirements of this chapter for the certification sought. Certificate holders will be classified by DHCD as active or inactive. An active certificate holder is a person who is certified and who has attended all periodic training courses designated by DHCD subsequent to becoming certified. An inactive certificate holder is a person who is certified but has not attended all such training courses. An inactive certificate holder may request reinstatement from DHCD as an active certificate holder after completing make-up training courses authorized by DHCD. DHCD may also issue provisional certificates in accordance with subsection C of this section.

~~B. All certificate holders certified certificates issued by the BHCD since June 1978 are still certified considered to be valid unless revoked and shall be classified as active or inactive or suspended by the BHCD, except that provisional certificates shall remain valid as set out under subsection C of this section. Any certificate holder classified as inactive shall be deemed not to meet the certification requirements of the applicable USBC, VADR, or SFPC. Such inactive certificate~~

~~holder may complete DHCD-designated training and apply to become an active certificate holder.~~

~~C. Any person falling under any one or more of the following circumstances: [A] provisional [certificates certificate] may be issued by the BHCD to 4- (i) a noncertificate holder person who has been directed by the BHCD to obtain certification a certificate 2. A candidate seeking certification based on demonstration of adequate knowledge and experience for the certificate being sought ; (ii) an applicant requesting a certificate under the alternative examination or training provisions of 13 VAC 5-21-45; or 3- The (iii) an applicant when the required DHCD or DFP training has not been provided or offered the required training under 13 VAC 5-21-41 B or approved appropriate alternate training.~~

~~Such a provisional certificate may be issued [under any of the following conditions:] a. [1. The] candidate [applicant has satisfactorily completed the code academy core module] -[;] b. [2. The] candidate [when the] applicant has complied with 13 VAC 5-21-31 A for proof of qualifications [(i)] provided the written endorsement [or documentation] required by 13 VAC 5-21-31- [-or] e. [3. The] candidate [applicant has] complied with 13 VAC 5-21-44 [, (ii) satisfactorily completed the code academy core module, and (iii)] completed any training through the code academy or through other providers determined by DHCD to warrant the issuance of the provisional certificate.~~

~~d. Such certification is nonrenewable and shall expire one year from the date of issuance.~~

~~Exception: Such provisional certification is renewable and shall not expire one year from the date of issuance when the DHCD or DFP has not provided or offered the required training. However, the DHCD may approve appropriate alternate training.~~

~~When a provisional certificate holder has complied with the provisions of 13 VAC 5-21-31 B for a regular BHCD certificate, DHCD shall issue such certificate.~~

~~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.~~

~~E. All certificate holders certified by the BHCD shall attend continuing education training as specified by DHCD in order to maintain status as an active certificate holder.~~

The provisional certificate is valid for a period of one year after the date of issuance and shall only be issued once to any individual, except that a provisional certificate shall remain valid when the required DHCD or DFP training has not been provided or offered.

13 VAC 5-21-61. Sanctions.

When the BHCD determines a certificate holder , code official, technical assistant or an inspector of a code inspection agency or code review agency has failed to [(i) maintain a minimally acceptable level of competence] under § 36-137(6) of the Code of Virginia, [that demonstrates adequate knowledge; (ii)] comply with an order issued by the [BHCD or the] TRB, State Review Board [;] or [(iii) obtain the applicable BHCD] certification [certificate] as may be

[required] under [by the] applicable [USBC, VADR] , [or SFPC, the BHCD may impose any of the following sanctions on such enforcement personnel] covered by this chapter [: 4- failed to meet the required training or testing requirements, then] a warning letter [under this chapter] may be issued [when the BHCD determines a certificate holder] , code official, technical assistant or an inspector of a code inspection agency or code review agency [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, technical assistant or inspector [and] kept in records by DHCD for that individual [:] 2- Attendance at special training under this chapter may be ordered when the BHCD determines a certificate holder lacks an adequate level of knowledge, skill or training 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- [2. or] a certificate issued under this chapter may be revoked or suspended by the BHCD.

13 VAC 5-21-70. Appeal.

Decisions of the BHCD regarding a candidate an applicant for a certificate or a certificate holder shall be final if the candidate or certificate holder makes no appeal unless appealed.

Decisions of the BHCD Actions under this regulation are ease decisions under governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and are subject to judicial review in accordance with that law.

V.A.R. Doc. No. R04-167; Filed September 27, 2005, 11:26 a.m.

* * * * *

Title of Regulation: **13 VAC 5-31. Virginia Amusement Device Regulations (amending 13 VAC 5-31-20, 13 VAC 5-31-40 [and,] 13 VAC 5-31-50 [, 13 VAC 5-31-80, 13 VAC 5-31-100 and 13 VAC 5-31-190; adding 13 VAC 5-31-200 and 13 VAC 5-31-210).**

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

Effective Date: November 16, 2005.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments incorporate by reference the 1999 edition of the American National Standards Institute (ANSI) standard, Safety Requirements for Passenger Ropeways (B77.1-1999) and the 2003 edition of the American Society for Testing Materials (ASTM) standards, Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion Amusement Rides and Devices and Air-Supported Structures (F1159-03a) and Standard Practice for Amusement Ride and Device Manufacturer Quality Assurance Program and Manufacturing Requirements (F1193-03a).

Final Regulations

The amendments to the proposed regulations (i) update to new industry consensus standards, (ii) increase permit inspection fees for the first time in 10 years to keep up with inflation and the localities costs for conducting these safety inspections, (iii) require the operators to provide the inspectors with copies of maintenance and safety bulletins, and (iv) for the first time, provide for inspections of inflatable amusement devices and artificial climbing walls by nationally recognized standards.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

13 VAC 5-31-20. Definitions.

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

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways.

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

"Bungee cord" means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

"Carabineer" means a shaped metal device with a gate used to connect sections of a bungee cord, jump rigging, equipment, or safety gear.

"DHCD" means the Virginia Department of Housing and Community Development.

"Gravity ride" means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

"Ground operator" means a person who assists the jump master to prepare a jumper for jumping.

"Harness" means an assembly to be worn by a bungee jumper to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

"Jump master" means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

"Jump zone" means the space bounded by the maximum designed movements of the bungee jumper.

"Jumper" means the person who departs from a height attached to a bungee system.

"Landing area" means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the bungee jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

"Operating manual" means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

"Passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or ropes, and usually supported by trestles or towers with one or more spans.

"Platform" means the equipment attached to the structure from which the bungee jumper departs.

"Private inspector" means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in an amusement device being inspected.

"Ultimate tensile strength" means the greatest amount of load applied to a bungee cord prior to failure.

"USBC" means the Virginia Uniform Statewide Building Code (~~43 VAC 5-61-10 et seq.~~ 13 VAC 5-63).

B. Words and terms used in this chapter which are defined in the USBC shall have the meaning ascribed to them in that regulation unless the context clearly indicates otherwise.

C. Words and terms used in this chapter which are defined in the standards incorporated by reference in this chapter shall have the meaning ascribed to them in those standards unless the context clearly indicates otherwise.

13 VAC 5-31-40. Incorporated standards.

A. The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. ~~B77.1-90~~ B77.1-1999 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. F698-94 ([~~Reapproved~~] 2000) , F747-97, F770-93 [(2000)] , F846-92 [(2003)] , [~~F853-98~~ F853-04] , [~~F893-87~~ (Reapproved 2000) F893-04] , F1159-97a F1159-03a , F1193-97 [~~F1193-03a~~ F1193-04] , F1305-94 ([~~Reapproved~~] 2002) , F1950-99, F1957-99 [and ,] F2007-00 [, F2137-01, F2291-04 and F2374-04] for the regulation of amusement devices.

The standards referenced above may be procured from:

ANSI	ASTM
44 W 42nd 25 W 43rd Street New York, NY 10036	100 Barr Harbor Dr. West Conshohocken, PA 19428-2959

B. The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

C. The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in

activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;

2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and (ii) one operator is permitted to operate two kiddie rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and

3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

13 VAC 5-31-50. Certification of amusement device inspectors.

A. Any person, including local building department personnel, inspecting an amusement device relative to a certificate of inspection shall possess a valid certificate of competence as an amusement device inspector from the ~~BHCD~~ Virginia Board of Housing and Community Development.

B. Local building department personnel enforcing this chapter and private inspectors shall attend periodic training courses as designated and required by DHCD.

[13 VAC 5-31-80. Owner or operator responsibilities.

In addition to other applicable requirements of this chapter, the owner or operator of an amusement device or devices shall be responsible for the following:

1. Submitting a permit application to the responsible local building department at least five days before a permit to operate, or renewal of a permit to operate, is sought. The permit application shall include (i) the name of the owner, operator or other person assuming responsibility; (ii) a general description of the device or devices to be permitted; (iii) any relevant serial or identification numbers; (iv) the location of the property on which the device or devices will be operated; and (v) the length of time the device or devices will be operating at the site;

2. Submitting an application for modification of any provision of this chapter when a modification is sought due to practical difficulties involved in complying with this chapter. The application for modification shall include documentation outlining the practical difficulties and method proposed to protect the public health, safety and welfare;

3. Submitting to the responsible local building department before or with the application for a permit to operate, or renewal of a permit to operate, proof of liability insurance of an amount not less than ~~\$300,000~~ \$500,000 per occurrence or proof of equivalent financial responsibility and notifying

the responsible local building department promptly of any change in the liability insurance or financial responsibility status during the period of operation to be, or which is, authorized by the permit;

4. Obtaining a permit to operate from the responsible local building department prior to operation or obtaining the renewal of a permit to operate when necessary prior to continued operation. Notwithstanding the above, a permit for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site. However, in such cases, the responsible local building department shall be notified prior to operation and such notification shall include the information required on a permit application as stipulated in subdivision 1 of this subsection;

5. Making available to the inspector at the time of inspection for a certificate of inspection the information listed in §§ ~~3-4 2.1 through 3-6 2.6~~ of ASTM F698-94 when an amusement device was manufactured prior to 1978;

6. *The operator of an amusement device shall review promptly upon receipt all manufacturer's notifications, service bulletins and safety alerts relating to such amusement device issued pursuant to ASTM F853. The operator of the amusement device shall comply with all recommendations and requirements set out in such documents as required by ASTM F853. A copy of each such document shall be retained by the operator. Whenever such amusement device is inspected pursuant to these regulations, the operator of the amusement device shall present each such document to the inspector. It is the responsibility of the operator of an amusement device to maintain contact with the manufacturer to insure that the manufacturer knows which devices are operated by the operator and to insure that the manufacturer has the current address of the operator.*

~~6-~~ 7. Obtaining a certificate of inspection from the responsible local building department (i) prior to initial operation; (ii) prior to operation following a major modification; (iii) prior to each seasonal operation; (iv) at least once a year if operated more than seasonally; and (v) prior to resuming operation following an order from the local building department to cease operation. Notwithstanding the above, a certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site; and

~~7-~~ 8. Ceasing operation upon receipt of a temporary order to cease operation issued by the responsible local building department.

Final Regulations

13 VAC 5-31-100. Local building department.

The local building department's official or representative shall be permitted to do the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Collect fees for a permit to operate, renewal of a permit to operate and inspections conducted by staff to issue a certificate of inspection. The total for fees associated with one permit to operate and any associated inspections or one renewal of a permit to operate and any associated inspections shall not exceed the following:
 - a. ~~\$15~~ \$25 for each kiddie ride under the permit;
 - b. ~~\$25~~ \$35 for each circular ride or flat-ride ~~under the permit which can be inspected from less than 20 feet above ground in height under the permit, and~~
 - c. ~~\$45~~ \$55 for each ~~other type of amusement device~~ ~~spectacular ride~~ under the permit: ~~that cannot be inspected as a circular ride or flat-ride in subdivision 1 (b) of this section due to complexity or height; and~~
 - d. \$150 for coasters that exceed 30 feet in height.

Notwithstanding the above, the fee for each amusement device under the permit shall be reduced by 50% when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector;

2. In addition to the above, require permits and charge fees as appropriate under the USBC for amusement devices which are being initially constructed in whole or in part at a site within the jurisdiction for intended operation at that site. This authorization does not apply to an amusement device which is only being reassembled or undergoing a major modification at a site or being moved to a site for operation;
3. Approve modifications of this chapter upon determination that the public health, safety and welfare are assured;
4. Conduct an inspection at any time when the device would normally be open for operation, or at any other time if permission is granted by the owner or operator, for compliance with this chapter; and
5. Issue an order to temporarily cease the operation of an amusement device upon determination that it may be unsafe or otherwise endanger the public. The temporary order shall remain in effect until a new certificate of inspection is issued.

13 VAC 5-31-190. General requirements.

In addition to other applicable requirements of this chapter, concession go-karts shall be operated, maintained and inspected in accordance with ASTM F2007-00.

*PART VII.
INFLATABLE AMUSEMENT DEVICES.*

13 VAC 5-31-200. General requirements.

In addition to other applicable requirements of this chapter, inflatable amusement devices shall be operated, maintained and inspected in accordance with ASTM F2374.

*PART VIII.
ARTIFICIAL CLIMBING WALLS.*

13 VAC 5-31-210. General requirements.

In addition to other applicable requirements of this chapter, artificial climbing walls shall be operated, maintained and inspected in accordance with ASTM F1159.]

DOCUMENT INCORPORATED BY REFERENCE

ASTM International Standards on Amusement Rides and Devices, 7th Edition, 2004.

VA.R. Doc. No. R04-168; Filed September 27, 2005, 11:26 a.m.

Title of Regulation: **13 VAC 5-51. Virginia Statewide Fire Prevention Code (amending 13 VAC 5-51-21, 13 VAC 5-51-31, [13 VAC 5-51-41, 13 VAC 5-51-51, 13 VAC 5-51-61, 13 VAC 5-51-81, 13 VAC 5-51-91, 13 VAC 5-51-121], 13 VAC 5-51-130, [13 VAC 5-51-131, 13 VAC 5-51-132, 13 VAC 5-51-133,] 13 VAC 5-51-135, [13 VAC 5-51-150, and 13 VAC 5-51-155]; [adding 13 VAC 5-51-133.5, 13 VAC 5-51-134, 13 VAC 5-51-135.5, 13 VAC 5-51-145, 13 VAC 5-51-152, and 13 VAC 5-51-154;] repealing 13 VAC 5-51-136 [and 13 VAC 5-51-155]).**

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

Effective Date: November 16, 2005.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments (i) update the International Fire Code (IFC) incorporated by reference in the regulation from the 2000 edition to the 2003 edition; (ii) update references to the Uniform Statewide Building Code (USBC) including references to USBC retrofit provisions relating to fire protection equipment and system requirements; and (iii) delete language in the existing regulation made redundant by the adoption of the 2003 IFC.

The substantive changes made to the proposed regulation deal with the display and storage of smokeless powder; the use of naturally cut trees in homes and sprinkled buildings; the inspections of nightclubs, private hospitals, dormitories and schools; the allowance of alcohol-based dispensers to be mounted on walls in the hallways of hospitals and other health care facilities; and provisions to store LP-gas containers for retail purposes closer to openings.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

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

A. 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 101.0. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

B. 102.1.1. Changes: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group of occupancies, unless such structure is made to comply with the requirements of this code and the USBC.

C. 102.2. Application to pre-1973 buildings and structures: Buildings and 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 provided and approved when constructed shall be maintained. Such buildings and 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.

D. 102.3. Application to post-1973 buildings and structures: Buildings and 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 provided and approved when constructed shall be maintained.

E. 102.4. Referenced codes and standards: The codes and standards referenced in the IFC shall be those listed in Chapter 45 and considered part of the requirements of the SFPC to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

F. 102.5. Subsequent alteration: Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of structures shall be subject to the current USBC.

G. 102.6. State structures: The SFPC shall be applicable to all state-owned structures in the manner and extent described in § 27-99 of the Code of Virginia.

H. 102.7. 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.

I. 102.8. Existing structures: Upon the completion of structures, responsibility for fire safety protection shall pass to the local fire 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.

J. 102.9. Inspections for USBC requirements: The fire official shall require that existing structures subject to the requirements of the applicable retrofitting provisions relating to the fire protection equipment and system requirements of the USBC, ~~Section 123~~ [New Part 1,] Construction [Code],

~~Sections 103.7 and 3411~~, comply with the provisions located therein.

13 VAC 5-51-31. Section 103.0. Incorporation by reference.

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

The International Fire ~~Code/2000 Code~~ - 2003 Edition, hereinafter referred to as "IFC," published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401, phone 703-931-4533.

B. 103.1.1. Deletion: Delete IFC Chapter 1.

[C. 103.1.2. Appendices: The appendices in the IFC are not considered part of the IFC for the purposes of Section 103.1.

Note: Section 101.5 references authority contained in the Code of Virginia for local fire prevention regulations that may be evaluated by localities to determine whether provisions in the IFC appendices may be considered for local fire prevention regulations.]

[~~C. D.~~] 103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, unsafe notices, disputes, condemnation, inspections, scope of enforcement and all other procedural, and administrative matters are deleted and replaced by the provisions of Chapter 1 of the SFPC.

[~~D. E.~~] 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 IFC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the IFC and referenced standards, the provisions changed by the BHCD shall govern.

Note: The IFC 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 IFC 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 IFC and its referenced standards are fully applicable.

[~~E. F.~~] 103.3. International Fire Code. Retroactive fire protection system requirements contained in the IFC shall not be enforced unless specified by the USBC.

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

A. 104.1. Local enforcement: Any local government may enforce the SFPC following official action by such body. The official action shall (i) require compliance with the provisions of the SFPC in its entirety or with respect only to those provisions of the SFPC relating to open burning, fire lanes, fireworks, and hazardous materials and (ii) assign enforcement responsibility to the local agency or agencies of its choice. Any local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. If a local

Final Regulations

governing body elects to enforce only those provisions of the SFPC relating to open burning, it may do so in all or in any designated geographic areas of its jurisdiction. The terms "enforcing agency" and "fire official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been assigned. The terms "building official" or "building department" are intended to apply only to the local building official or local building department.

B. 104.1.1. Enforcement of fireworks provisions by law-enforcement officers: In accordance with § 27-100.1 of the Code of Virginia, law-enforcement officers who are otherwise authorized to enforce certain provisions of this code shall not be subject to the certification requirements of Sections 105.2 or 105.3.2.

~~B.~~ C. 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.

~~C.~~ D. 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 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 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 official of the corrective measures taken to eliminate the hazards reported by the fire 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. 105.1. Fire official: Each enforcing agency shall have an executive official in charge, hereinafter referred to as the "fire official."

Note: Fire officials are subject to sanctions in accordance with the Virginia Certification Standards (13 VAC 5-21).

B. 105.1.1. Appointment: The fire official shall be appointed in a manner selected by the local government having jurisdiction. After permanent appointment, the fire 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. 105.1.2. Notification of appointment: The appointing authority of the local governing body shall notify the DHCD within 30 days of the appointment or release of the permanent or acting fire official.

D. 105.1.3. Qualifications: The fire official shall have at least five years of fire-related experience as a *firefighter, fire officer, licensed professional engineer or architect, fire or building inspector, contractor or superintendent of fire protection-related or building construction or at least five years of fire-related experience after obtaining a degree in architecture or engineering*, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The fire official shall have general knowledge of sound engineering practice with respect to the design and construction of structures, the basic principles of fire prevention and protection, 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. 105.2. Certification: The permanent or acting fire official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21) within one year after permanent or acting appointment.

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

~~F. 105.2.1. Noncertified~~ *Noncertified fire official: After permanent or Except for a fire official exempt from certification under the exception to Section 105.2, any acting appointment, a non-BHCD-certified or permanent fire official who is not certified as a fire official in accordance with the Virginia Certification Standards (13 VAC 5-21) shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such fire official shall attend the core program module of the Virginia Building Code Academy or its an equivalent course in a an individual or regional code academy accredited by DHCD accredited academy within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 105.2.*

G. 105.3. *Technical assistant: The local governing body or its designee may appoint utilize one or more technical assistants who, in the absence of the fire official, shall have the powers and perform the duties of the fire official.*

Note: *Technical Assistants are subject to sanctions in accordance with the Virginia Certification Standards (13 VAC 5-21).*

H. 105.3.1. Notification: The fire official shall notify the DHCD within 60 days of the employment, contract or termination of all *technical* assistants for enforcement of the SFPC.

I. 105.3.2. *Qualifications: A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: fire protection, firefighting, electrical, building, plumbing or mechanical trades. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.*

~~I. 105.3.2.~~ J. 105.3.3. Certification: All *technical* assistants employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21) within one and one-half years after permanent or acting appointment. When required by a locality to have two or more certifications, the remaining certifications shall be obtained within three years from the date of such requirement.

Exception: Any *technical* assistant 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 section; however, such exempt *technical* assistant shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21).

J. K. 105.4. Continuing education: Fire officials and *technical* assistants enforcing the SFPC shall attend periodic training courses as designated by the DHCD.

~~K. L.~~ L. 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 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

13 VAC 5-51-61. Section 106.0. Duties and powers of the fire official.

A. 106.1. General: The fire 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. 106.2. Delegation of duties and powers: The fire official may delegate duties and powers subject to any limitations imposed by the local governing body. The fire official shall be responsible that any powers and duties delegated are carried out in accordance with this code.

C. 106.3. Inspections: The fire official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals. All reports of such inspections by approved agencies or individuals shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The fire official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues in accordance with local policies.

D. 106.3.1. Observations: When, during an inspection, the fire 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. 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. 106.5. Modifications: The fire 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.

Note: The current editions of many nationally recognized model codes and standards are referenced by the SFPC. Future amendments to such codes and standards do not automatically become part of the SFPC; however, the fire official should consider such amendments in deciding whether a modification request should be granted.

G. 106.5.1. Supporting data: The fire 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 official shall approve the use of such alternative subject to the requirements of this code. The fire 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. 106.5.2. Decision: The application for modification and the final decision of the fire official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

I. 106.6. Notices and orders: The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

J. 106.7. Department records: The fire 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 5-51-81. Section 107.0. Permits.

A. 107.1. Prior notification: The fire 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.

<p>Cryogenic fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p> <p style="text-align: center;">Permit Amounts for Cryogenic Fluids</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><i>Type of Cryogenic Fluid</i></th> <th style="text-align: center;">Inside Building <i>(gallons)</i></th> <th style="text-align: center;">Outside Building <i>(gallons)</i></th> </tr> </thead> <tbody> <tr> <td>Flammable</td> <td style="text-align: center;">More than 1</td> <td style="text-align: center;">60</td> </tr> <tr> <td>Inert</td> <td style="text-align: center;">60</td> <td style="text-align: center;">500</td> </tr> <tr> <td>Oxidizing (includes oxygen)</td> <td style="text-align: center;">10</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Physical or health hazard not indicated above</td> <td style="text-align: center;">Any Amount</td> <td style="text-align: center;">Any Amount</td> </tr> </tbody> </table> <p>For SI: 1 gallon = 3.785 L.</p>	<i>Type of Cryogenic Fluid</i>	Inside Building <i>(gallons)</i>	Outside Building <i>(gallons)</i>	Flammable	More than 1	60	Inert	60	500	Oxidizing (includes oxygen)	10	50	Physical or health hazard not indicated above	Any Amount	Any Amount			
<i>Type of Cryogenic Fluid</i>	Inside Building <i>(gallons)</i>	Outside Building <i>(gallons)</i>																
Flammable	More than 1	60																
Inert	60	500																
Oxidizing (includes oxygen)	10	50																
Physical or health hazard not indicated above	Any Amount	Any Amount																
<p>Cutting and welding. An operational permit is required to conduct cutting or welding operations within the jurisdiction.</p>																		
<p>Dry cleaning plants. An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.</p>																		
<p>Exhibits and trade shows. An operational permit is required to operate exhibits and trade shows.</p>																		
<p>Explosives. An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.</p>																		
<p>Fire hydrants and valves. An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.</p> <p>Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.</p>																		
<p>Flammable and combustible liquids. An operational permit is required:</p> <ol style="list-style-type: none"> 1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) (see § 3501.1.2) nor does it apply to piping systems (see § 3503.6). 2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following: <ol style="list-style-type: none"> 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition. 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days. 3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment. 4. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes. 5. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used. 6. To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above- 																		

Final Regulations

ground flammable or combustible liquid tank.			
7. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.			
8. To manufacture, process, blend or refine flammable or combustible liquids.			
Floor finishing. An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m ²) using Class I or Class II liquids.			
Fruit and crop ripening. An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.			
Fumigation and thermal insecticidal fogging. An operational permit is required to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.			
Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below.			
Permit Amounts for Hazardous Materials			
<i>Type of Material</i>	<i>Amount</i>		
Combustible liquids	See flammable and combustible liquids		
Corrosive materials			
Gases	See compressed gases		
Liquids	55 gallons		
Solids	1000 pounds		
Explosive materials	See explosives		
Flammable materials			
Gases	See compressed gases		
Liquids	See flammable and combustible liquids		
Solids	100 pounds		
Highly toxic materials			
Gases	See compressed gases		
Liquids	Any Amount		
Solids	Any Amount		
Oxidizing materials			
Gases	See compressed gases		
Liquids			
Class 4	Any Amount		
Class 3	1 gallon		
Class 2	10 gallons		
Class 1	55 gallons		
Solids			
Class 4	Any Amount		
Class 3	10 pounds		
Class 2	100 pounds		
Class 1	500 pounds		
Organic peroxides			
Liquids			
Class I	Any Amount		
Class II	Any Amount		
Class III	1 gallon		
Class IV	2 gallons		

Class V	No Permit Required			
Solids				
Class I	Any Amount			
Class II	Any Amount			
Class III	10 pounds			
Class IV	20 pounds			
Class V	No Permit Required			
Pyrophoric materials				
Gases	See compressed gases			
Liquids	Any Amount			
Solids	Any Amount			
Toxic materials				
Gases	See compressed gases			
Liquids	10 gallons			
Solids	100 pounds			
Unstable (reactive) materials				
Liquids				
Class 4	Any Amount			
Class 3	Any Amount			
Class 2	5 gallons			
Class 1	10 gallons			
Solids				
Class 4	Any Amount			
Class 3	Any Amount			
Class 2	50 pounds			
Class 1	100 pounds			
Water-reactive Materials				
Liquids				
Class 3	Any Amount			
Class 2	5 gallons			
Class 1	55 gallons			
Solids				
Class 3	Any Amount			
Class 2	50 pounds			
Class 1	500 pounds			
For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.				
HPM facilities. An operational permit is required to store, handle or use hazardous production materials.				
High piled storage. An operational permit is required to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m ²).				

Final Regulations

<p>Hot work operations. An operational permit is required for hot work including, but not limited to:</p> <ol style="list-style-type: none"> 1. Public exhibitions and demonstrations where hot work is conducted. 2. Use of portable hot work equipment inside a structure. <p>Exception: Work that is conducted under a construction permit.</p> <ol style="list-style-type: none"> 3. Fixed-site hot work equipment such as welding booths. 4. Hot work conducted within a hazardous fire area. 5. Application of roof coverings with the use of an open-flame device. 6. When approved, the fire official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in this chapter. These permits shall be issued only to their employees or hot work operations under their supervision. 			
<p>Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 21.</p>			
<p>Lumber yards and woodworking plants. An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft³) (236 m³).</p>			
<p>Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.</p>			
<p>LP-gas. An operational permit is required for:</p> <ol style="list-style-type: none"> 1. Storage and use of LP-gas. <p>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less serving occupancies in Group R-3.</p> <ol style="list-style-type: none"> 2. Operation of cargo tankers that transport LP-gas. 			
<p>Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>			
<p>Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m³) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.</p>			
<p>Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.</p> <p>Exception: Recreational fires.</p>			
<p>Open flames and candles. An operational permit is required to remove paint with a torch; use a torch or open-flame device in a hazardous fire area; or to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>			
<p>Organic coatings. An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.</p>			
<p>Assembly/educational. An operational permit is required to operate a place of assembly /educational occupancy.</p>			
<p>Private fire hydrants. An operational permit is required for the removal from service, use or operation of private fire hydrants.</p> <p>Exception: An operational permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.</p>			
<p>Pyrotechnic special effects material. An operational permit is required for use and handling of pyrotechnic special effects material.</p>			

Pyroxylin plastics. An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the assembly or manufacture of articles involving pyroxylin plastics.			
Refrigeration equipment. An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.			
Repair garages and service stations. An operational permit is required for operation of repair garages and automotive, marine and fleet service stations.			
Rooftop heliports. An operational permit is required for the operation of a rooftop heliport.			
Spraying or dipping. An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 15.			
Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m ³) of total volume of scrap tires and for indoor storage of tires and tire byproducts.			
Temporary membrane structures, tents and canopies. An operational permit is required to operate an air-supported temporary membrane structure or a tent. Exceptions: 1. Tents used exclusively for recreational camping purposes. 2. Tents and air-supported structures that cover an area of 900 square feet (84 m ²) 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. 3. Fabric canopies and awnings open on all sides which comply with all of the following: 3.1. Individual canopies shall have a maximum size of 700 square feet (65 m ²). 3.2. The aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet (3658 mm) shall not exceed 700 square feet (65 m ²) total. 3.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.			
Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.			
Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.			
Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m ³).			

D. 107.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire official.

E. 107.4. Issuance of permits: Before a permit is issued, the fire 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.

F. 107.5. 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.

G. 107.5.1. Special conditions for the State Fire Marshal's Office: Permits issued by the State Fire Marshal's Office for the use of explosives in special operations or under emergency conditions shall be valid for one week from the date of issuance and shall not be renewable.

H. 107.6. 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, and for the display of fireworks on state-owned property.

Exception: Such permits shall not be required for the storage 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 within areas where enforcement is provided by the State Fire Marshal's office.

I. 107.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

J. 107.8. Approved plans: Plans approved by the fire 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.

Final Regulations

K. 107.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

L. 107.10. 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.

M. 107.11. Revocation of permit: The fire 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.

N. 107.12. Local permit fees: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

O. 107.13. State *explosives, blasting agents and fireworks* permit fees: Fees for permits issued by the State Fire Marshal's office for the storage, use, sale or manufacture of explosives or blasting agents, and for the display of fireworks on state-owned property shall be as follows:

1. \$100 per year per magazine to store explosives and blasting agents.
2. \$150 per year per city or county to use explosives and blasting agents.
3. \$150 per year to sell explosives and blasting agents.
4. \$200 per year to manufacture explosives, blasting agents and fireworks.
5. ~~\$200~~ \$250 per ~~event~~ day for fireworks, pyrotechnics or proximate audience displays conducted indoor of any state-owned buildings *and \$75 per day for each subsequent day.*
6. ~~\$100~~ \$150 per ~~event~~ day for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property *and \$75 per day for each subsequent day.*
7. \$75 per event for the use of explosives in special operations or emergency conditions.

P. 107.14 *State annual inspection permit fees. Annual fees for inspection permits issued by the State Fire Marshal's office for the inspection of buildings shall be as follows:*

1. *Nightclubs.*
 - 1.1. \$350 for occupant load of 100 or less.
 - 1.2. \$450 for occupant load of 101 to 200.
 - 1.3. \$500 for occupant load of 201 to 300.
 - 1.4. \$500 plus \$50 for each 100 occupants where occupant loads exceed 300.
2. *Private schools (kindergarten through 12th grade) and private college dormitories with or without assembly areas. If containing assembly areas, such assembly areas are not included in the computation of square footage.*
 - 2.1. \$150 for 3500 square feet or less.

2.2. \$200 for greater than 3500 square feet up to 7000 square feet.

2.3. \$250 for greater than 7000 square feet up to 10,000 square feet.

2.4. \$250 plus \$50 for each additional 3000 square feet where square footage exceeds 10,000.

3. *Assembly areas that are part of private schools (kindergarten through 12th grade) or private college dormitories.*

3.1. \$50 for 10,000 square feet or less provided the assembly area is within or attached to a school or dormitory building.

3.2. \$100 for greater than 10,000 square feet up to 25,000 square feet provided the assembly area is within or attached to a school or dormitory building, such as gymnasiums, auditoriums or cafeterias.

3.3. \$100 for up to 25,000 square feet provided the assembly area is in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.

3.4. \$150 for greater than 25,000 square feet for assembly areas within or attached to a school or dormitory building or in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.

4. *Hospitals.*

4.1. \$300 for 1 to 50 beds.

4.2. \$400 for 51 to 100 beds.

4.3. \$500 for 101 to 150 beds.

4.4. \$600 for 151 to 200 beds.

4.5. \$600 plus \$100 for each additional 100 beds where the number of beds exceeds 200.

Exception: Annual inspection permits for any building or groups of buildings on the same site may not exceed \$2500.

~~P. 107.14.~~ Q. 107.15. 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.

~~Q. 107.15.~~ R. 107.16. Payment of fees: A permit shall not be issued until the designated fees have been paid.

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

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

A. 109.1. Inspection: The fire 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 fire official from inspecting under § 27-98.2 of the Code of Virginia for hazardous conditions relating to explosives, flammable and combustible conditions, and hazardous materials.

B. 109.1.1. Right to entry: The fire 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 fire 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 27-98.5 of the Code of Virginia and shall be taken into consideration.

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

D. 109.2. Coordinated inspections: The fire 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 IFC, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

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

E. 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 5-51-121. Section 112.0. Appeals.

A. 112.1. 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).

B. 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.

C. 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.

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

E. 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.

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 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

G. 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 of the structure may appeal a decision of the fire official concerning the application of the SFPC or the fire official's refusal to grant modification under Section 106.5 to the provisions of the SFPC. The appeal shall first lie to the local board of fire prevention code appeals (BFPCA) and then to the TRB, ~~except as provided for appeals concerning state-owned structures in Section 112.9 that appeals concerning the application of the SFPC or refusal to grant modifications by the State Fire Marshal shall be made directly to the TRB.~~ The appeal shall be submitted to the BFPCA within 14 calendar days of the application of the SFPC. 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 fire 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 fire official's decision.

H. 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.

I. 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 representative and

Final Regulations

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. 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.

K. 112.8. Decision: The BFPCA shall have the power to uphold, reverse or modify the decision of the fire 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 fire official shall act accordingly.

L. 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 *upon receipt by certified mail of this resolution*. Application forms are available from the Office of the TRB, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7150." Copies of the resolution shall be furnished to all parties.

M. 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 fire 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. *Application for appeal to the TRB arising from the SFMO's enforcement of the code shall be made to the TRB within 14 calendar days of receipt of the decision to be appealed and shall be accompanied by copies of the inspection reports and other relevant information.* 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 fire official's decision.

N. 112.9.1. Information to be submitted: Copies of the fire 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 inspection reports and 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 fire official's decision and other relevant information.~~

O. 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. IFC Section 202.0. Definitions.

A. Add the following definitions:

Background clearance card: See section 3301.0.

Blaster, restricted: See section 3301.0.

Blaster, unrestricted: See section 3301.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government, local governing body or locality: The governing body of any county, city, or town, other political subdivision and state agency in this Commonwealth charged with the enforcement of the SFPC under state law.

[*Night club: Any building or portion thereof in which the main use is a place of public assembly that provides exhibition, performance or other forms or entertainment; serves alcoholic beverages; and provides music and space for dancing.*]

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 (Groups R-2, R-3, R-4 and R-5).

Technical Assistant: Any person employed by [;] or under [*an extended*] contract to [;] a local enforcing agency for enforcing the SFPC. [*For the purposes of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.*]

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (~~43 VAC 5-61-10 et seq.~~ 13 VAC 5-63).

[*B. Add the following definition under the term "Occupancy Classification – Residential Group R":*

R-5 Detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures. The terms "R-5" and "one and two-family dwelling" where used in this code shall be interchangeable.]

[~~B. C.~~] Change the following definition to read:

Code official, fire official or fire 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," "fire official," or "fire code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

[13 VAC 5-51-131. IFC Chapter 3. Precautions Against Fire.

A. Add Section 301.3 to read:

301.3. Occupancy. The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special

provisions of this code or the USBC without the approval of the building official.

B. Change Section 304.3.2 to read:

304.3.2. Capacity exceeding 5.88 cubic feet. Containers with a capacity exceeding 5.88 cubic feet (44 gallons) (0.17 m³) shall be provided with lids. Containers and lids shall be constructed of noncombustible materials or approved combustible materials.

C. Change Section 314.1 to read:

314.1. General. Indoor displays constructed within any building or structure shall comply with Sections 314.2 through 314.5.

D. Add Section 314.5 to read:

314.5. Smokeless powder and small arms primers. Venders shall not store, display or sell smokeless powder or small arms primers during trade shows inside exhibition halls except as follows:

1. The amount of smokeless powder displayed by each vender is limited to the amount established in Section 3306.5.1.1.
2. The amount of smokeless powder each vender may store is limited to the storage arrangements and storage amounts established in Section 3306.5.2.1. Smokeless powder shall remain in the manufacturer's original sealed container and the container shall remain sealed while inside the building. The repackaging of smokeless powder shall not be performed inside the building. Damaged containers shall not be repackaged inside the building and shall be immediately removed from the building in such manner to avoid spilling any powder.
3. There shall be at least 50 feet separation between venders and 20 feet from any exit.
4. Small arms primers shall be displayed and stored in the manufacturer's original packaging and in accordance with the requirements of Section 3306.5.2.3.

E. Change section 315.3 to read:

315.3. Outside storage. Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a property line or other building on the site.

Exceptions:

1. The separation distance is allowed to be reduced to 3 feet (914 mm) for storage not exceeding 6 feet (1829 mm) in height.
2. The separation distance is allowed to be reduced when the fire official determines that no hazard to the adjoining property exists.

13 VAC 5-51-132. IFC Chapter 4. Emergency Planning and Preparedness.

A. Add section 401.1.1 to read:

401.1.1. State Regulated Care Facilities: when a state license is required 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 to operate, SRCF shall comply with this section and the provisions of section 404.0.

B. Add item 12 to section 404.2 to read:

12. SRCF.

C. Add the following category to Table 405.2 to read:

<u>Group or occupancy</u>	<u>Frequency^a</u>	<u>Participation</u>
SRCF	Monthly	All occupants

D. Add Section 405.2.1 to read:

405.2.1. High-rise buildings. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

E. Add Section 408.1.1 to read:

408.1.1. Maintaining occupant load posting. Occupant load postings required by the building code are required to be maintained.

F. Change Section 408.2 to read:

408.2. Group A occupancies. Group A occupancies shall comply with applicable requirements of Sections 408.2.1 through 408.2.3 and 401 through 406.

G. Add Sections 408.2.3, 408.2.3.1 and 408.2.3.2 to read:

408.2.3. Night clubs. Night clubs shall comply with Sections 408.2.3.1 and 408.2.3.2.

408.2.3.1. Audible announcements. Audible announcements shall be made to the occupants no longer than 10 minutes prior to the start of the entertainment and at each intermission to notify the occupants of the location of the exits to be used in the event of a fire or other emergency.

408.2.3.2. Occupant load count. Upon request of the fire code official, the owner or operator, or both, will be required to keep a running count of the occupant load to provide to the fire code official during performance hours of operation, entertainment hours of operation, or both.

13 VAC 5-51-133. IFC Chapter 5. Fire Service Features.

A. Delete section 501.4.

B. Add exceptions to section 503.1 to read:

Exceptions:

1. Fire apparatus access roads shall be permitted to be provided and maintained in accordance with written policy that establish fire apparatus access road requirements and such requirements shall be identified to the owner or his agent prior to the building official's approval of the building permit.
2. On construction and demolition sites fire apparatus access roads shall be permitted to be provided and maintained in accordance with section 1410.1.

Final Regulations

C. Change section 508.5.1 to read:

508.5.1. Where required. Fire hydrant systems shall be located and installed as directed by the fire department. Fire hydrant systems shall conform to the written standards of the jurisdiction and the fire department.

D. Add Section 503.7 to read:

503.7. Fire lanes for existing buildings. The fire code official is authorized to designate public and private fire lanes as deemed necessary for the efficient and effective operation of fire apparatus. Fire lanes shall comply with Sections 503.2 through 503.6.

13 VAC 5-51-133.5. IFC Chapter 6. Building Services and Systems.

A. Change Section 603.5.2 to read:

603.5.2. Heating appliance installation and maintenance. Heating appliances shall be installed and maintained in accordance with the manufacturer's instructions, the International Building Code, the International Mechanical Code, the International Fuel Gas Code and the ICC Electrical Code.

B. Add a note to Section 603.7 to read:

Note: The fire code official may request a copy of the latest certificate of inspection from the Virginia Department of Labor and Industry for boilers and pressure vessels subject to such requirements. When the certificate is not available, the fire code official shall notify the Department of Labor and Industry to ensure that the required maintenance and testing is performed in accordance the Virginia Boiler and Pressure Vessel Regulations (16 VAC 25-50).

13 VAC 5-51-134. IFC Chapter 8. Interior Finish, Decorative Materials and Furnishings.

Change Section 804.1.1 to read:

804.1.1. Restricted occupancies. Natural cut trees shall be prohibited in Group A, E, I-1, I2, I-3, I-4, M, R-1, R-2 and R-4 occupancies.

Exceptions:

1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 shall not be prohibited in Groups A, E, M, R-1 and R-2.
2. Trees shall be permitted within dwelling units in Group R-2 occupancies.
3. Trees shall be permitted in places of worship in Group A occupancies.]

13 VAC 5-51-135. IFC Chapter 9. Fire Protection Systems.

[A. Change Section 901.4.2 to read:

901.4.2. Nonrequired fire protection systems. Nonrequired fire protection systems shall be maintained to function as originally installed. If any such systems are to be reduced in function or discontinued, approval shall be obtained from the

building official in accordance with Section 103.8.1 of Part I of the USBC.]

[~~A. B.~~] Delete section 901.4.3.

[~~B. C.~~] Change section 901.6 to read:

901.6. Inspection, testing and maintenance. To the extent that equipment, systems, devices, and safeguards, such as fire detection, alarm and extinguishing systems, which were provided and approved by the building official when constructed, shall be maintained in an operative condition at all times. And where such equipment, systems, devices, and safeguards are found not to be in an operative condition, the fire official shall order all such equipment to be rendered safe in accordance with the USBC.

Exception: When the fire 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 fire official shall order all such equipment to be rendered safe.

[~~C. D.~~] Change the following definition in section 902 to read:

Automatic fire-extinguishing system. An approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire. Such system shall include an automatic sprinkler system, unless otherwise expressly stated.

~~D. Delete section 903.1.2.~~

~~E. [D. E.]~~ Change item 1 in section 906.1 to read:

1. In Group A, B, E, F, H, I, M, R-1, R-4 and S occupancies.

[F. Add a note to Section 906.1 to read:

Note: In existing buildings, whether fire extinguishers are needed is determined by the USBC or other code in effect when such buildings were constructed.

G. Change Section 906.2 to read:

906.2. General requirements. Fire extinguishers shall be selected, installed and maintained in accordance with this section and NFPA 10.

Exceptions:

1. The travel distance to reach an extinguisher shall not apply to the spectator seating portions of Group A-5 occupancies.
2. The use of a supervised, listed electronic monitoring device shall be allowed in lieu of 30-day interval inspections, when approved.

H. Change Section 907.20.2 to read:

907.20.2. Testing. Testing shall be performed in accordance with the schedules in Chapter 7 of NFPA 72 or more frequently where required by the fire code official. Where automatic testing is performed at least weekly by a remotely monitored fire alarm control unit specifically listed for the

application, the manual testing frequency shall be permitted to be extended to annual. In Group R-1 occupancies, battery-powered single station smoke detectors shall be tested and inspected at one-month intervals.

Exception: Devices or equipment that are inaccessible for safety considerations shall be tested during scheduled shutdowns where approved by the fire code official, but not less than every 18 months.

13 VAC 5-51-135.5. IFC Chapter 10. Means of Egress.

Add Section 1001.3 to read:

1001.3. Overcrowding. Overcrowding, admittance of any person beyond the approved occupant load established by the USBC or other building code under which the building was constructed, or obstructing aisles, passageways or any part of the means of egress shall not be allowed. The fire code official, upon finding any condition that constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected.]

~~13 VAC 5-51-136. IFC Chapter 14. Fire Safety During Construction and Demolition. (Repealed.)~~

A. Change section 1410.1 to read:

~~1410.1. Required access. Approved vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet (30,480 mm) of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Temporary vehicle access shall be maintained until permanent fire apparatus access roads are available.~~

B. Change section 1412.4 to read:

~~1412.4. Water supply. Approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on site.~~

[13 VAC 5-51-145. IFC Chapter 27. Hazardous Materials – General Provisions.

A. Add exception 10 to Section 2701.1 to read:

10. The use of wall-mounted dispensers containing nonaerosol alcohol-based hand rubs classified as Class I or Class II liquids when in accordance with Section 3405.5.

B. Change Section 2701.5.1 to read:

2701.5.1. Hazardous Materials Management Plan. Where required by the fire code official, each application for a permit shall include a Hazardous Materials Management Plan (HMMP). The HMMP shall be maintained onsite for use by emergency responders, and shall be updated not less than annually. The HMMP shall include a facility site plan designating the following:

1. Storage and use areas.
2. Maximum amount of each material stored or used in each area.
3. Range of container sizes.

4. Locations of emergency isolation and mitigation valves and devices.

5. Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines.

6. On and off positions of valves for valves that are of the self-indicating type.

7. Storage plan showing the intended storage arrangement, including the location and dimensions of aisles.

8. The location and type of emergency equipment. The plans shall be legible and drawn approximately to scale. Separate distribution systems are allowed to be shown on separate pages.

C. Change Section 2701.5.2 to read:

2701.5.2. Hazardous Materials Inventory Statement (HMIS). Where required by the fire code official, an application for a permit shall include an HMIS, such as SARA (Superfund Amendments and Reauthorization Act of 1986) Title III, Tier II Report, or other approved statement. The HMIS shall be maintained onsite or readily available through another means where approved by the fire code official for use by temporary responders, and shall be updated not less than annually. The HMIS shall include the following information:

1. Manufacturer's name.
2. Chemical name, trade names, hazardous ingredients.
3. Hazard classification.
4. MSDS or equivalent.
5. United Nations (UN), North America (NA) or the Chemical Abstract Service (CAS) identification number.
6. Maximum quantity stored or used on-site at one time.
7. Storage conditions related to the storage type, temperature and pressure.

D. Add Sections 2701.5.3, 2701.5.3.1 and 2701.5.3.2 to read:

2701.5.3. Repository container. When a HMMP or HMIS is required, the owner or operator shall provide a repository container (lock box) or other approved means for the storage of items required in Sections 2701.5.1 and 2701.5.2 so as to be readily available to emergency response personnel.

2701.5.3.1. Location and identification. The repository container (lock box) shall be located, installed and identified in an approved manner.

2701.5.3.2. Keying. All repository containers (lock boxes) shall be keyed as required by the fire code official.

E. Change Section 2703.3.1.4 to read:

2703.3.1.4. Responsibility for cleanup. The person, firm or corporation responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. The fire code official may require records and receipts to verify cleanup and proper disposal of unauthorized discharges. When deemed

Final Regulations

necessary by the fire code official, cleanup may be initiated by the fire department or by an authorized individual or firm. Costs associated with such cleanup shall be borne by the owner, operator or other person responsible for the unauthorized discharge.

13 VAC 5-51-150. IFC Chapter 33. Explosives and Fireworks.

A. Change exception 4 in section 3301.1 to read:

4. The possession, storage, and use of not more than 15 pounds (6.81 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and ~~10,000~~ any amount of small arms primers for hand loading of small arms ammunition for personal consumption.

B. Add ~~exception~~ exceptions 10, 11 and 12 to section 3301.1 to read:

10. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

11. *The display of small arms primers in Group M when in the original manufacturer's packaging.*

12. *The possession, storage and use of not more than 50 pounds (23 kg) of commercially manufactured sporting black powder, 100 pounds (45 kg) of smokeless powder, and small arms primers for hand loading of small arms ammunition for personal consumption in Group R-3 or R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5.*

C. Change exception 4 in Section 3301.1.3 to read:

4. *The possession, storage, sale, handling and use of permissible fireworks where allowed by applicable local or state laws, ordinances and regulations provided such fireworks comply with CPSC 16 CFR, Parts 1500-1507, and DOTn 49 CFR, Parts 100-178, for consumer fireworks.*

~~C~~ D. Add exception 5 to section 3301.1.3 to read:

5. The sale or use of materials or equipment when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.

~~D~~ E. Change entire section 3301.2 to read:

3301.2. Permit required. Permits shall be required as set forth in section 107.2 and regulated in accordance with this section. The manufacture, storage, possession, sale and use of fireworks or explosives shall not take place without first applying for and obtaining a permit.

3301.2.1. Residential uses. No person shall keep or store, nor shall any permit be issued to keep, possess or store, any fireworks or explosives at any place of habitation, or within 100 feet (30,480 mm) thereof.

Exception: Storage of smokeless propellant, black powder, and small arms primers for personal use and not for resale in accordance with section 3306.

3301.2.2. Sale and retail display. Except for the Armed Forces of the United States, Coast Guard, National Guard, federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities, explosives shall not be sold, given, delivered or transferred to any person or company not in possession of a valid permit. The holder of a permit to sell explosives shall make a record of all transactions involving explosives in conformance with section 3303.2 and include the signature of any receiver of the explosives. No person shall construct a retail display nor offer for sale explosives, explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies.

3301.2.3. Permit restrictions. The fire official is authorized to limit the quantity of explosives, explosive materials, or fireworks permitted at a given location. No person, possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such permit. Only the kind of explosive specified in such a permit shall be kept or stored.

3301.2.3.1. Permit applicants. The fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the DHCD as a blaster in accordance with ~~sections~~ section 3301.4.1, or who is not in the possession of a background clearance card or to designated persons representing an applicant that is not an individual and who is not in possession of a background clearance card issued in accordance with section 3301.2.3.1.1. The DHCD shall process all applications for a background clearance card for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of background clearance cards.

3301.2.3.1.1. Background clearance card: A background clearance card may be issued upon completion of the following requirements:

1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.

2. Using a form provided by the DHCD, all individual applicants and all designated persons representing an applicant that is not an individual, shall submit to a background investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.

3. Each such applicant shall submit fingerprints and provide personal descriptive information to the DHCD to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.

3301.2.3.1.2. Issuance of a background clearance card: The issuance of a background clearance card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.2.3.1.3. Fee for background clearance card: The fee for obtaining or renewing a background clearance card from DHCD shall be \$150 plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

3301.2.3.1.4. Revocation of a background clearance card: After issuance of a background clearance card, subsequent conviction of a felony will be grounds for immediate revocation of a background clearance card, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The card shall be returned to the DHCD immediately. An individual may reapply for his background clearance card if his civil rights have been restored by the Governor or other appropriate authority.

3301.2.4. Financial responsibility. Before a permit is issued, as required by section 3301.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$500,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The legal department of the jurisdiction may specify a greater amount when conditions at the location of use indicate a greater amount is required. Government entities shall be exempt from this bond requirement.

3301.2.4.1. Blasting. Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount, and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting but in no case shall the value of the coverage be less than \$500,000.

Exception: Filing a bond or submitting a certificate of liability insurance 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.

3301.2.4.2. Fireworks display. The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the legal department of the jurisdiction for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.

☒ F. Change entire section 3301.4 to read:

3301.4. Qualifications. Persons in charge of magazines, blasting, fireworks display, or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age and possess knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks.

3301.4.1. Certification of blasters. Certificates as a restricted or unrestricted blaster will be issued upon proof of successful completion of an examination approved by the DHCD and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The applicant for certification 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(s) 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 or persons approved by the DHCD.

The DHCD shall process all certification applicants for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of blaster certifications.

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.

3301.4.2. Certification issuance. The issuance of a certification as a blaster shall be denied if the applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.4.3. Fee for certification. The fee for obtaining or renewing a blaster certificate from DHCD shall be \$150 plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

3301.4.4. Revocation of a blaster certification. After issuance of a blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a blaster certification, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The certification shall be returned to DHCD immediately. An individual may subsequently reapply for his blaster certification if his civil rights have been restored by the Governor or other appropriate authority.

3301.4.5. Expiration and renewal of a blaster certification. A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A background clearance card 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

Final Regulations

education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. 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 and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The continued training or education required for renewal of a blaster certificate shall be obtained during the three years immediately prior to the certificate's published expiration date. Failure to renew a blaster certificate in accordance with this section shall cause an individual to obtain another blaster certificate upon compliance with section 3301.4.1 to continue engaging in the unsupervised use of explosives.

~~F.~~ G. Change section 3301.7 to read:

3301.7. Seizure. The fire official is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, fireworks offered or exposed for sale, stored, possessed or used in violation of this chapter.

~~G.~~ H. Add the following definitions to section 3302.1 to read:

Background clearance card. An identification card issued to an individual who is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the purpose of submitting an application to the fire official for a permit to manufacture, use, handle, store, or sell explosive materials.

Blaster, restricted. Any person engaging in the use of explosives or blasting agents utilizing five pounds (2.25 kg) or less per blasting operation and using instantaneous detonators.

Blaster, unrestricted. Any person engaging in the use of explosives or blasting agents without limit to the amount of explosives or blasting agents or type of detonator.

Permissible fireworks. Any sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies.

~~H.~~ I. Change the following definitions in section 3302.1 to read:

Fireworks. Any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and that explodes, rises into the air or travels laterally, or fires projectiles into the air. *Fireworks shall not include automobile flares, paper caps containing not more than an average of 0.25 grain (16 mg) of explosive content per cap or toy pistols, toy canes, toy guns or other devices utilizing such caps and items commonly known as party poppers, pop rocks and snap-n-pops.* Fireworks may be further delineated and referred to as:

Fireworks, 1.4G. (Formerly known as Class C, Common Fireworks.) Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks that comply with the construction, chemical

composition, and labeling regulations of the DOTn for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of this code.

Fireworks, 1.3G. (Formerly Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces that exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN0335 by the DOTn.

Smokeless propellants. Solid propellants, commonly referred to as smokeless powders or any propellant classified by DOTn as a smokeless propellant in accordance with "NA3178, Smokeless Powder for Small Arms," used in small arms ammunition, firearms, cannons, rockets, propellant-actuated devices, and similar articles.

~~I.~~ J. Change section 3305.1 to read:

3305.1. General. The manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall comply with the requirements of this section, Title 59.1, Chapter 11 of the Code of Virginia, and NFPA 495 or NFPA 1124.

Exceptions:

1. The hand loading of small arms ammunition prepared for personal use and not offered for resale.
2. The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495.
3. The use of binary explosives or phosphoric materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126.

~~J.~~ K. Add section 3305.1.1 to read:

3305.1.1. Permits. Permits for the manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall be required as set forth in section 107.2 and regulated in accordance with this section. A permit to manufacture any explosive material in any quantity shall be prohibited unless such manufacture is authorized by a federal license and conducted in accordance with recognized safety practices.

L. Change Section 3306.4 to read:

3306.4. Storage in residences. Propellants for personal use in quantities not exceeding 50 pounds (23 kg) of black powder or 100 pounds (45 kg) of smokeless powder shall be stored in original containers in occupancies limited to Group R-3 and R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures that are at least 10 feet from inhabited buildings and are accessory to Group R-3 or R-5. In other than Group R-3 or R-5, smokeless powder in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) shall be

kept in a wooden box or cabinet having walls of at least one inch (25 mm) nominal thickness or equivalent.

M. Delete Sections 3306.4.1 and 3306.4.2.

N. Change Section 3306.5.1.1 to read:

3306.5.1.1. *Smokeless propellant. No more than 100 pounds (45 kg) of smokeless propellants, in containers of 8 pounds (3.6 kg) or less capacity, shall be displayed in Group M occupancies.*

O. Delete Section 3306.5.1.3.

P. Change Section 3306.5.2.1 to read:

3306.5.2.1 *Smokeless propellant. Commercial stocks of smokeless propellants shall be stored as follows:*

1. *Quantities exceeding 20 pounds (9 kg), but not exceeding 100 pounds (45 kg) shall be stored in portable wooden boxes having walls of at least one inch (25 mm) nominal thickness or equivalent.*

2. *Quantities exceeding 100 pounds (45 kg), but not exceeding 800 pounds (363 kg), shall be stored in storage cabinets having walls at least one inch (25 mm) nominal thickness or equivalent. Not more than 400 pounds (182 kg) shall be stored in any one cabinet, and cabinets shall be separated by a distance of at least 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of at least one hour.*

3. *Storage of quantities exceeding 800 pounds (363 kg), but not exceeding 5,000 pounds (2270 kg) in a building shall comply with all of the following:*

3.1. *The storage is inaccessible to unauthorized personnel.*

3.2. *Smokeless propellant shall be stored in nonportable storage cabinets having wood walls at least one inch (25 mm) nominal thickness or equivalent and having shelves with no more than three feet (914 mm) of vertical separation between shelves.*

3.3. *No more than 400 pounds (182 kg) is stored in any one cabinet.*

3.4. *Cabinets shall be located against walls with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades must extend a minimum of 10 feet (3048 mm) outward, be firmly attached to the wall, and be constructed of steel not less than 0.25 inch thick (6.4 mm), two-inch (51 mm) nominal thickness wood, brick, or concrete block.*

3.5. *Smokeless propellant shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of one hour.*

3.6. *The building shall be equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.*

4. *Smokeless propellants not stored according to Item 1, 2, or 3 above shall be stored in a Type 2 or 4 magazine in accordance with Section 3304 and NFPA 495.*

Q. Change Section 3306.5.2.3 to read:

3306.5.2.3 *Small arms primers. Commercial stocks of small arms primers shall be stored as follows.*

1. *Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile and piles are at least 15 feet (4572 mm) apart.*

2. *Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:*

2.1. *The warehouse or storage building shall not be accessible to unauthorized personnel.*

2.2. *Small arms primers shall be stored in cabinets. No more than 200,000 small arms primers shall be stored in any one cabinet.*

2.3. *Shelves in cabinets shall have vertical separation of at least two feet (610 mm).*

2.4. *Cabinets shall be located against walls of the warehouse or storage room with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall, and shall be constructed of steel not less than 0.25 inch thick (6.4 mm), two-inch (51 mm) nominal thickness wood, brick, or concrete block.*

2.5. *Small arms primers shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of one hour.*

2.6. *The building shall be protected throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.*

3. *Small arms primers not stored in accordance with Item 1 or 2 of this section shall be stored in a magazine meeting the requirements of Section 3304 and NFPA 495.*

~~R.~~ R. Change section 3307.1 to read:

3307.1. *General. Blasting operations shall be conducted only by persons certified by the DHCD as a restricted or unrestricted blaster or shall be supervised on-site by a person properly certified by the DHCD as restricted or unrestricted blaster.*

~~S.~~ S. Add section 3307.16 to read:

3307.16. *Blast records. A record of each blast shall be kept and retained for at least five years and shall be available for inspection by the code official. The record shall contain the following minimum data:*

1. *Name of contractor;*

Final Regulations

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 when utilized.

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

~~M.~~ T. Add exception to section 3308.2 to read:

Exception: Permits are not required for the supervised use or display of permissible fireworks on private property with the consent of the owner of such property.

~~N.~~ Add exception to U. Delete section 3308.11 to read: .

~~Exception: Permissible fireworks prohibited by a local ordinance to be stored, displayed for wholesale or retail sale, or use.~~

13 VAC 5-51-152. IFC Chapter 34. Flammable and Combustible Liquids.

A. Add the following definition to Section 3402.1 to read:

Alcohol-based hand rub. An alcohol-containing preparation designed for application to the hands for reducing the number of viable microorganisms on the hands and containing ethanol or isopropanol in an amount not exceeding 70% by volume.

B. Add Section 3405.5 to read:

3405.5. Alcohol-based hand rubs classified as Class I or Class II liquids. The use of wall-mounted dispensers containing nonaerosol, alcohol-based hand rubs classified as Class I or Class II liquids shall be in accordance with the following:

1. When located in a corridor, the minimum corridor width shall be 72 inches (1829 mm).
2. The maximum capacity of each dispenser shall be 41 ounces (1.2 L).
3. The minimum separation between dispensers shall be 48 inches (1219 mm).

4. The dispensers shall not be installed directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor shall remain clear and unobstructed.

5. Dispensers shall be mounted so that the bottom of the dispenser is a minimum of 42 inches (1067 mm) and a maximum of 48 inches (1219 mm) above finished floor.

6. Dispensers shall not release their contents except when the dispenser is manually activated.

7. Dispensers installed in occupancies with carpeted flooring shall only be allowed in smoke compartments or fire areas equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

8. Projections into a corridor shall be in accordance with Section 1003.3.3.

9. Storage of alcohol-based hand rubs shall be in accordance with the applicable provisions of Section 3404.

13 VAC 5-51-154. IFC Chapter 38. Liquefied Petroleum Gases.

A. Change Section 3801.2 to read:

3801.2. Permits. Permits shall be required as set forth in Section 107.2. Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the fire code official, except when the container is for temporary use on construction sites.

B. Change Section 3806.2 to read:

3806.2. Overfilling. Liquefied petroleum gas containers shall not be filled or maintained with LP-gas in excess of either the volume determined using the fixed liquid-level gauge installed by the manufacturer, or the weight determined by the required percentage of the water capacity marked on the container. Portable containers shall not be refilled unless equipped with an overfilling prevention device (OPD) in accordance with NFPA 58.

C. Add Section 3806.4 to read:

3806.4. DOT cylinders filled on site. DOT cylinders in stationary service that are filled on site and therefore are not under the jurisdiction of DOT either shall be requalified in accordance with DOT requirements or shall be visually inspected within 12 years of the date of manufacture and within every five years thereafter, in accordance with the following:

1. Any cylinder that fails one or more of the criteria in Item 3 shall not be refilled or continued in service until the condition is corrected.
2. Personnel shall be trained and qualified to perform inspections.
3. Visual inspection shall be performed in accordance with the following:

3.1. The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, except that paragraph 4.2.1(1) of that standard (which requires tare weight certification), shall not be part of the required inspection criteria.

3.2. The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

3.3. The cylinder is painted or coated to retard corrosion.

3.4. The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

3.5. There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

3.6. The cylinder is installed on a firm foundation and is not in contact with the soil.

3.7. A cylinder that passed the visual inspection shall be marked with the month and year of the examination followed by the letter "E" (example: 10-01E, indicating requalification in October 2001 by the external inspection method).

3.8. The results of the visual inspection shall be documented, and a record of the inspection shall be retained for a five-year period.

Exception: Any inspection procedure outlined in Items 3.1 through 3.8 that would require a cylinder be moved in such a manner that disconnection from the piping system would be necessary shall be omitted, provided the other inspection results do not indicate further inspection is warranted.

D. Change Section 3809.12 to read:

3809.12. Location of storage outside of buildings. Storage outside of buildings, for containers awaiting use, resale or part of a cylinder exchange program shall be located not less than 10 feet (3048 mm) from openings into buildings, 20 feet (6096 mm) from any motor vehicle fuel dispenser and 10 feet (3048 mm) from any combustible material and in accordance with Table 3809.12.

E. Change Table 3809.12 to read:

Table 3809.12
Location of Containers Awaiting Use or Resale
Stored Outside of Buildings

Quantity of LP-Gas Stored	Distances to a Building or Group of Buildings, Public Way or Lot Line of Property That Can Be Built Upon (feet)
2500 pounds or less	0
2,501 to 6,000 pounds	10 ^a
6,001 to 10,000 pounds	20
Over 10,000 pounds	25

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

a. Containers are allowed to be located a lesser distance.

F. Change Section 3809.14 to read:

3809.14. Separation from means of egress for permanent containers located outside of buildings. Permanent containers located outside of buildings shall not be located within 10 feet (3048 mm) of any exit access doors, exits, stairways or in areas normally used, or intended to be used, as a means of egress.

G. Change Section 3811.2 to read:

3811.2. Unattended parking. The unattended parking of LP-gas tank vehicles shall be in accordance with Sections 3811.2.1 and 3811.2.2.

Exception: The unattended outdoor parking of LP-gas tank vehicles may also be in accordance with Section 6.6.2.1 of NFPA 58.]

13 VAC 5-51-155. [IFC Chapter 45. Referenced Standards. (Repealed.)

Add new referenced standards as follows:

Standard reference Number	Title	Referenced in code section number]
NFPA 13-99	Installation of Sprinkler Systems	Table 704.1, 903.3.1.1, 903.3.2, 903.3.5.1.1, 904.11, 907.9, 2308.2, 3403.3.7.5.1, 3404.3.8.4
NFPA 13D-99	Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes	913.1.2, 903.3.1.3, 903.3.5.1.1
NFPA 13R-99	Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height	903.1.2, 903.3.1.3, 903.3.5.1.1, 903.3.5.1.2, 903.4
NFPA 72-99	National Fire Alarm Code	509.1, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.1, 907.2.1.1, 907.2.10, 907.2.10.4, 907.2.11.2, 907.2.11.3, 907.2.12.2.3, 907.2.12.3, 907.3, 907.5, 907.6, 907.10.2, 907.11, 907.15, 907.17, 907.18, 907.20, 907.20.2, 907.20.5, 909.12, 909.12.3, 2309.3, 3904.1.6, 4004.1.7

Final Regulations

[CGA C-6 (2001)	Standards for Visual Inspection of Steel Compressed Gas Cylinders	3806.4]
---------------------	---	----------

DOCUMENTS INCORPORATED BY REFERENCE

2000 *The International Fire Code - 2003 Edition*, International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401.

[*NFPA 10 – 98, Standard for Portable Fire Extinguishers, 1998 Edition*, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 58 – 01, Liquefied Petroleum Gas Code, 2001 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

CGA C-6 – 2001, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Eighth Edition, Compressed Gas Association, 1725 Jefferson Davis Highway, 5th Floor, Arlington, VA 22202-4102.]

VA.R. Doc. No. R04-169; Filed September 27, 2005, 11:36 a.m.

* * * * *

Titles of Regulations: **13 VAC 5-62. Virginia Uniform Statewide Building Code (USBC) (repealing 13 VAC 5-62-10 through 13 VAC 5-62-480).**

13 VAC 5-63. Virginia Uniform Statewide Building Code (adding 13 VAC 5-63-10 through [~~13 VAC 5-63-540~~ 13 VAC 5-63-550]).

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

Effective Date: November 16, 2005.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail steve.calhoun@dhcd.virginia.gov.

Summary:

The action repeals the existing Uniform Statewide Building Code (USBC) and promulgates a new regulation in its place. The new regulation updates building codes and standards developed by the International Code Council (ICC) and incorporated by reference into the USBC from the 2000 edition to the 2003 edition. The codes being updated include the International Building Code (IBC), the International Residential Code, and the International Property Maintenance Code. The International Plumbing Code, the International Mechanical Code, the ICC Electrical Code, the International Fuel Gas Code, and the International Energy Conservation Code, which are referenced by the IBC, have also been updated from the 2000 edition to the 2003 edition. In addition to updating references to existing ICC codes, the regulation incorporates the International Existing Building Code, a new code developed by the ICC. Finally, the regulation deletes

some documents incorporated by reference into the existing USBC.

Updating from the 2000 edition to the 2003 edition of the ICC codes (i) requires greater fire safety methods of garage construction in residential buildings when a garage is located below a habitable room; (ii) allows the limited use of wood treated with fire retardant in roof construction of certain types of noncombustible buildings; (iii) requires installation of entrapment avoidance devices in the drains of all commercial and residential swimming pools; (iv) eliminates several provisions relating to the number of window and door openings allowed in courtyard walls of commercial buildings; (v) allows a putty pad protection system to be used for electrical outlets on fire-rated walls; (vi) permits the use of platform lifts instead of ramps in certain areas to accommodate people with disabilities; and (vii) prohibits the use of wired glass in Group E (educational) occupancies and requires the use of tempered glass in its place.

The regulation also modifies existing language, rearranges sections, and reformats the existing USBC, mostly in order to incorporate the new International Existing Building Code. The International Existing Building Code provides more prescriptive provisions for the rehabilitation of buildings than provided for under the existing USBC. All other changes are intended to clarify various aspects of the USBC.

The changes from the proposed regulation represent decisions by the Board of Housing and Community Development to utilize the latest nationally recognized standards as the basis for the USBC with those changes necessary to the national standards based on the needs of the citizens of the Commonwealth and those organizations and entities affected by and involved in building regulatory schemes in the Commonwealth and on a national basis.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

CHAPTER 63.

VIRGINIA UNIFORM STATEWIDE BUILDING CODE.

PART I.

CONSTRUCTION.

13 VAC 5-63-10. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. *The Virginia Uniform Statewide Building Code, Part I, Construction, may be cited as the Virginia Construction Code [~~or as the USBC~~. The term "USBC" shall mean the Virginia Construction Code unless the context in which the term is used clearly indicates it to be an abbreviation for the entire Virginia Uniform Statewide Building Code or for a different part of the Virginia Uniform Statewide Building Code].*

B. Section 101.2 Incorporation by reference. *Chapters 2 – 35 of the 2003 International Building Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the USBC. The term "IBC" means the 2003 International Building Code, published*

by the International Code Council, Inc. Any codes and standards referenced in the IBC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference. In addition, any provisions of the appendices of the IBC specifically identified to be part of the USBC are also considered to be part of the incorporation by reference.

Note 1: The IBC references the whole family of International Codes including the following major codes:

2003 International Plumbing Code

2003 International Mechanical Code

[2003 ICG Electrical Code (which in turn references the)
2002 National Electrical Code ()]

2003 International Fuel Gas Code

2003 International Energy Conservation Code

2003 International Residential Code

Note 2: The International Residential Code is applicable to the construction of detached one- and two-family dwellings and townhouses as set out in Section 310.

C. Section 101.3 Numbering system. A dual numbering system is used in the USBC to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IBC. IBC numbering system designations are provided in the catchlines of the Virginia Administrative Code sections. Cross references between sections or chapters of the USBC use only the IBC numbering system designations. The term "chapter" is used in the context of the numbering system of the IBC and may mean a chapter in the USBC, a chapter in the IBC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The USBC is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 – 35 of the IBC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IBC that are specifically identified. The terminology "changes to the text of the incorporated chapters of the IBC that are specifically identified" shall also be referred to as the "state amendments to the IBC." Such state amendments to the IBC are set out using corresponding chapter and section numbers of the IBC numbering system. In addition, since Chapter 1 of the IBC is not incorporated as part of the USBC, any reference to a provision of Chapter 1 of the IBC in the provisions of Chapters 2 - 35 of the IBC is generally invalid. However, where the purpose of such a reference would clearly correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 – 35 of the IBC or in the state amendments to the IBC means the USBC, unless the context clearly indicates

otherwise. The term "this code" or "the code" where used in a code or standard referenced in the IBC means that code or standard, unless the context clearly indicates otherwise. The use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IBC, in the codes and standards referenced in the IBC and in the state amendments to the IBC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 – 35 of the IBC and any conflicting provisions of the codes and standards referenced in the IBC. In addition, the state amendments to the IBC supersede any conflicting provisions of Chapters 2 – 35 of the IBC and any conflicting provisions of the codes and standards referenced in the IBC. Further, the provisions of Chapters 2 – 35 of the IBC supersede any conflicting provisions of the codes and standards referenced in the IBC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope of the code, enforcement, fees, permits, inspections and disputes. Any provisions of Chapters 2 – 35 of the IBC or any provisions of the codes and standards referenced in the IBC that address the same subject matter [~~to a lesser or greater extent~~ and impose differing requirements] are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IBC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 – 35 of the IBC or of the codes and standards referenced in the IBC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IBC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for administrative, procedural and enforcement requirements of this code.

H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be defined in other chapters or provisions of the code and such definitions are also valid.

Note: The order of precedence outlined in Section 101.6 may be determinative in establishing how to apply the definitions in the IBC and in the referenced codes and standards.

13 VAC 5-63-20. Section 102 Purpose and scope.

A. Section 102.1 Purpose. In accordance with § 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or

Final Regulations

insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

B. Section 102.2 Scope. This section establishes the scope of the USBC in accordance with § 36-98 of the Code of Virginia. The USBC shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies. This code also shall supersede the provisions of local ordinances applicable to single-family residential construction that (i) regulate dwelling foundations or crawl spaces, (ii) require the use of specific building materials or finishes in construction, or (iii) require minimum surface area or numbers of windows; however, this code shall not supersede proffered conditions accepted as a part of a rezoning application, conditions imposed upon the grant of special exceptions, special or conditional use permits or variances, conditions imposed upon a clustering of single-family homes and preservation of open space development through standards, conditions, and criteria established by a locality pursuant to subdivision 8 of § 15.2-2242 of the Code of Virginia or subdivision A 12 of § 15.2-2286 of the Code of Virginia, or land use requirements in airport or highway overlay districts, or historic districts created pursuant to § 15.2-2306 of the Code of Virginia, or local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.

Note: Requirements relating to functional design are contained in Section 103.11 of this code.

C. Section 102.2.1 Invalidity of provisions. To the extent that any provisions of this code are in conflict with Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia or in conflict with the scope of the USBC, those provisions are considered to be invalid to the extent of such conflict.

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

1. Equipment and related wiring installed by a provider of publicly regulated utility service or a franchised cable television operator and electrical equipment and related wiring used for radio, broadcast or cable television, telecommunications or information service transmission. [~~Such exempt~~ The exemption shall apply only if under applicable federal and state law the ownership and control of the] equipment and wiring [~~shall be under the ownership and control of~~ is by] the service provider or its affiliates [~~and. Such exempt equipment and wiring~~] shall be located on either public rights [-] of [-] way or private property for which the service provider has rights of occupancy and entry; however, the structures, including their service equipment, housing or supporting such exempt equipment and wiring shall be subject to the USBC. The installation of equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

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

2.1. Electrical equipment connected after the last disconnecting means.

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

2.3. 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 VADR.

5. Industrialized buildings; except, the applicable requirements of this code affecting site preparation, footings, foundations, proper anchoring and utility connections of the unit remain in full force and effect, including requirements for issuing permits and certificates of occupancy.

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

7. Farm buildings and structures, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 of the Code of Virginia and licensed as such by the Virginia Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1 of the Code of Virginia. However, 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.

13 VAC 5-63-30. Section 103 Application of code.

A. Section 103.1 General. In accordance with § 36-99 of the Code of Virginia, the USBC shall prescribe building regulations to be complied with in the construction and rehabilitation of buildings and structures, and the equipment therein.

B. Section 103.2 When applicable to new construction. Construction for which a permit application is submitted to the local building department after [~~(insert effective date)~~ November 16, 2005,] 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 building 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 (insert effective date)~~] for permit applications submitted during a one-year period after November 16, 2005. The applicant for a permit during such one-year period shall be permitted to choose whether to comply with the provisions of this code or the provisions of the code in effect immediately prior to November 16, 2005]. This provision shall also apply to subsequent amendments to this code based on the effective date of such amendments. In addition, when a permit has been properly issued under a previous edition of this

code, this code shall not require changes to the approved construction documents, design or construction of such a building or structure, provided the permit has not been suspended or revoked.

C. Section 103.3 Change of occupancy. No change shall be made in the existing occupancy classification of any structure when the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitation. When such a greater degree is required, the owner or the owner's agent shall make written application to the local building department for a new certificate of occupancy and shall obtain the new certificate of occupancy prior to the use of the structure under the new occupancy classification. When impractical to achieve compliance with this code for the new occupancy classification, the building official shall [~~issue~~ consider] modifications upon application and as provided for in Section 106.3.

Exception: This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

D. Section 103.4 Additions. Additions to buildings and structures shall comply with the requirements of this code for new construction and an existing building or structure plus additions shall comply with the height and area provisions of Chapter 5. Further, this code shall not require changes to the design or construction of any portions of the building or structure not altered or affected by an addition, unless the addition has the effect of lowering the current level of safety.

Exception: This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

E. Section 103.5 Reconstruction, alteration or repair. The following criteria is applicable to reconstruction, alteration or repair of buildings or structures provided the reconstruction, alteration or repair does not adversely affect the performance of the building or structure, cause the building or structure to become unsafe or lower existing levels of health and safety.

1. Parts of the building or structure not being reconstructed, altered or repaired shall not be required to comply with the requirements of this code applicable to newly constructed buildings or structures.
2. The installation of material or equipment, or both, that is neither required nor prohibited shall only be required to comply with the provisions of this code relating to the safe installation of such material or equipment.
3. Material or equipment, or both, may be replaced in the same location with material or equipment of a similar kind or capacity [~~or of greater capacity~~].

Exception: This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

F. Section 103.6. Use of rehabilitation code. [~~Notwithstanding any requirements of this code to the contrary,~~] Compliance with Part II of the Virginia Uniform Statewide Building Code, also known as the "Virginia Rehabilitation Code," shall be an acceptable alternative to compliance with this code for the

rehabilitation of [such] existing buildings and structures [within the scope of that code]. [For the purposes of this section, the term "rehabilitation" shall be as defined in the Virginia Rehabilitation Code.]

G. Section 103.7. Retrofit requirements. The local building department shall enforce the provisions of Section 3411, which require certain existing buildings to be retrofitted with fire protection systems and other safety equipment. Retroactive fire protection system requirements contained in the International Fire Code [~~including but not limited to such requirements in Sections 903, 905 and 907,~~] shall not be applicable unless required for compliance with the provisions of Section 3411.

H. Section 103.8 Nonrequired equipment. The following criteria for nonrequired equipment is in accordance with § 36-103 of the Code of Virginia. Building owners may elect to install partial or full fire alarms or other safety equipment that was not required by the edition of the USBC in effect at the time a building was constructed without meeting current requirements of the code, provided the installation does not create a hazardous condition. Permits for installation shall be obtained in accordance with this code. In addition, as a requirement of this code, when such nonrequired equipment is to be installed, the building official shall notify the appropriate fire official or fire chief.

I. [Section 103.8.1 Reduction in function or discontinuance of nonrequired fire protection systems. When a nonrequired fire protection system is to be reduced in function or discontinued, it shall be done in such a manner so as not to create a false sense of protection. Generally, in such cases, any features visible from interior areas shall be removed, such as sprinkler heads, smoke detectors or alarm panels or devices, but any wiring or piping hidden within the construction of the building may remain. Approval of the proposed method of reduction or discontinuance shall be obtained from the building official.

J.] Section 103.9 Equipment changes. [~~Upon a change in the fuel source involving the installation of new equipment or appliances including, but not limited to, furnaces, water heaters or boilers, where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the flue liner of the chimney is operable, free of obstructions or blockages and properly sized for the connected appliances and that the changes or installations meet applicable requirements of this code. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:~~

1. Vent or chimney systems are sized in accordance with either the International Residential Code, the International Mechanical Code or the International Fuel Gas Code, depending on which is applicable based on the fuel source and the occupancy classification of the structure.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify

Final Regulations

to the building official that the requirements of Items 1 and 2 of this section are met.]

[~~J~~. K.] Section 103.10 Use of certain provisions of referenced codes. The following provisions of the IBC and of other indicated codes or standards are to be considered valid provisions of this code. Where any such provisions have been modified by the state amendments to the IBC, then the modified provisions apply.

1. Special inspection requirements in Chapters 2 – 35.
2. Chapter 34, Existing Structures, except that Section 3410, Compliance Alternatives, shall not be used to comply with the retrofit requirements identified in Section 103.7 and shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.
3. Testing requirements and requirements for the submittal of construction documents in any of the ICC codes referenced in Chapter 35.
4. Section R301.2 of the International Residential Code authorizing localities to determine climatic and geographic design criteria.

[5. Flood load or flood-resistant construction requirements in the IBC or the International Residential Code, including, but not limited to, any such provisions pertaining to flood elevation certificates that are located in Chapter 1 of those codes. Any required flood elevation certificate pursuant to such provisions shall be prepared by a land surveyor licensed in Virginia or an RDP.]

[~~K~~. L.] Section 103.11 Functional design. The following criteria for functional design is in accordance with § 36-98 of the Code of Virginia. The USBC shall not supersede the regulations of other state agencies that require and govern the functional design and operation of building related activities not covered by the USBC, including but not limited to (i) public water supply systems, (ii) waste water treatment and disposal systems, (iii) solid waste facilities, nor shall state agencies be prohibited from requiring, pursuant to other state law, that buildings and equipment be maintained in accordance with provisions of this code. In addition, as established by this code, the building 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 locality may require reports to the building 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 locality. All enforcement of these conditions shall not be the responsibility of the building official, but rather the agency imposing the condition.

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package," which is available from DHCD.

[~~L~~. M.] Section 103.12 Amusement devices and inspections. In accordance with § 36-98.3 of the Code of Virginia, to the extent they are not superseded by the provisions of § 36-98.3 of the Code of Virginia and the VADR, the provisions of the USBC shall apply to amusement devices. In addition, as a

requirement of this code, inspections for compliance with the VADR shall be conducted either by local building department personnel or private inspectors provided such persons are certified as amusement device inspectors under the VCS.

[~~M~~. N.] Section 103.13 State buildings and structures. This section establishes the application of the USBC to state-owned buildings and structures in accordance with § 36-98.1 of the Code of Virginia. The USBC shall be applicable to all state-owned buildings and structures, with the exception that §§ 2.2-1159, 2.2-1160 and 2.2-1161 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 this code.

Acting through the Division of Engineering and Buildings, the Virginia Department of General Services shall function as the building official for state-owned buildings. The department shall review and approve plans and specifications, grant modifications, and establish such rules and regulations as may be necessary to implement this section. It 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 department. The department 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 department shall provide the local building department with a written summary of its reasons for doing so.

[Notwithstanding any provision of this code to the contrary, roadway tunnels and bridges owned by the Virginia Department of Transportation shall be exempt from this code. The Virginia Department of General Services shall not have jurisdiction over such roadway tunnels, bridges and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to this code.

Except as provided in § 23-38.109 D of the Code of Virginia, and notwithstanding any provision of this code to the contrary, at the request of a public institution of higher education, the Virginia Department of General Services, as further set forth in this provision, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any

inspection and certifications required for the purpose of complying with this code. The department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this provision to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in § 23-38.88 B of the Code of Virginia.

Note: In accordance with § 36-98.1 of the Code of Virginia, roadway tunnels and bridges shall be designed, constructed and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Virginia Department of Transportation in consultation with the State Fire Marshal and approved by the Virginia Commonwealth Transportation Board. Emergency response planning and activities related to the standards approved by the Commonwealth Transportation Board shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency service providers. On an annual basis, the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.]

13 VAC 5-63-40. Section 104 Enforcement, generally.

A. Section 104.1 Scope of enforcement. This section establishes the requirements for enforcement of the USBC in accordance with § 36-105 of the Code of Virginia. Enforcement of the provisions of the USBC for construction and rehabilitation shall be the responsibility of the local building department. Whenever a county or municipality does not have such a building 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 DHCD for such enforcement. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the USBC; however, where the town does not elect to administer and enforce the code, the county in which the town is situated shall administer and enforce the code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the USBC for that portion of the town that is situated within their respective boundaries.

The local governing body shall inspect and enforce this code for 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.

Upon a finding by the local building department, following a complaint by a tenant of a residential rental unit that is the subject of such complaint, that there may be a violation of the unsafe structures provisions of the code, the local building department shall enforce such provisions. If the local building department receives a complaint that a violation of the USBC exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the local building official or his agent to

have access to the subject dwelling, the local building official or his agent may present sworn testimony to a court of competent jurisdiction and request that the court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject dwelling for the purpose of determining whether violations of the USBC exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

Note: The maintenance requirements for elevators and the provisions regulating existing unsafe buildings and structures are contained in Part III of the Virginia Uniform Statewide Building Code, also known as the "Virginia Maintenance Code."

B. Section 104.1.1 Rental inspections. In accordance with § 36-105.1:1 of the Code of Virginia, this section is applicable to rental inspection programs. For purposes of this section:

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown on the current real estate assessment books or current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

The local governing body may adopt an ordinance to inspect residential rental dwelling units for compliance with the USBC and to promote safe, decent and sanitary housing for its citizens, in accordance with the following:

1. Except as provided for in subdivision 3 of this subsection, the dwelling units shall be located in a rental inspection district established by the local governing body in accordance with this section; and

2. The rental inspection district is based upon a finding by the local governing body that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed rental inspection district; and (iii) the inspection of residential rental dwelling units inside the proposed rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed rental inspection district. Nothing in this section shall be construed to authorize a locality-wide rental inspection district and a local governing body shall limit the boundaries of the proposed

Final Regulations

rental inspection district to such areas of the locality that meet the criteria set out in this subsection; or

3. An individual residential rental dwelling unit outside of a designated rental inspection district is made subject to the rental inspection ordinance based upon a separate finding for each individual dwelling unit by the local governing body that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the USBC that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

For purposes of this section, the local governing body may designate a local government agency other than the building department to perform all or part of the duties contained in the enforcement authority granted to the building department by this section.

Before adopting a rental inspection ordinance and establishing a rental inspection district or an amendment to either, the governing body of the locality shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality.

Upon adoption by the local governing body of a rental inspection ordinance, the building department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental inspection district, or their designated managing agents, and to any individual dwelling units subject to the rental inspection ordinance, not located in a rental inspection district, of the adoption of such ordinance, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

The rental inspection ordinance may include a provision that requires the owners of dwelling units in a rental inspection district to notify the building department in writing if the dwelling unit of the owner is used for residential rental purposes. The building department may develop a form for such purposes. The rental inspection ordinance shall not include a registration requirement or a fee of any kind associated with the written notification pursuant to this subdivision. A rental inspection ordinance may not require that the written notification from the owner of a dwelling unit subject to a rental inspection ordinance be provided to the building department in less than 60 days after the adoption of a rental inspection ordinance. However, there shall be no penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of this subsection, unless and until the building department provides personal or written notice to the property owner, as provided in this section. In any event, the sole penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of up to \$50. For purposes of this subsection, notice sent by regular first class mail to the last known address of the owner as shown on the current real estate tax assessment books or current

real estate tax assessment records shall be deemed compliance with this requirement.

Upon establishment of a rental inspection district in accordance with this section, the building department may, in conjunction with the written notifications as provided for above, proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of the USBC that affect the safe, decent and sanitary living conditions for the tenants of such property.

If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two and not more than 10% of the dwelling units, of a multifamily development, that includes all of the multifamily buildings that are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of the USBC that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce the USBC, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in the fee schedule established pursuant to this section.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department has the authority under the USBC to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the USBC that affect the safe, decent and sanitary living conditions for the tenants.

Except as provided for above, following the initial inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance for compliance with the USBC, provided that there are no violations of the USBC that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided above, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of the USBC during the exemption period, the

building department may revoke the exemption previously granted under this section.

A local governing body may establish a fee schedule for enforcement of the USBC, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

The provisions of this section shall not in any way alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia.

The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 of the Code of Virginia to enforce the Building Code.

Unless otherwise provided [~~in this section~~ for in § 36-105.1:1 of the Code of Virginia], penalties for violation of this section shall be the same as the penalties provided [~~in~~ for violations of other sections of] the USBC.

C. Section 104.2 Interagency coordination. When any inspection functions under this code are assigned to a local agency other than the local building department, such agency shall coordinate its reports of inspection with the local building department.

13 VAC 5-63-50. Section 105 Local building department.

A. Section 105.1 Appointment of building official. Every local building department shall have a building official as the executive official in charge of the department. The building official shall be appointed in a manner selected by the local governing body. After permanent appointment, the building 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. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting building official.

Note: Building officials are subject to sanctions in accordance with the VCS.

B. Section 105.1.1 Qualifications of building official. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building [, fire or trade] inspector, contractor, housing inspector or superintendent of building [, fire or trade] construction [or at least five years of building experience after obtaining a degree in architecture or engineering], with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The building 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.

C. Section 105.1.2 Certification of building official. An acting or permanent building official shall be certified as a building official in accordance with the VCS within one year after being appointed as acting or permanent building official.

Exception: A building official in place prior to April 1, 1983, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

D. Section 105.1.3 Noncertified building official. Except for a building official exempt from certification under the exception to Section [~~405-3~~ 105.1.2], any acting or permanent building official who is not certified as a building official in accordance with the VCS shall [~~complete an orientation course provided by DHCD within 60 days of appointment and shall~~] attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 105.1.2.

E. Section 105.1.4 Continuing education requirements. Building officials shall attend periodic training courses designated by DHCD.

F. Section 105.2 Technical assistants. The building official, subject to any limitations imposed by the locality, shall [~~employ, appoint or contract with~~] be permitted to utilize technical assistants to assist the building official in the enforcement of the USBC. DHCD shall be notified by the building official within 60 days of the employment of, contracting with or termination of all technical assistants.

Note: Technical assistants are subject to sanctions in accordance with the VCS.

G. Section 105.2.1 Qualifications of technical assistants. A technical assistant shall have at least three years of experience [~~in~~ and] general [knowledge in at least one of the following areas:] building construction; building, fire or housing inspections; [~~and general knowledge of~~] plumbing, electrical or mechanical [~~systems~~ trades; or fire protection, elevator or property maintenance work]. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.

H. Section 105.2.2 Certification of technical assistants. A technical assistant shall be certified in the appropriate subject area within [~~three years after being retained~~ 18 months after becoming a technical assistant]. When required by local policy to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

Exception: A technical assistant in place prior to March 1, 1988, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

I. Section 105.2.3 Continuing education requirements. Technical assistants shall attend periodic training courses designated by DHCD.

Final Regulations

J. Section 105.3 Conflict of interest. The [~~minimum~~] standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

K. Section 105.4 Records. The local building department shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with The Library of Virginia's General Schedule Number Six.

13 VAC 5-63-60. Section 106 Powers and duties of the building official.

A. Section 106.1 Powers and duties, generally. The building official shall enforce this code as set out herein and as interpreted by the State Review Board.

B. Section 106.2 Delegation of authority. The building official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

C. Section 106.3 Issuance of modifications. Upon written application by an owner or an owner's agent, the building official may approve a modification of any provision of the USBC provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured. The decision of the building official concerning a modification shall be made in writing and the application for a modification and the decision of the building official concerning such modification shall be retained in the permanent records of the local building department.

Note: The USBC references nationally recognized model codes and standards. Future amendments to such codes and standards are not automatically included in the USBC; however the building official should give them due consideration in deciding whether to approve a modification.

D. Section 106.3.1 Substantiation of modification. The building official may require or may consider a statement from an RDP or other person competent in the subject area of the application as to the equivalency of the proposed modification. In addition, the building official may require the application to include construction documents sealed by an RDP.

[E. Section 106.3.2 Use of performance code. Compliance with the provisions of a nationally recognized performance code when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.]

13 VAC 5-63-70. Section 107 Fees.

A. Section 107.1 Authority for charging fees. In accordance with § 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement of the USBC.

B. Section 107.1.1 Fee schedule. The local governing body shall establish a fee schedule incorporating unit rates, which

may be based on square footage, cubic footage, estimated cost of construction or other appropriate criteria. A permit or any amendments to an existing permit shall not be issued until the designated fees have been paid, except that the building official may authorize the delayed payment of fees.

C. Section 107.1.2 Refunds. When requested in writing by a permit holder, the locality shall provide a fee refund in the case of the revocation of a permit or the abandonment or discontinuance of a building project. The refund shall not be required to exceed an amount which correlates to work not completed.

D. Section 107.2 Code academy fee levy. In accordance with subdivision 7 of § 36-137 of the Code of Virginia, the local building department shall collect a 1.75% levy of fees charged for building permits issued under this code and transmit it quarterly to DHCD to support training programs of the Virginia Building Code Academy. Localities that maintain individual or regional training academies accredited by DHCD shall retain such levy.

13 VAC 5-63-80. Section 108 Application for permit.

A. Section 108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure, including the installation or altering of any equipment regulated by the USBC. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.

2. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.

3. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

B. Section 108.2 Exemptions from application for permit. Notwithstanding the requirements of Section 108.1, application for a permit and any related inspections shall not be required for the following; however, this section shall not be construed to exempt such activities from other applicable requirements of this code. In addition, when an owner or an owner's agent requests that a permit be issued for any of the following, then a permit shall be issued and any related inspections shall be required.

1. Installation of wiring and equipment that (i) operates at less than 50 volts, (ii) is for network powered broadband communications systems, or (iii) is exempt under Section 102.3(1), except when any such installations are located in a plenum, penetrate fire rated or smoke protected construction or are a component of any of the following:

- 1.1. Fire alarm system.
 - 1.2. Fire detection system.
 - 1.3. Fire suppression system.
 - 1.4. Smoke control system.
 - 1.5. Fire protection supervisory system.
 - 1.6. Elevator fire safety control system.
 - 1.7. Access or egress control system or delayed egress locking or latching system.
 - 1.8. Fire damper.
 - 1.9. Door control system.
2. Detached accessory structures used as tool and storage sheds, playhouses or similar uses, provided the floor area does not exceed 150 square feet (14 m²) and the structures are not accessory to a Group F or H occupancy.
3. Detached prefabricated buildings housing the equipment of a publicly regulated utility service, provided the floor area does not exceed 150 square feet (14 m²).
4. Tents or air-supported structures, or both, that cover an area of 900 square feet (84 m²) or less, including within that area all connecting areas or spaces with a common means of egress or entrance, provided such tents or structures [~~are used or intended to be used for the gathering together~~ have an occupant load] of 50 or less persons.
5. Fences [and privacy walls] not part [of a building, structure or] of the barrier for a swimming pool [, provided such fences and privacy walls do not exceed six feet in height above the finished grade. Ornamental post caps shall not be considered to contribute to the height of the fence or privacy wall and shall be permitted to extend above the six feet height measurement].
6. Retaining walls [~~that are not over four feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless~~ supporting [a surcharge or less than two feet of unbalanced fill. This exemption shall not apply to any wall] impounding Class I, II or III-A liquids [or supporting a surcharge other than ordinary unbalanced fill].
7. Swimming pools that have a surface area not greater than 150 square feet (13.95 m²), do not exceed 5,000 gallons (19 000 L) and are less than 24 inches (610 mm) deep.
8. Ordinary repairs not including (i) the cutting away of any wall, partition or portion thereof; (ii) the removal or cutting of any structural beam or loadbearing support; (iii) the removal or change of any required means of egress; (iv) the rearrangement of parts of a structure affecting the egress requirements; (v) the addition to, alteration of, replacement of or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas or oil, soil, waste, vent or similar piping, electric wiring or mechanical work; or (vi) any other work affecting public health or general safety. However, ordinary repairs shall include, but are not limited to, the following:
- 8.1. Either within the dwelling unit in Group R-2 occupancies that are four stories or less in height or in Group R-3, R-4 and R-5 occupancies, or both, replacement of (i) either mechanical or plumbing equipment or appliances, or both, provided such equipment or appliances are not fueled by gas or oil; (ii) floor coverings or porch flooring, or both; and (iii) windows, doors, electrical switches, electrical outlets, light fixtures or ceiling fans.
- 8.2. In Group R-3, R-4 or R-5 occupancies, replacement of either roof coverings or siding or the installation of siding, or both, provided the buildings or structures are not subject to wind speeds greater than 100 miles per hour (160 km/hr) [, determined in accordance with applicable requirements of this code].
- 8.3. Installation of cabinets, painting, replacement of interior floor finish or interior covering materials, or both, and repair of (i) plaster, (ii) interior tile, and (iii) any other interior wall covering.
9. Signs under the conditions in Section H101.2 of Appendix H.
- [10. Replacement of above-ground existing LP-gas containers of the same capacity in the same location and associated regulators when installed by the serving gas supplier.]
- C. Section 108.3 Applicant information, processing by mail. Application for a permit shall be made by the owner or lessee of the relevant property or the agent of either or by the RDP, contractor or subcontractor associated with the work or any of their agents. The full name and address of the owner, lessee and applicant shall be provided in the application. If the owner or lessee is a corporate body, [when and to the extent determined necessary by the building official,] the full name and address of the responsible officers shall also be provided. A permit application may be submitted by mail and such permit applications shall be processed by mail, unless the permit applicant voluntarily chooses otherwise. In no case shall an applicant be required to appear in person.
- D. Section 108.4 Prerequisites to obtaining permit. In accordance with § 54.1-1111 of the Code of Virginia, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified under the terms or Chapter 11 (§ 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, supported by an affidavit, that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.
- E. Section 108.5 Mechanics' lien agent designation. In accordance with § 36-98.01 of the Code of Virginia, a building permit issued for any one- or two-family residential dwelling shall at the time of issuance contain, at the request of the

Final Regulations

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 building permit shall at the time of issuance state that none has been designated with the words "None Designated."

F. Section 108.6 Application form, description of work. The application for a permit shall be submitted on a form or forms supplied by the local building department. The application shall contain a general description and location of the proposed work and such other information as determined necessary by the building official.

G. Section 108.7 Amendments to application. An application for a permit may be amended at any time prior to the completion of the work governed by the permit. Additional construction documents or other records may also be submitted in a like manner. All such submittals shall have the same effect as if filed with the original application for a permit and shall be retained in a like manner as the original filings.

H. Section 108.8 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing unless such application has been pursued in good faith or a permit has been issued, except that the building official is authorized to grant one or more extensions of time if a justifiable cause is demonstrated.

13 VAC 5-63-90. Section 109 Construction documents.

A. Section 109.1 Submittal of documents. Construction documents shall be submitted with the application for a permit. The number of sets of such documents to be submitted shall be determined by the locality. Construction documents for one- and two-family dwellings may have floor plans reversed provided an accompanying site plan is approved.

Exception: Construction documents do not need to be submitted when the building official determines the proposed work is of a minor nature.

Note: Information on the types of construction required to be designed by an RDP is included in the "Related Laws Package" available from DHCD.

B. Section 109.2 Site plan. When determined necessary by the building official, a site plan shall be submitted with the application for a permit. The site plan shall show to scale the size and location of all proposed construction, including any associated wells, septic tanks or drain fields. The site plan shall also show to scale the size and location of all existing structures on the site, the distances from lot lines to all proposed construction, the established street grades and the proposed finished grades. When determined necessary by the building official, the site plan shall contain the elevation of the lowest floor of any proposed buildings. The site plan shall also be drawn in accordance with an accurate boundary line survey. When the application for a permit is for 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.

Note: Site plans are generally not necessary for alterations, renovations, repairs or the installation of equipment.

C. Section 109.3 Engineering details. When determined necessary by the building official, construction documents shall include adequate detail of the structural, mechanical, plumbing or electrical components. Adequate detail may include computations, stress diagrams or other essential technical data and when proposed buildings are more than two stories in height, adequate detail may specifically be required to include where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems and how such floor penetrations will be protected to maintain the required structural integrity or fire-resistance rating, or both. All engineered documents, including relevant computations, shall be sealed by the RDP responsible for the design.

D. Section 109.4 Examination of documents. The building official shall examine or cause to be examined all construction documents or site plans, or both, within a reasonable time after filing. If such documents or plans do not comply with the provisions of this code, the permit applicant shall be notified in writing of the reasons, which shall include any adverse construction document review comments or determinations that additional information or engineering details need to be submitted. The review of construction documents for new one- and two-family dwellings for determining compliance with the technical provisions of this code not relating to the site, location or soil conditions associated with the dwellings shall not be required when identical construction documents for identical dwellings have been previously approved in the same locality under the same edition of the code and such construction documents are on file with the local building department.

E. Section 109.4.1 Expedited construction document review. The building 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 building official may expedite the issuance of the permit.

F. Section 109.5 Approval of construction documents. The approval of construction documents shall be limited to only those items within the scope of the USBC. Either the word "Approved" shall be stamped on all required sets of approved construction documents or an equivalent endorsement in writing shall be provided. One set of the approved construction documents shall be retained for the records of the local building department and one set shall be kept at the building site and shall be available to the building official at all reasonable times.

G. Section 109.6 Phased approval. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation

and without assurance that a permit for the entire structure will be granted.

13 VAC 5-63-100. Section 110 Permits.

A. Section 110.1 Approval and issuance of permits. The building official shall examine or cause to be examined all applications for permits or amendments to such applications within a reasonable time after filing. If the applications or amendments do not comply with the provisions of this code or all pertinent laws and ordinances, the permit shall not be issued and the permit applicant shall be notified in writing of the reasons for not issuing the permit. If the application complies with the applicable requirements of this code, a permit shall be issued as soon as practicable. The issuance of permits shall not be delayed in an effort to control the pace of construction of new detached one- or two-family dwellings.

B. Section 110.2 Types of permits. Separate or combined permits may be required for different areas of construction such as building construction, plumbing, electrical, and mechanical work, or for special construction as determined appropriate by the locality. In addition, permits for two or more buildings or structures on the same lot may be combined. Annual permits may also be issued 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 building official and shall be submitted to the local building department if requested by the building official.

C. Section 110.3 Asbestos inspection in buildings to be renovated or demolished; exceptions. In accordance with § 36-99.7 of the Code of Virginia, the local building department 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 local building department 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 1926.1101). 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 friable 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 of facility components where the length or area could not be measured previously.

An abatement area shall not be reoccupied until the building official receives certification from the owner that the response actions have been completed and final clearances have been 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).

D. Section 110.4 Fire apparatus access road requirements. The permit applicant shall be informed of any requirements for providing or maintaining fire apparatus access roads prior to the issuance of a building permit.

E. Section 110.5 Signature on and posting of permits; limitation of approval. The signature of the building official or authorized representative shall be on or affixed to every permit. A copy of the permit shall be posted on the construction site for public inspection until the work is completed. Such posting shall include the street or lot number, if one has been assigned, to be readable from a public way. In addition, each building or structure to which a street number has been assigned shall, upon completion, have the number displayed so as to be readable from the public way.

A permit shall be considered authority to proceed with construction in accordance with this code, the approved construction documents, the permit application and any approved amendments or modifications. The permit shall not be construed to otherwise authorize the omission or amendment of any provision of this code.

F. Section 110.6 Suspension of a permit. Any permit 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 building official that work has not been suspended or abandoned. Upon written request, the building official may grant one or more extensions of time, not to exceed one year per extension.

G. Section 110.7 Revocation of a permit. The building official may revoke a permit or approval issued under this code in the 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.

Final Regulations

13 VAC 5-63-110. Section 111 RDP services.

A. Section 111.1 When required. In accordance with § 54.1-410 of the Code of Virginia and under the general authority of this code, the local building department shall establish a procedure to ensure that construction documents under Section 109 are prepared by an RDP in any case in which the exemptions contained in §§ 54.1-401, 54.1-402 or § 54.1-402.1 of the Code of Virginia are not applicable or in any case where the building official determines it necessary. When required under § 54.1-402 of the Code of Virginia or when required by the building official, or both, construction documents shall bear the name and address of the author and his occupation.

Note: Information on the types of construction required to be designed by an RDP is included in the "Related Laws Package" available from DHCD.

B. Section 111.2 Special inspection requirements. [~~Inspectors conducting special inspections for concrete, soil, reinforcing steel, structural steel, masonry and bituminous materials shall be RDPs or shall comply with ASTM E329-02. When ASTM E329-02 is used, submittal shall include written documentation of the applicable agency's laboratory accreditation, or personnel certification, or both.~~ Special inspections shall be conducted under the supervision of registered design professionals and in accordance with Section 1704. Persons engaged in the testing and inspection of construction materials, and the facilities, equipment and procedures they use in the process, shall comply with ASTM E329 or other standards acceptable to the building official. The building official may require written documentation of personnel certifications and laboratory accreditation, when appropriate, as evidence of conformance with this section.] The permit applicant shall [~~be informed of any requirements for providing such~~ submit a statement of] special inspections [~~prior~~ as a requisite] to the issuance of a building permit [~~and~~]. All fees and costs related to the [special] inspections shall be the responsibility of the building owner.

13 VAC 5-63-120. Section 112 Workmanship, materials and equipment.

A. Section 112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC.

B. Section 112.2 Alternative methods or materials. In accordance with § 36-99 of the Code of Virginia, where practical, the provisions of this code are stated in terms of required level of performance so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, this section and other applicable requirements of this code provide for acceptance of materials and methods whose performance is substantially equal in safety to those specified on the basis of reliable test and evaluation data presented by the proponent. In addition, as a requirement of this code, the building official shall require that sufficient technical data be submitted to substantiate the proposed use

of any material, equipment, device, assembly or method of construction.

C. Section 112.3 Documentation and approval. In determining whether any material, equipment, device, assembly or method of construction complies with this code, the building official shall approve items listed by nationally recognized [~~independent~~ testing] laboratories [(NRTL), when such items are listed for the intended use and application,] and [in addition,] may consider the recommendations of RDPs. Approval shall be issued when the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code and that the material, equipment, device, assembly or method of construction offered is, for the purpose intended, at least the equivalent of that prescribed by the code in quality, strength, effectiveness, fire resistance, durability and safety. Such approval is subject to all applicable requirements of this code and the material, equipment, device, assembly or method of construction shall be installed [~~or constructed, or both,~~] in accordance with the conditions of the approval [and their listings]. In addition, the building official may revoke such approval whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

D. [Section 112.3.1 Conditions of listings. Where conflicts between this code and conditions of the listing of the manufacturer's installation instructions occur, the provisions of this code shall apply.

Exception: Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

E.] Section 112.4 Used material and equipment. Used materials, equipment and devices may be approved provided they have been reconditioned, tested or examined and found to be in good and proper working condition and acceptable for use by the building official.

13 VAC 5-63-130. Section 113 Inspections.

A. Section 113.1 General. In accordance with § 36-105 of the Code of Virginia, any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. The building official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to the issuance of an occupancy permit.

B. [Section 113.1.1 Equipment required. Any ladder, scaffolding or test equipment necessary to conduct or witness a requested inspection shall be provided by the permit holder.

C. Section 113.1.2 Duty to notify. When construction reaches a stage of completion that requires an inspection, the permit holder shall notify the building official.

D. Section 113.1.3 Duty to inspect. Except as provided for in Section 113.7, the building official shall perform the requested

inspection in accordance with Section 113.6 when notified in accordance with Section 113.1.2.

E.] Section 113.2 Prerequisites. The building official may conduct a site inspection prior to issuing a permit. When conducting inspections pursuant to this code, all personnel shall carry proper credentials.

[~~G.~~ F.] Section 113.3 Minimum inspections. The [~~permit holder shall assure that the~~] following minimum inspections [~~have been shall be~~] conducted [~~and approved~~] by the building 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.
7. Final inspection.

[~~D.~~ G.] Section 113.4 Additional inspections. The building official may designate additional inspections and tests to be conducted during the construction of a building or structure and shall so notify the permit holder. [~~When construction reaches a stage of completion that requires an inspection, the permit holder shall notify the building official. Any ladder, scaffolding or test equipment necessary to conduct or witness the requested inspection shall be provided by the permit holder.~~]

[~~E.~~ H.] Section 113.5 In-plant and factory inspections. When required by the provisions of this code, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report shall indicate the complete details of the assembly including a description of the assembly and its components, and describe the basis upon which the assembly is being evaluated. In addition, test results and other data as necessary for the building official to determine conformance with the USBC shall be submitted. For factory inspections, an identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made shall be acceptable instead of a written inspection report, provided the intent or meaning of such identifying label or stamp is properly substantiated.

[~~F.~~ I.] Section 113.6 Approval or notice of defective work. The building official shall either approve the work in writing or give written notice of defective work to the permit holder. Upon request of the permit holder, the notice shall reference the USBC section that serves as the basis for the defects and 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 issued shall be maintained by the building official and shall be communicated promptly in writing to the permit holder. Approval issued under this section may be revoked whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

[~~G.~~ J.] Section 113.7 Approved inspection agencies. The building 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 official is unable to make the inspection or test within two working days of a request or an agreed upon date, the building official shall accept reports for review from such approved individuals or agencies. 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.

Note: Photographs, videotapes or other sources of pertinent data or information may be considered as constituting such reports and tests.

[K. Section 113.7.1 Third-party inspectors. Each building official charged with the enforcement of the USBC shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or pre-approval requirements and any other requirements and procedures established by the building official.]

[~~H.~~ L.] Section 113.8 Final inspection. Upon completion of a building or structure and before the issuance of a certificate of occupancy, a final inspection shall be conducted to ensure that any defective work has been corrected and that all work complies with the USBC and has been approved, including any work associated with modifications under Section 106.3. The approval of a final inspection shall be permitted to serve as the new certificate of occupancy required by Section 116.1 in the case of additions or alterations to existing buildings or structures that already have a certificate of occupancy.

13 VAC 5-63-140. Section 114 Stop work orders.

A. Section 114.1 Issuance of order. When the building official finds that work on any building or structure is being executed contrary to the provisions of this code or any pertinent laws or ordinances, or in a manner endangering the general public, a written stop work order may be issued. The order shall identify the nature of the work to be stopped and be given either to the owner of the property involved, to the owner's agent or to the person performing the work. Following the issuance of such an order, the affected work shall cease immediately. The order shall state the conditions under which such work may be resumed.

B. Section 114.2 Limitation of order. A stop work order shall apply only to the work identified in the order, provided that other work on the building or structure may be continued if not concealing the work covered by the order.

Final Regulations

13 VAC 5-63-150. Section 115 Violations.

A. Section 115.1 Violation a misdemeanor; civil penalty. In accordance with § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions. Any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the code that are not abated or remedied promptly after receipt of a notice of violation from the local enforcement officer.

Note: See the full text of § 36-106 of the Code of Virginia for additional requirements and criteria pertaining to legal action relative to violations of the code.

B. Section 115.2 Notice of violation. The building official shall issue a written notice of violation to the responsible party if any violations of this code or any directives or orders of the building official have not been corrected or complied with in a reasonable time. The notice shall reference the code section upon which the notice is based and direct the discontinuance and abatement of the violation or the compliance with such directive or order. The notice shall be issued 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 if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by referencing the appeals section. When the owner of the building or structure, or the permit holder for the construction in question, or the tenants of such building or structure, are not the responsible party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the such owner, permit holder or tenants.

C. Section 115.2.1 Notice not to be issued under certain circumstances. When violations are discovered more than two years after the certificate of occupancy is issued or the date of initial occupancy, whichever occurred later, or more than two years after the approved final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from the legal counsel of the locality that action may be taken to compel correction of the violation. When compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia, the building official shall document the existence of the violation and the edition of the USBC the violation is under.

D. Section 115.3 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the building official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality so authorizes, the building official may issue or obtain a summons or warrant. Compliance with a notice of violation notwithstanding, the building 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 subject to this code.

Note: See § 19.2-8 of the Code of Virginia concerning the statute of limitations for building code prosecutions.

E. Section 115.4 Penalties and abatement. Penalties for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

13 VAC 5-63-160. Section 116 Certificates of occupancy.

A. Section 116.1 General; when to be issued. A certificate of occupancy indicating completion of the work for which a permit was issued shall be obtained prior to the occupancy of any building or structure, except as provided for in this section generally and as specifically provided for in Section 113.8 for additions or alterations. The certificate shall be issued after completion of the final inspection and when the building or structure is in compliance with this code and any pertinent laws or ordinances, or when otherwise entitled. The building official shall, however, issue a certificate of occupancy within five working days after being requested to do so, provided the building or structure meets all of the requirements for a certificate.

[Exception: A certificate of occupancy is not required for an accessory structure as defined in the International Residential Code.]

B. Section 116.1.1 Temporary certificate of occupancy. Upon the request of a permit holder, a temporary certificate of occupancy may be issued before the completion of the work covered by a permit, provided that such portion or portions of a building or structure may be occupied safely prior to full completion of the building or structure without endangering life or public safety.

C. Section 116.2 Contents of certificate. A certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The group classification 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 and whether or not such system was required.
5. Any special stipulations and conditions of the building permit [and if any modifications were issued under the permit, there shall be a notation on the certificate that modifications were issued].

D. Section 116.3 Suspension or revocation of certificate. A certificate of occupancy may be revoked or suspended whenever the building official discovers that such certificate was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC. The revocation or suspension shall be in writing.

E. Section 116.4 Issuance of certificate for existing buildings or structures. Upon written request from the owner or the

owner's agent, or as otherwise determined necessary by the building official, a certificate of occupancy shall be issued for an existing building or structure provided there are no current violations of the Virginia Maintenance Code or the Virginia Statewide Fire Prevention Code (13 VAC 5-51) and the occupancy classification of the building or structure has not changed. An inspection shall be performed prior to the issuance of the certificate and such buildings and structures shall not be prevented from continued use.

13 VAC 5-63-170. Section 117 Temporary and moved buildings and structures; demolition.

A. Section 117.1 Temporary building and structures. The building official is authorized to issue a permit for temporary buildings or structures. Such permits shall be limited as to time of service, but shall not be permitted for more than one year, except that upon the permit holder's written request, the building official may grant one or more extensions of time, not to exceed one year per extension. The building official is authorized to terminate the approval and order the demolition or removal of temporary buildings or structures during the period authorized by the permit when determined necessary.

B. Section 117.2 Moved buildings and structures. Any building or structure moved into a locality or moved to a new location within a locality shall not be occupied or used until a certification of occupancy is issued for the new location. Such moved buildings or structures shall be required to comply with the requirements of this code for a newly constructed building or structure unless meeting all of the following requirements relative to the new location:

1. There is no change in the occupancy classification from its previous location.
2. The building or structure was in compliance with all state and local requirements applicable to it in its previous location and is in compliance with all state and local requirements applicable if originally constructed in the new location.
3. The building or 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 are in compliance with applicable requirements of this code.

C. Section 117.3 Demolition of buildings and structures. Prior to the issuance of a permit for the demolition of any building or structure, the owner or the owner's agent shall provide certification to the building official that all service connections of utilities have been removed, sealed or plugged satisfactorily and a release has been obtained from the associated utility company. The certification shall further provide that written notice has been given to the owners of adjoining lots and any other lots that may be affected by the temporary removal of utility wires or the temporary disconnection or termination of other services or facilities relative to the demolition. In addition, the requirements of Chapter 33 of the IBC for any necessary retaining walls or fences during demolition shall be applicable and when a building or structure is demolished or removed, the established grades shall be restored.

13 VAC 5-63-180. Section 118 Buildings and structures becoming unsafe during construction.

A. Section 118.1 Applicability. This section applies to buildings and structures for which a construction permit has been issued under this code and construction has not been completed or a certificate of occupancy has not been issued, or both. In addition, this section applies to any building or structure that is under construction or that was constructed without obtaining the required permits under this edition or any edition of the USBC.

Note: Existing buildings and structures other than those under construction or subject to this section are subject to the Virginia Maintenance Code that also has requirements for unsafe conditions.

B. Section 118.2 Repair or removal of unsafe buildings or structures. Any building or structure subject to this section that is either deteriorated, improperly maintained, of faulty construction, deficient in adequate exit facilities, a fire hazard or dangerous to life or the public welfare, or both, or any combination of the foregoing, is an unsafe building or structure and shall be made safe through compliance with this code or shall be taken down and removed if determined necessary by the building official.

C. Section 118.3 Inspection report and notice of unsafe building or structure. The building official shall inspect any building or structure reported to be unsafe and shall prepare a report to be filed in the records of the local building department. In addition to a description of any unsafe conditions found, the report shall include the occupancy classification of the building or structure and the nature and extent of any damages caused by collapse or failure of any building components. If the building or structure is determined by the building official to be unsafe, a notice of unsafe building or structure shall be issued in person to the owner and any permit holder. The notice shall describe any unsafe conditions and specify any repairs or improvements necessary to make the building or structure safe, or alternatively, when determined necessary by the building official, require the unsafe building or structure, or any portion of it, to be taken down and removed. The notice shall stipulate a time period for the repair or demolition of the unsafe building or structure and contain a statement requiring the person receiving the notice to determine whether to accept or reject the terms of the notice. If any persons to which the notice of unsafe building or structure is to be issued cannot be found after diligent search, as equivalent service, the notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice posted in a conspicuous place on the premises.

D. Section 118.4 Vacating the unsafe building or structure. If any portion of an unsafe building or structure has collapsed or fallen, or if the building official determines there is actual and immediate danger of any portion collapsing or falling, and when life is endangered by the occupancy of the unsafe building or structure, the building official shall be authorized to order the occupants to immediately vacate the unsafe building or structure. When an unsafe building or structure is ordered to be vacated, the building official shall post a notice at each entrance that reads as follows:

Final Regulations

"This Building (or Structure) is Unsafe and its Occupancy (or Use) is Prohibited by the Building Official."

After posting, occupancy or use of the unsafe structure shall be prohibited except when authorized to enter to conduct inspections, make required repairs or as necessary to demolish the building or structure.

~~E. Section 118.5 Emergency repairs [and demolition]. [To the extent permitted by the locality,] the building official may [also] authorize emergency repairs to unsafe buildings or structures [to the extent authorized by the local governing body] when it is determined that there is an immediate danger of any portion of the unsafe building or structure collapsing or falling and when life is endangered. Emergency repairs may also be authorized when [a violation of this code results in a fire hazard that creates an] there is a code violation resulting in the [immediate, serious and imminent threat to the life and safety of the occupants. [Such emergency repairs shall be limited to those necessary to achieve temporary safety and] The building official] shall be permitted [to authorize the necessary work to make the building or structure temporarily safe] whether or not legal action to compel compliance has been instituted.~~

~~[F. Section 118.6 Further action to raze. In addition,] whenever [the an] owner of an unsafe building or structure fails to comply with a notice [of unsafe building or structure to demolish] issued under Section 118.3 [in the time period stipulated,] the building official shall be permitted to cause the unsafe building or structure to be [razed or removed when so authorized by the local governing body demolished]. [Note: sections 15.2-906, In accordance with §§] 15.2-906 and 15.2-1115 of the Code of Virginia [may provide additional authority for governmental actions to remove unsafe buildings or structures and the recovery of associated expenditures, the legal counsel of the locality may be requested to institute appropriate action against the property owner to recover the costs associated with any such emergency repairs or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.]~~

Note: Building officials and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the owner cannot be located and whether the demolition order must be delayed until the owner has been given the opportunity for a hearing.]

13 VAC 5-63-190. Section 119 Appeals.

A. Section 119.1 Establishment of appeals board. In accordance with § 36-105 of the Code of Virginia, there shall be established within each local building department a LBBCA. Whenever a county or a municipality does not have such a LBBCA, 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 DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to

defray the cost of such appeals. In addition, as an authorization in this code, separate LBBCAs may be established to hear appeals of different enforcement areas such as electrical, plumbing or mechanical requirements. Each such LBBCA shall comply with the requirements of this section.

B. Section 119.2 Membership of board. The LBBCA shall consist of at least five members appointed by the locality for a specific term 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 locality. 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. Section 119.3 Officers and qualifications of members. The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality 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; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

D. Section 119.4 Conduct of members. No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

E. Section 119.5 Right of appeal; filing of appeal application. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of a building or structure may appeal a decision of the building official concerning the application of the USBC to such building or structure and may also appeal a refusal by the building official to grant a modification to the provisions of the USBC pertaining to such building or structure. The applicant shall submit a written request for appeal to the LBBCA within 90 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building 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 LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit

established by this section shall constitute acceptance of a building official's decision.

Note: To the extent that a decision of a building official pertains to amusement devices there may be a right of appeal under the VADR.

F. Section 119.6 Meetings and postponements. The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A 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, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

G. Section 119.7 Hearings and decision. All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the building official's decision in question 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. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be [~~given or~~] sent to all parties [by certified mail]. In addition, the resolution shall contain the following wording:

" [Upon receipt of this resolution,] Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days [upon receipt by certified mail of this resolution]. Application forms are available from the Office of the State Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7150."

H. Section 119.8 Appeals to the State Review Board. After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the building official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the building official's decision. For appeals from a LBBCA, a copy of the building official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the office of the State Review Board, the LBBCA

shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the building official's decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

13 VAC 5-63-200. Chapter 2 Definitions: Section 202 Definitions.

A. Add the following definitions to Section 202 of the IBC to read:

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.

Construction. The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn). See Section 1202.1.

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 building or structure. A building or structure 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:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm.
2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products.
3. Business or office uses relating to the farm operations.
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm.
5. Storage or use of supplies and materials used on the farm.
6. Implementation of best management practices associated with farm operations.

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

Final Regulations

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 board of building code appeals (LBBCA). See Section 119.1.

Local building department. The agency or agencies of any local governing body charged with the administration, supervision, or enforcement of this code, approval of construction documents, inspection of buildings or structures, or issuance of permits, licenses, certificates or similar documents.

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

Locality. A city, county or town in this Commonwealth.

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.

[Night club. Any building in which the main use is a place of public assembly that provides exhibition, performance or other forms of entertainment; serves alcoholic beverages; and provides music and space for dancing.]

Skirting. A weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.

Sound transmission class (STC) rating. See Section 1202.1.

State regulated care facility (SRCF). A building with an occupancy in Group R-2, R-3, R-4 or R-5 occupied by persons in the care of others where program oversight is provided by the Virginia Department of Social Services, the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, the Virginia Department of Education or the Virginia Department of Juvenile Justice.

State Review Board. The Virginia State Building Code Technical Review Board as established under § 36-108 of the Code of Virginia.

Technical assistant. Any person employed by [7] or under [an extended] contract to [7] a local building department or local enforcing agency for enforcing the USBC, including but not limited to inspectors and plans reviewers. [For the purpose of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.]

VADR. The Virginia Amusement Device Regulations (13 VAC 5-31).

VCS. The Virginia Certification Standards (13 VAC 5-21).

Working day. A day other than Saturday, Sunday or a legal local, state or national holiday.

B. Change the following definitions in Section 202 of the IBC to read:

Building. A combination of materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. 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. ["Building" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.

For application of this code, each portion of a building that is completely separated from other portions by fire walls complying with Section 705 shall be considered as a separate building (see IBC Section 503.1).]

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.

Registered Design Professional (RDP). An architect or professional engineer, licensed to practice architecture or engineering, as defined under § 54.1-400 of the Code of Virginia.

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. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. ["Structure" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.]

C. Delete the following definitions from Section 202 of the IBC:

Agricultural building.

Existing building.

13 VAC 5-63-210. Chapter 3 Use and occupancy classification.

A. [Change Section 302.3.2 of the IBC to read:

302.3.2 Separated uses. Each portion of the building shall be individually classified as to use and shall be completely separated from adjacent areas by fire barrier walls or horizontal assemblies or both having a fire-resistance rating determined in accordance with Table 302.3.2 for uses being separated. Each fire area shall comply with this code based on the use of that space. Each fire area shall comply with the height limitations of Section 503 based on the use of that space and the type of construction classification. The height, in both feet and stories, of each fire area shall be measured from the grade plane, and for fire areas above other fire areas,

stories of intervening fire areas shall be included. In each story, the building area shall be such that the sum of the ratios of the floor area of each use divided by the allowable area for each use shall not exceed one.

Exception: Except for Group H and I-2 areas, where the building is equipped throughout with an automatic sprinkler system, installed in accordance with Section 903.3.1.1, the fire-resistance ratings in Table 302.3.3 shall be reduced by one hour but to not less than one hour and to not less than that required for floor construction according to the type of construction.

B. Change exception 15 of Section 307.9 of the IBC to read:

15. The storage of black powder, smokeless propellant and small arms primers in Groups M, R-3 and R-5 and special industrial explosive devices in Groups B, F, M and S, provided such storage conforms to the quantity limits and requirements prescribed in the International Fire Code, as amended in Section 307.9.1.

C. Add Section 307.9.1 to the IBC to read:

307.9.1 Amendments. The following changes shall be made to the International Fire Code for the use of Exception 15 in Section 307.9:

1. Change Section 314.1 of the IFC to read as follows:

314.1 General. Indoor displays constructed within any building or structure shall comply with Sections 314.2 through 314.5.

2. Add new Section 314.5 to the IFC to read as follows:

314.5 Smokeless powder and small arms primers. Vendors shall not store, display or sell smokeless powder or small arms primers during trade shows inside exhibition halls except as follows:

1. The amount of smokeless powder each vendor may store is limited to the storage arrangements and storage amounts established in Section 3306.5.2.1.

2. Smokeless powder shall remain in the manufacturer's original sealed container and the container shall remain sealed while inside the building. The repackaging of smokeless powder shall not be performed inside the building. Damaged containers shall not be repackaged inside the building and shall be immediately removed from the building in such manner to avoid spilling any powder.

3. There shall be at least 50 feet separation between vendors and 20 feet from any exit.

4. Small arms primers shall be displayed and stored in the manufacturer's original packaging and in accordance with the requirements of Section 3306.5.2.3.

3. Change Exception 4 and add Exceptions 10 and 11 to Section 3301.1 of the IFC as follows:

4. The possession, storage and use of not more than 15 pounds (6.75 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and

any amount of small arms primers for hand loading of small arms ammunition for personal consumption.

10. The display of small arms primers in Group M when in the original manufacturer's packaging.

11. The possession, storage and use of not more than 50 pounds (23 kg) of commercially manufactured sporting black powder, 100 pounds (45 kg) of smokeless powder, and small arms primers for hand loading of small arms ammunition for personal consumption in Group R-3 or R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5.

4. Change the definition of Smokeless Propellants in Section 3302.1 of the IFC as follows:

SMOKELESS PROPELLANTS. Solid propellants, commonly referred to as smokeless powders, or any propellants classified by DOTn as smokeless propellants in accordance with NA3178 (Smokeless Powder for Small Arms), used in small arms ammunition, firearms, cannons, rockets, propellant-actuated devices and similar articles.

5. Change Section 3306.4 of the IFC to read as follows:

3306.4 Storage in residences. Propellants for personal use in quantities not exceeding 50 pounds (23 kg) of black powder or 100 pounds (45 kg) of smokeless powder shall be stored in original containers in occupancies limited to Group R-3 and R-5 or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5. In other than Group R-3 or R-5, smokeless powder in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) shall be kept in a wooden box or cabinet having walls of at least one inch (25 mm) nominal thickness or equivalent.

6. Delete Sections 3306.4.1 and 3306.4.2 of the IFC.

7. Change Section 3306.5.1.1 of the IFC to read as follows:

3306.5.1.1 Smokeless propellant. No more than 100 pounds (45 kg) of smokeless propellants in containers of eight pounds (3.6 kg) or less capacity shall be displayed in Group M occupancies.

8. Delete Section 3306.5.1.3 of the IFC.

9. Change Section 3306.5.2.1 of the IFC as follows:

3306.5.2.1 Smokeless propellant. Commercial stocks of smokeless propellants shall be stored as follows:

1. Quantities exceeding 20 pounds (9 kg), but not exceeding 100 pounds (45 kg) shall be stored in portable wooden boxes having walls of at least one inch (25 mm) nominal thickness or equivalent.

2. Quantities exceeding 100 pounds (45 kg), but not exceeding 800 pounds (363 kg), shall be stored in storage cabinets having walls at least one inch (25 mm)

Final Regulations

nominal thickness or equivalent. Not more than 400 pounds (182 kg) shall be stored in any one cabinet, and cabinets shall be separated by a distance of at least 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of at least one hour.

3. Storage of quantities exceeding 800 pounds (363 kg), but not exceeding 5,000 pounds (2270 kg) in a building shall comply with all of the following:

3.1. The storage is inaccessible to unauthorized personnel.

3.2. Smokeless propellant shall be stored in nonportable storage cabinets having wood walls at least one inch (25 mm) nominal thickness or equivalent and having shelves with no more than 3 feet (914 mm) of vertical separation between shelves.

3.3. No more than 400 pounds (182 kg) is stored in any one cabinet.

3.4. Cabinets shall be located against walls with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades must extend a minimum of 10 feet (3048 mm) outward, be firmly attached to the wall, and be constructed of steel not less than 0.25 inch thick (6.4 mm), 2-inch (51 mm) nominal thickness wood, brick, or concrete block.

3.5. Smokeless propellant shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of 1 hour.

3.6. The building shall be equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

4. Smokeless propellants not stored according to Item 1, 2, or 3 above shall be stored in a Type 2 or 4 magazine in accordance with Section 3304 and NFPA 495.

10. Change Section 3306.5.2.3 of the IFC to read as follows:

3306.5.2.3 Small arms primers. Commercial stocks of small arms primers shall be stored as follows:

1. Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile and piles are at least 15 feet (4572 mm) apart.

2. Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:

2.1. The warehouse or storage building shall not be accessible to unauthorized personnel.

2.2. Small arms primers shall be stored in cabinets. No more than 200,000 small arms primers shall be stored in any one cabinet.

2.3. Shelves in cabinets shall have vertical separation of at least 2 feet (610 mm).

2.4. Cabinets shall be located against walls of the warehouse or storage room with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall, and shall be constructed of steel not less than 0.25 inch thick (6.4 mm), two-inches (51 mm) nominal thickness wood, brick, or concrete block.

2.5. Small arms primers shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of one hour.

2.6. The building shall be protected throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

3. Small arms primers not stored in accordance with Item 1 or 2 of this section shall be stored in a magazine meeting the requirements of Section 3304 and NFPA 495.

D.] Add an exception to Section 308.2 of the IBC to read:

Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services or the Virginia Department of Social Services that house no more than eight persons with one or more resident counselors shall be classified as Group R-2, R-3, R-4 or R-5. Not more than five of the persons may require physical assistance from staff to respond to an emergency situation.

[~~B~~. E.] Change Section 308.5.2 of the IBC to read:

308.5.2 Child care facility. A facility other than family day homes under Section 310.4 that provides supervision and personal care on less than a 24-hour basis for more than five children 2-1/2 years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than five but no more than 100 children 2-1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

[~~C~~. F.] Add a new occupancy classification to Section 310 of the IBC to read:

R-5 Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures.

[~~D~~. G.] Add Section 310.3 to the IBC to read:

310.3 Group R-5. The construction of Group R-5 structures shall comply with the International Residential Code, also referred to as the "IRC." The amendments to the IRC set out in Section 310.6 shall be made to the IRC for its use as part of

this code. In addition, all references to Section 101.2 in the IBC relating to the construction [~~to~~] of one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height shall be considered to be references to this section.

[~~H.~~ Add Section 310.3.1 to the IBC to read:

310.3.1 Additional requirements. Methods of construction, materials, systems, equipment or components for Group R-5 structures not addressed by prescriptive or performance provisions of the IRC shall comply with applicable IBC requirements.]

[~~E. I.~~ Add Section 310.4 to the IBC to read:

310.4 Family day homes. Family day homes where program oversight is provided by the Virginia Department of Social Services shall be classified as Group R-2, R-3 or R-5.

Note: Family day homes may generally care for up to 12 children. See the DHCD Related Laws Package for additional information.

[~~F. J.~~ Add Section 310.5 to the IBC to read:

310.5 Radon-resistant construction in Group R-3 and R-4 structures. Group R-3 and R-4 structures shall be subject to the radon-resistant construction requirements in Appendix F in localities enforcing such requirements pursuant to Section R324 of the IRC.

[~~G. K.~~ Add Section 310.6 to the IBC to read:

310.6 Amendments to the IRC. The following changes shall be made to the IRC for its use as part of this code:

1. Change Section R301.2.1 to read:

R301.2.1 Wind limitations. Buildings and portions thereof shall be limited by wind speed, as defined in [~~Table Figure~~] R301.2(1), and construction methods in accordance with this code. Basic wind speeds shall be determined from Table R301.2(4). Where different construction methods and structural materials are used for various portions of a building, the applicable requirements of this section for each portion shall apply. Where loads for windows, skylights and exterior doors are not otherwise specified, the loads listed in Table R301.2(2) adjusted for height and exposure per Table R301.2(3), shall be used to determine design load performance requirements for windows and doors. [~~Basic~~] Wind [~~speed speeds~~] for [~~the~~] localities in [] special wind regions [~~indicated,~~] near mountainous terrain [~~;~~] and near gorges [~~;~~] shall be [based on elevation. Areas at 4,000 feet in elevation or higher shall use 110 V mph (48.4 m/s) and areas under 4,000 feet in elevation shall use 90 V mph (39.6 m/s). Gorge areas shall be based on the highest recorded speed per locality or] in accordance with local jurisdiction requirements determined in accordance with Section 6.5.4 of ASCE 7. [Wind speed considerations for roof coverings shall be as set out in Section R905.]

[2. Change Note "e" of Table R301.2(1) to read:

~~e. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed table (Table R301.2(4)). Wind exposure category shall be determined~~

~~on a site specific basis in accordance with Section R301.2.1.4.~~

3. Change Figure R301.2(4) to Table R301.2(4) to read:

~~Table R301.2(4)~~
Basic Wind Speeds for Virginia Localities Based on Basic Wind Speed (3-Second Gust) Map

90 V mph (m/s)	100 V mph (m/s)	110 V mph (m/s)	Special Wind Region
All other localities	City of Chesapeake	Accomack County	Bland County
	City of Franklin	Northampton County	Grayson County
	Gloucester County	City of Virginia Beach	Scott County
	City of Hampton		Smyth County
	Isle of Wight County		Tazewell County
	Lancaster County		Washington County
	Mathews County		Wythe County
	Middlesex County		
	City of Newport News		
	City of Norfolk		
	Northumberland County		
	City of Poquoson		
	City of Portsmouth		
	Southampton County		
	City of Suffolk		
	Surry County		
	York County		

Note: The basic wind speed for a town shall be the same as the basic wind speed shown for the county in which the town is located.

2. Change the first sentence in Section R302.1 to read:

R302.1 Exterior walls. Exterior walls with a fire separation distance of less than five feet (1524 mm) shall not have less than a one-hour fire-resistive rating with exposure from both sides.

3. Change Section R302.2 to read:

R302.2 Openings. Openings shall not be permitted in the exterior wall of a dwelling or accessory building with a fire separation distance less than three feet (914 mm). Openings in excess of 25% of the area of the entire wall surface, which shall include bay windows, shall not be permitted in the exterior wall of a dwelling or an accessory building with a fire separation distance between three feet (914 mm) and five feet (1524 mm). The building face of a bay window shall not be considered a separate wall with respect to the computation of the 25% opening limitations. This distance shall be measured

Final Regulations

perpendicular to the line used to determine the fire separation distance.

Exceptions:

1. Openings shall be permitted in walls that are perpendicular to the line used to determine the fire separation distance.
2. Foundation vents installed in compliance with this code are permitted.]

4. [~~Change~~ Add an exception to] Section R303.8 to read:

[Exception: Seasonal structures not used as a primary residence for more than 90 days per year, unless rented, leased or let on terms expressed or implied to furnish heat, shall not be required to comply with this section.

5. Add Section R303.8.1 to read:]

[~~R303.8 Required heating~~ R303.8.1 Nonowner occupied 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) in accordance with Section R303.8~~] during the period from October 15 to May 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 winter design temperature for heating facilities established by the jurisdiction~~].

[~~6.~~ 6.] Add Section R303.9 to read:

R303.9 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.

[~~6.~~ 7.] Add Section R306.5 to read:

R306.5 Water supply sources and sewage disposal systems. [The water and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public or private water supply and a public or private sewer system. Where applicable,] water supply sources and sewage disposal systems [~~are shall be~~] regulated [~~and approved~~] by the Virginia Department of Health.

[~~7.~~ 8.] Change Section R310.1 to read:

R310.1 Emergency escape and rescue required. Basements [~~with habitable space~~] and each sleeping room [designated on the construction documents] shall have at least one openable emergency escape and rescue opening. [Such opening shall be directly to the exterior of the building or to a deck, screen porch or egress court, all of which shall provide access to a public street, public alley or yard.] Where emergency escape and rescue openings are provided, they shall have a sill

height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside, except that tilt-out or removable sash designed windows shall be permitted to be used. Emergency escape and rescue openings with a finished height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

[~~Exception:~~ Exceptions:

1.] Dwelling units equipped throughout with an approved automatic sprinkler system installed in accordance with NFPA 13, 13R or 13D.

[2. Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²).]

[~~8.~~ 9.] Change Section R310.1.1 to read:

R310.1.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.530 m²), including the tilting or removal of the sash as the normal operation to comply with sections R310.1.2 and R310.1.3.

Exception: Grade floor openings shall have a minimum net clear opening of 5 square feet (0.465 m²).

[10. Change Section R311.4.3 to read:

R311.4.3 Landings at doors. There shall be a floor or landing on each side of each exterior door. The width of each landing shall not be less than the door served. Every landing shall have a minimum dimension of 36 inches (914 mm) measured in the direction of travel.

Exception: Where a stairway of two or fewer risers is located on the exterior side of a door, other than the required exit door, a landing is not required for the exterior side of the door.

11. Add Section R311.4.3.1 to read:

R311.4.3.1 Elevation of landing. The floors or landings at both sides of any exterior door shall not be more than 1-1/2 inches (38 mm) lower than the top of the threshold.

Exception: The floor or landing at the exterior side of any exterior door shall have a rise no greater than permitted in Section R311.5.3 provided the door, other than an exterior storm or screen door, does not swing over the landing.]

[~~9.~~ 12.] Change Section R311.5.3.1 to read:

R311.5.3.1 Riser height. The maximum riser height shall be 8-1/4 inches (210 mm). The riser shall be measured vertically between the leading edges of the adjacent treads. The greatest riser height within any flight of stairs

shall not exceed the smallest by more than 3/8 inch (9.5 mm).

[~~40.~~ 13.] Change Section R311.5.3.2 to read:

R311.5.3.2 Tread depth. The minimum tread depth shall be 9 inches (229 mm). 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 greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12 inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

[14. Change Section R311.5.5 to read:

R311.5.5 Stairway walking surface. The walking surface of treads and landings of stairways shall be level or sloped no steeper than one unit vertical in 48 inches horizontal (two-percent slope).

15. Change Item 2 of Section R314.2.6 to read:

2. The maximum thickness of the trim is 0.5 inch (12.7 mm) and the maximum width is 8 inches (204 mm).

16. Change the first sentence in Section R319.1 to read:

R319.1 Location required. In areas subject to decay damage as established by Table R301.2(1), the following locations shall require the use of an approved species and grade of lumber, pressure treated in accordance with AWPA U1 for the species, product, preservative and end use or of the decay-resistant heartwood or redwood, black locust or cedars. Preservatives shall conform to AWPA P1/13, P2, P3 or P5.]

[~~44.~~ 17.] Add Section R324 Radon-Resistant Construction.

[~~42.~~ 18.] Add Section R324.1 to read:

R324.1 Local enforcement of radon requirements. Following official action under Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 of the Code of Virginia by a locality in areas of high radon potential, as indicated by Zone 1 on the U.S. EPA Map of Radon Zones (IRC Figure AF101), such locality shall enforce the provisions contained in Appendix F.

Exemption: Buildings or portions thereof with crawl space foundations which are ventilated to the exterior, shall not be required to provide radon-resistant construction.

[~~43.~~ 19.] Add Section R325 Swimming Pools, Spas and Hot Tubs.

[~~44.~~ 20.] Add Section R325.1 to read:

R325.1 Use of Appendix G for swimming pools, spas and hot tubs. In addition to other applicable provisions of this code, swimming pools, spas and hot tubs shall comply with the provisions in Appendix G.

[~~45.~~ 21.] Add Section R326 Patio Covers.

[~~46.~~ 22.] Add Section R326.1 to read:

R326.1 Use of Appendix H for patio covers. Patio covers shall comply with the provisions in Appendix H.

[~~47.~~ 23.] Add Section R327 Sound Transmission.

[~~48.~~ 24.] Add Section R327.1 to read:

R327.1 Sound transmission between dwelling units. Construction assemblies separating dwelling units shall provide airborne sound insulation as required in Appendix K.

[~~49.~~ 25.] Add Section R327.2 to read:

R327.2 Airport noise attenuation. This section applies to the construction of the exterior envelope of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means or egress within airport noise zones when enforced by a locality pursuant to § 15.2-2295 of the Code of Virginia. The exterior envelope of such structures shall comply with Section 1207.4 of the state amendments to the IBC.

[~~20.~~ 26.] Change Section R401.4 to read:

R401.4 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 to 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. When required, testing shall be in accordance with Section R403.1.8.1. When soils are determined to be expansive, foundation design shall be in accordance with Section R403.1.8. 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. Table R401.4, List of Virginia land areas by Shrink/Swell Ratings, 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/swell condition for the area. In areas proven by quantifiable data created by sound soil science methodologies to have expansive, compressible, shifting or unknown soil characteristics, the building official shall determine whether to require a soil test to determine the soil's characteristics at a particular location. This test shall be made by an approved agency using an approved method.~~]

Final Regulations

[Table R401.4

List of Virginia Land Areas by Shrink/Swell Ratings

20% and greater potential		Less than 20% potential	
Accomack County	Nelson County	Alexandria, City of	Henry County
Albemarle County	Newport News, City of	Alleghany County	Highland County
Amelia County	Norfolk, City of	Amherst County	Hopewell, City of
Appomattox County	Northampton County	Bath County	Isle of Wight County
Arlington County	Orange County	Bedford County	King and Queen County
Augusta County	Pago County	Bedford, City of	King George County
Bland County	Poquoson, City of	Brunswick County	King William County
Botetourt County	Portsmouth, City of	Buchanan County	Lancaster County
Buckingham County	Powhatan County	Caroline County	Loudoun County
Buona Vista, City of	Prince Edward County	Carroll County	Lunenburg County
Campbell County	Prince George County	Charlotte County	Manassas, City of
Charles City County	Prince William County	Charlottesville, City of	Martinsville, City of
Chesapeake, City of	Pulaski County	Clifton Forge, City of	Mecklenburg County
Chesterfield County	Radford, City of	Colonial Heights, City of	Middlesex County
Clarke County	Richmond, City of	Covington, City of	New Kent County
Culpeper County	Roanoke County	Craig County	Northumberland County
Cumberland County	Roanoke, City of	Danville, City of	Nottoway County
Emporia, City of	Rockbridge County	Dickenson County	Patrick County
Fairfax County	Rockingham County	Dinwiddie County	Petersburg, City of
Fairfax, City of	Rocky Mount, City of	Essex County	Pittsylvania County
Fauquier County	Russell County	Floyd County	Rappahannock County
Fluvanna County	Salem, City of	Franklin County	Richmond County
Franklin, City of	Scott County	Fredericksburg, City of	Staunton, City of
Frederick County	Shenandoah County	Galax, City of	Warren County
Giles County	Smyth County	Gloucester County	Waynesboro, City of
Goochland County	Southampton County	Grayson County	Williamsburg, City of
Greene County	Stafford County	Hanover County	Wise County
Greensville County	Suffolk, City of	Harrisonburg, City of	
Halifax County	Surry County	Henrico County	
Hampton, City of	Sussex County		
James City County	Tazewell County		
Lee County	Virginia Beach, City of		
Lexington,	Washington County		
	Westmoreland County		
	Winchester, City of		
	Wythe County		
	York County		

City of
Louisa
County
Lynchburg,
City of
Madison
County
Mathews
County
Montgomery
County

24- 27.] Change Section R403.1 to read:

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill.

Exception: One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, not exceeding 256 square feet (23.7824 m²) of building area, provided all of the following conditions are met:

1. The building height is not more than 12 feet.
2. The maximum height from the finished floor level to grade does not exceed 18 inches.
3. The supporting structural elements in direct contact with the ground shall be placed level on firm soil and when such elements are wood they shall be approved pressure preservative treated suitable for ground contact use.
4. The structure is anchored to withstand wind loads as required by this code.
5. The structure shall be of light-frame construction whose vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gauge steel framing members, with walls and roof of light weight material, not slate, tile, brick or masonry.

[28. Add Section R502.2.1.1 to read:

R502.2.1.1 Deck ledger connection to band joist. For residential applications and a total design load of 50 psf, the connection between a pressure preservative treated southern pine (or approved decay-resistant species) deck ledger and a two-inch nominal band joist bearing on a sill plate or wall plate shall be constructed with 1/2-inch lag screws or bolts with washers per Table R502.2.1.1.

29. Add Table R502.2.1.1 to read:

Table R502.2.1.1 Fastener Spacing for a Residential Southern Pine Deck Ledger and a 2-inch Nominal Solid-Sawn Band Joist (50 psf total load) ^c							
Joist Span (ft)	6' and less	6'-1" to 8'	8'-1" to 10'	10'-1" to 12'	12'-1" to 14'	14'-1" to 16'	16'-1" to 18'
<i>On-Center Spacing of Fasteners^{d,e}</i>							
1/2"x 4" Lag Screw ^{a,b}	30	23	18	15	13	11	10
1/2" Bolt with washers	36	36	34	29	24	21	19

- a. The maximum gap between the face of the ledger board and face of the house band joist shall be 1/2 inch.
- b. The tip of the lag screw shall fully extend beyond the inside face of the band joist.
- c. Ledgers shall be flashed to prevent water from contacting the house band joist.
- d. Lag screws and bolts shall be staggered as set out in Section R502.2.1.1.1.
- e. Deck ledger shall be 2x8 PPT No. 2 Southern Pine (minimum) or other approved method and material as established by standard engineering practice.

30. Add Section R502.2.1.1.1 to read:

R502.2.1.1.1 Placement of lag screws or bolts in residential deck ledgers. The lag screws or bolts shall be placed two inches in from the bottom or top of the deck ledgers and two inches in from the ends. The lag screws or bolts shall be staggered from the top to the bottom along the horizontal run of the deck ledger.]

[~~22- 31.~~] Change Section R506.2.1 to read:

R506.2.1 Fill. Fill [material shall be free of vegetation and foreign material and shall be natural nonorganic material that is not susceptible to swelling when exposed to moisture. The fill shall be compacted to assure uniform support of the slab, and except where approved, the fill depth shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth.

Exception: Material other than natural material may be used as fill material when accompanied by a certification from an RDP and approved by the building official.

[~~23- 32.~~] Change Section R506.2.2 to read:

R506.2.2 Base. A 4-inch-thick (102 mm) base course consisting of clean graded sand, gravel or crushed stone passing a 2-inch (51 mm) sieve shall be placed on the prepared subgrade when the slab is below grade.

Exception: A base course is not required when the concrete slab is installed on well drained or sand-gravel mixture soils classified as Group I according to the United Soil Classification System in accordance with Table R405.1. Material other than natural material may be used as base course material when accompanied by a certification from an RDP and approved by the building official.

[33. Change Figure R602.10.5 as follows:

- 1. Outside Corner Detail.

1.1. 8d nails are required on both sides of the outside corner nailed through the panel and into the corner framing member.

1.2. Figure R602.3(2) governs the placement of the corner framing members.

1.3. The 16d nails shown connecting the framing members on the inside of the corner may be omitted.

1.4. The spacing of the 16d nails connecting the framing members on the outside corner shall be 12 inches on center.

2. Inside Corner Detail.

2.1. Figure R602.3(2) governs the placement of the corner framing members.

2.2. The 16d nail shown connecting the framing members on the outside of the corner may be omitted.

2.3. The spacing of the 16d nails connecting the framing members on the inside corner shall be 12 inches on center.

34. Delete Exception 1 of Section M1501.3 and renumber Exception 2 as Exception 1.

35. Add Section M1801.1.1 to read:

M1801.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

- 1. Vent or chimney systems are sized in accordance with this code.

Final Regulations

2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.]

24. 36.] Add Section [~~M2201.2.1.1~~ M2201.7] to read:

[~~M2201.2.1.1 Abandonment of home fuel~~ M2201.7] Tanks [abandoned or removed]. [~~When supply tanks are removed or abandoned, the fill piping, gauges and other appurtenances, except the vent, shall be disconnected and the fill pipe plugged or removed~~ All exterior above-grade fill piping shall be removed when tanks are abandoned or removed].

[~~25. Delete~~ 37. Change] Section P2602.1 [to read:

P2602.1 General. The water and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public or private water supply and a public or private sewer system. Where applicable, water supply sources and sewage disposal systems shall be regulated by the Virginia Department of Health.

38. Change Section P2903.5 to read:

P2903.5 Water hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized, unless otherwise approved. Water hammer arrestors shall be installed in accordance with manufacturer's specifications. Water hammer arrestors shall conform to ASSE 1010].

26. Change Section P3114.1 to read:

~~P3114.1 General. Vent systems utilizing air admittance valves shall comply with this section. Individual and branch-type air admittance valves shall conform to ASSE 1051.~~

27. 39.] Change the trap [sizes size] as shown in the following [~~categories~~ category] of Table P3201.7:

Plumbing Fixture	Trap Size Minimum (inches)
[Clothes washer standpipe	1-1/2]
Shower	1-1/2

[40. Add Section G2425.1.1 to read:

G2425.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.

2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.]

[~~28. 41.] Add Section E3501.8 to read:~~

E3501.8 Energizing service equipment. The building 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. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
4. Service equipment covers shall be installed.
5. The building roof covering shall be installed.
6. Temporary electrical service equipment shall be suitable for wet locations unless the interior is dry and protected from the weather.

[42. Change Chapter 43 of the IRC as follows:

Standard reference number	Title	Referenced in code section number
AWPA C1-00	Deleted	
AWPA C2-01	Deleted	
AWPA C3-99	Deleted	
AWPA C4-99	Deleted	
AWPA C9-00	Deleted	
AWPA C15-00	Deleted	
AWPA C18-99	Deleted	
AWPA C22-96	Deleted	
AWPA C23-00	Deleted	
AWPA C24-96	Deleted	
AWPA C28-99	Deleted	
AWPA C31-01	Deleted	
AWPA U1-02	USE CATEGORY SYSTEM: User Specification for Treated Wood except Section 7 Commodity Specification H	R319.1, R402.1.2, R504.3, Table R905.8.5
AWPA P5-02	Standard for Waterborne Preservatives	R319.1, R323.1.7]

13 VAC 5-63-220. Chapter 4 Special detailed requirements based on use and occupancy.

A. [Change Section 404.4 of the IBC to read:

404.4 Smoke control. A smoke control system shall be installed in accordance with Section 909.

Exceptions:

1. Smoke control is not required for floor openings meeting the requirements of Section 707.2, Exception 2, 7, 8 or 9.
2. Smoke control is not required for floor openings meeting the requirements of Section 1019.1, Exception 8 or 9.
3. Smoke control is not required for atriums that connect only two stories.

B. Add Section 407.8 to the IBC to read:

407.8 Special locking arrangement. Means of egress doors shall be permitted to contain locking devices restricting the means of egress in areas in which the clinical needs of the patients require restraint of movement, where all of the following conditions are met:

1. The locks release upon activation of the fire alarm system or the loss of power.
2. The building is equipped with an approved automatic sprinkler system in accordance with Section 903.3.1.1.
3. A manual release device is provided at a nursing station responsible for the area.
4. A key-operated switch or other manual device is provided adjacent to each door equipped with the locking device. Such switch or other device, when operated, shall result in direct interruption of power to the lock – independent of the control system electronics.
5. All staff shall have keys or other means to unlock the switch or other device or each door provided with the locking device.

C.] Change Section 408.3.5 of the IBC to read:

408.3.5 Sallyports. A sallyport shall be permitted in a means of egress where there are provisions for continuous and unobstructed passage through the sallyport during an emergency egress condition. A sallyport is a security vestibule with two or more doors where the intended purpose is to prevent continuous and unobstructed passage by allowing the release of only one door at a time.

[~~B.~~ D.] Add Section 415.1.1 to the IBC to read:

415.1.1 Flammable and combustible liquids. Notwithstanding the provisions of this chapter, the storage, handling, processing, and transporting of flammable and combustible liquids shall be in accordance with the mechanical code and the fire code listed in Chapter 35 of this code. Regulations governing the installation, repair, upgrade, and closure of underground and aboveground storage tanks under the Virginia State Water Control Board regulations 9 VAC 25-91 and 9 VAC 25-580 are adopted and incorporated by reference to be an enforceable part of this code. Where differences occur between the provisions of this code and the

incorporated provisions of the State Water Control Board regulations, the provisions of the State Water Control Board regulations shall apply.

[~~C.~~ E.] Add IBC Section 419 Site Work for Manufactured Homes and Industrialized Buildings.

[~~D.~~ F.] Add Section 419.1 to the IBC to read:

419.1 General. The provisions of this section shall apply to the installation of manufactured homes and industrialized buildings.

[~~E.~~ G.] Add Section 419.2 to the IBC to read:

419.2 Site work. Construction work associated with the installation of a manufactured home or industrialized building shall comply with the manufacturer's installation instructions and to the extent not provided for in the manufacturer's installation instructions applicable requirements of this code. Where the manufacturer's installation instructions for manufactured homes are not available, the NCSBCS/ANSI A225.1 standard, 1994 edition, may be substituted for the manufacturer's installation instructions. In addition, Appendix E of the International Residential Code entitled, "Manufactured Housing used as Dwellings," shall be an acceptable alternative to this code for construction work associated with the installation of manufactured homes and for additions, alterations and repairs to manufactured homes.

[~~F.~~ H.] Add Section 419.3 to the IBC to read:

419.3 Wind load requirements for manufactured homes. Manufactured homes shall be anchored to withstand the wind loads established by the federal regulation for the area in which the manufactured home is installed. For the purpose of this code, Wind Zone II of the federal regulation shall include the cities of Chesapeake, Norfolk, Portsmouth, and Virginia Beach.

[~~G.~~ I.] Add Section 419.4 to the IBC to read:

419.4 Skirting requirements for manufactured homes. As used in this section, "skirting" means a weather-resistant material used to enclose the space from the bottom of the manufactured home to grade. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches (457 mm) in any dimension and not less than three square feet (.28 m²) in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of this code.

Final Regulations

[13 VAC 5-63-225. Chapter 5 General building heights and areas.

Add Exception 3 to Section 507.2 of the IBC to read:

3. Group A-1, A-2 and A-3 occupancies are permitted provided:

3.1. All assembly occupancies are separated from other spaces as required for separated uses in Section 302.3.2.

3.2. Each Group A tenant does not exceed the maximum allowable height and area under Section 503.

3.3. All required exits shall discharge directly to the exterior.]

13 VAC 5-63-230. Chapter 7 Fire-resistant-rated construction.

A. Add Section 701.2 to the IBC to read:

701.2 Fire-resistance assembly marking. Concealed fire walls, vertical fire separation assemblies, fire barriers, fire partitions and smoke barriers shall be designated above ceilings and on the inside of all ceiling access doors which provide access to such fire rated assemblies by signage having letters no smaller than one inch (25.4 mm) in height. Such signage shall indicate the fire-resistance rating of the assembly and the type of assembly and be provided at horizontal intervals of no more than eight feet (2438 mm).

Note: An example of suggested formatting for the signage would be "ONE HOUR FIRE PARTITION."

B. Add exceptions 12 and 13 to Section 707.2 of the IBC to read:

12. Noncombustible shafts connecting communicating floor levels in Group I-3 occupancies where the area complies with Section 408.5. Where additional stories are located above or below, the shaft shall be permitted to continue with fire and smoke damper protection provided at the fire resistance rated floor/ceiling assembly between the noncommunicating stories.

13. A floor opening that complies with Section 408 in an occupancy in Group I-3.

C. Delete Section 707.14.1 of the IBC.

D. Add exception 4 to Section 715.3.3 of the IBC to read:

4. Horizontal sliding doors in smoke barriers that comply with Section 408.3 are permitted in smoke barriers in occupancies in Group I-3.

E. Add an exception to Section [~~715.4.4.1~~ 715.4.4] of the IBC to read:

Exception: Security glazing [protected on both sides by an automatic sprinkler system shall be permitted] in doors and windows in smoke barriers in Group I-3 [~~shall be considered to be fire-protection-rated glazing when protected on both sides by an automatic sprinkler system~~ occupancies]. Individual panels of glazing shall not exceed 1,296 square inches (0.84 m²), shall be in a gasketed frame and installed in such a manner that the framing system will deflect without breaking (loading) glazing before the sprinkler system

operates. The sprinkler system shall be designed to wet completely the entire surface of the affected glazing when actuated.

[F. Change Section 716.5.3.1 of the IBC to read:

716.5.3.1 Penetrations of shaft enclosures. Shaft enclosures that are permitted to be penetrated by ducts and air transfer openings shall be protected with approved fire and smoke dampers installed in accordance with their listing.

Exceptions:

1. Fire and smoke dampers are not required where steel exhaust subducts extend at least 22 inches (559 mm) vertically in exhaust shafts provided there is a continuous airflow upward to the outside.

2. Fire dampers are not required where penetrations are tested in accordance with ASTM E 119 as part of the fire-resistance rated assembly.

3. Fire and smoke dampers are not required where ducts are used as part of an approved smoke-control system in accordance with Section 909.

4. Fire and smoke dampers are not required where the penetrations are in parking garage exhaust or supply shafts that are separated from other building shafts by not less than two-hour fire-resistance-rated construction.

5. Smoke dampers are not required where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.]

13 VAC 5-63-240. Chapter 9 Fire protection systems.

A. Change the following definition in Section 902 of the IBC to read:

Automatic fire-extinguishing system. An approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire and shall include among other systems an automatic sprinkler system, unless otherwise expressly stated.

B. [Change Exception 2 of Section 903.2.1.3 of the IBC to read:

2. In Group A-3 occupancies other than churches, the fire area has an occupant load of 300 or more.

C.] Change Section 903.2.7 of the IBC to read:

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area, except in the following Group R-2 occupancies when the necessary water pressure or volume, or both, for the system is not available:

Exceptions:

1. Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 16 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.

2. Buildings where all dwelling units are not more than two stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit and a two-hour fire barrier is provided between each pair of dwelling units. Each bedroom of a dormitory or boarding house shall be considered a dwelling unit under this exception.

[D. Add Section 903.3.1.2.2 to the IBC to read:

903.3.1.2.2 Attics. Sprinkler protection shall be provided for attics in buildings of Type III, IV or V construction in the following occupancies.

1. Group R-2 that are designed or developed and marketed to senior citizens, 55 years of age or older.

2. Group I-1.]

[E.] Add an exception to Section 905.2 of the IBC to read:

Exception: The residual pressure of 100 psi for 2-1/2 inch hose connection and 65 psi for 1-1/2 inch hose connection is not required in buildings equipped throughout with an automatic sprinkler system in accordance with section 903.3.1.1 and where the highest floor level is not more than 150 feet above the lowest level of fire department vehicle access.

[F.] Change Section 906.1 of the IBC to read:

906.1 General. Portable fire extinguishers shall be provided in occupancies and locations as required by the International Fire Code, except that portable fire extinguishers shall not be required to be installed in Group R-2 occupancies.

[G. Change Section 907.2.1.1 of the IBC to read:

907.2.1.1 System initiation in Group A occupancies with a occupant load of 1,000 or more and in certain night clubs. Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more and in night clubs with an occupant load of 300 or more shall initiate a signal using an emergency voice and alarm communications system in accordance with NFPA 72.

Exception: Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed three minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

H. Change Section 907.2.9 of the IBC to read:

907.2.9 Group R-2. A manual fire alarm system shall be installed in Group R-2 occupancies.

Exceptions:

1. A fire alarm system is not required in buildings not over two stories in height where all dwelling units or sleeping rooms and contiguous attic and crawl spaces are separated from each other and public or common areas by at least one-hour fire partitions and each dwelling unit or sleeping room has an exit directly to a public way, exit court or yard.

2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:

2.1. The building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

2.2. The notification appliances will activate upon sprinkler flow, and

2.3. At least one manual fire alarm box is installed at an approved location.]

[I.] Add Section 907.9.1.1.1 to the IBC to read:

907.9.1.1.1 Location of appliances in Group I-3 occupancies. Wall-mounted visible alarm notification appliances in Group I-3 occupancies shall be permitted to be a maximum of 120 inches (3048 mm) above the floor or ground, measured to the bottom of the appliance and shall otherwise comply with Section 702.3.3.1 of ICC A117.1.

[J.] Change Section 909.6 of the IBC to read:

909.6 Pressurization method. When approved by the building official, the means of controlling smoke shall be permitted by pressure differences across smoke barriers. Maintenance of a tenable environment is not required in the smoke-control zone of fire origin.

[K.] Add footnote "c" to Table 910.3 to read:

c. Smoke and heat vents are not required when storage areas are protected by early-suppression fast-response (ESFR) sprinklers installed in accordance with NFPA 13 or NFPA 231.

13 VAC 5-63-245. Chapter 10 Means of egress.

A. Change Section 1004.1 of the IBC to read:

1004.1 Design occupant load. In determining means of egress requirements, the number of occupants for whom means of egress facilities ~~are to shall~~ be provided shall be ~~established in accordance with Sections 1004.1.1, 1004.1.2 or 1004.1.3 and shall not exceed the occupant load permitted by Section 1004.2 determined in accordance with this section.~~ Where occupants from accessory areas egress through a primary space, the calculated occupant load for the primary space shall include the total occupant load of the primary space plus the number of occupants egressing through it from the accessory area].

B. [Delete Section 1004.1.1 of the IBC and renumber Section 1004.1.2 and Table 1004.1.2 to Section 1004.1.1 and Table 1004.1.1.

C. Add Section 1004.1.2 to the IBC to read:

1004.1.2 Areas without fixed seating. The numbers of occupants computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.1. For areas without fixed seating, the occupant load shall not be less than that number determined by dividing the floor area under consideration by the occupant per unit area factor assigned to the occupancy as set forth in Table 1004.1.1. Where an intended use is not listed in Table 1004.1.1, the building official shall establish a use based on a listed use that most nearly resembles the intended use.

Final Regulations

Exception: Where approved by the building official, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation, shall be permitted to be used in the determination of the design occupant load.

D. Delete Section 1004.1.3 of the IBC.

E. Change the reference in Section 1004.2 of the IBC to Table 1004.1.2 to a reference to Table 1004.1.1.]

[~~B. F.~~] Change Section 1004.9 of the IBC to read:

1004.9 Multiple occupancies. Where a building contains two or more occupancies, the means of egress requirements shall apply to each portion of the building based on the occupancy of that space. Where two or more occupancies utilize portions of the same means of egress system, those egress components shall meet the more stringent requirements of all occupancies that are served.

Exception: A 750 square feet or less room or space used for assembly purposes by less than 50 persons and which is accessory to another group shall be included as a part of that main group.

[G. Change Item 2 of Section 1008.1.8.3 of the IBC to read:

2. In buildings in occupancy Groups B, F, M and S, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:

2.1. The locking device is readily distinguishable as locked.

2.2. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters one inch (25 mm) high on a contrasting background.

2.3. The use of the key-operated locking device is revokable by the building official for due cause.]

[~~C. H.~~] Change Section 1008.1.8.6 of the IBC to read:

1008.1.8.6 Delayed egress locks. Approved, listed, delayed egress locks shall be permitted to be installed on doors serving any occupancy including Group A-3, airport facilities, except Group A, E and H occupancies in buildings which are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with the items 1 through 6 below. A building occupant shall not be required to pass through more than one door equipped with a delayed egress lock before entering an exit.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the fire command center.

4. The initiation of an irreversible process which will release the latch in not more than 15 seconds when a force of not more than 15 pounds (67 N) is applied for 1 second to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, relocking shall be by manual means only.

Exception: Where approved, a delay of not more than 30 seconds is permitted.

5. A sign shall be provided on the door located above and within 12 inches (305 mm) of the release device reading: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS.

Exception: Where approved, such sign shall read: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 30 SECONDS.

6. Emergency lighting shall be provided at the door.

[~~D. I.~~] Add Section 1008.1.8.8 to the IBC to read:

1008.1.8.8 Locking arrangements in correctional facilities. In occupancies in Groups A-3, A-4, B, E, F, I, M and S within penal facilities, doors in means of egress serving rooms or spaces occupied by persons whose movements must be controlled for security reasons shall be permitted to be locked if equipped with egress control devices which shall unlock manually and by at least one of the following means:

1. Actuation of an automatic fire suppression system required by Section 903.2.

2. Actuation of a key-operated manual alarm station required by Section 907.2.

3. A signal from a central control station.

[~~E. J.~~] Add Section 1008.1.10 to the IBC to read:

1008.1.10 Locking certain residential sliding doors. In dwelling units of Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent it from being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

[~~F. K.~~] Add Section 1008.1.11 to the IBC to read:

1008.1.11 Door viewers in certain residential buildings. Entrance doors to dwelling units of Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

[L. Change Exception 5 of Section 1009.3 of the IBC to read:

5. In occupancies in Group R-3, as applicable in Section 101.2, within dwelling units in occupancies of Group R-2, as

applicable in Section 101.2, and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser height shall be 8.25 inches (210 mm) and the minimum tread depth shall be nine inches (229 mm), the minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be six inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).]

3			
H-4, H-5	Greater than 30	1	1
A, B, E, F, M, S, U	Greater than 30	1	0
R	Greater than 10	1	0.5
I-2 ^a , I-4	All	Not Permitted	0
I-1, I-3	All	Not Permitted	0

[G. M.] Add exception 7 to Section 1009.3 of the IBC to read:

7. Stairways in penal facilities serving guard towers, observation stations and control rooms not more than 250 square feet (23 m²) in area shall be permitted to have risers not exceeding 8 inches (203 mm) in height and treads not less than 9 inches (229 mm) in depth.

^aFor requirements for occupancies in Group I-2, see Section 407.3.

^bBuildings equipped throughout with an automatic sprinkler system in accordance with Sections 903.3.1.1 or 903.3.1.2.

[H. N.] Change Section 1013.2 of the IBC to read:

1013.2 Egress through intervening spaces. Egress from a room or space shall not pass through adjoining or intervening rooms or areas, except where such adjoining rooms or areas are accessory to the area served; are not a high-hazard occupancy; and provide a discernible path of egress travel to an exit. A maximum of one exit access is permitted to pass through kitchens, store rooms, closets or spaces used for similar purposes provided such a space is not the only means of exit access. An exit access shall not pass through a room that can be locked to prevent egress. Means of egress from dwelling units or sleeping areas shall not lead through other sleeping areas, toilet rooms or bathrooms.

13 VAC 5-63-250. Chapter 11 Accessibility.

Add Section 1106.8 to the IBC to read:

1106.8 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.

Exceptions:

1. Means of egress are not prohibited through a kitchen area serving adjoining rooms constituting part of the same dwelling unit or guestroom.
2. Means of egress are not prohibited through rooms or spaces in a high-hazard occupancy where such rooms or spaces are the same occupancy group.

13 VAC 5-63-260. Chapter 12 Interior environment.

A. Add the following definitions to Section 1202.1 of the IBC:

[I. O.] Change exception 2 of Section 1014.2.1 of the IBC to read:

2. Where a building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2, the separation distance of the exit doors or exit access doorways shall not be less than one-fourth of the length of the maximum overall diagonal dimension of the area served.

Day-night average sound level (Ldn). A 24-hour energy average sound level expressed in dBA, with a 10 decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

Sound transmission class (STC) rating. A single number characterizing the sound reduction performance of a material tested in accordance with ASTM E90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

B. Add Section 1203.4.4 to the IBC to read:

[J. P.] Change Table 1016.1 of the IBC to read:

Table 1016.1.
Corridor Fire-Resistance Rating.

Occupancy	Occupant Load Served By Corridor	Required Fire-Resistance Rating (hours)	
		Without sprinkler system	With sprinkler system ^b
H-1, H-2, H-	All	1	1

1203.4.4 Insect screens in occupancies other than Group R. Every door, window and other outside opening for natural ventilation serving structures classified as other than a residential group containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

Exception: Screen doors shall not be required for out swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are provided.

Final Regulations

C. Add Section 1203.4.5 to the IBC to read:

1203.4.5 Insect screens in Group R occupancies. Every door, window and other outside opening required for natural ventilation purposes which serves a structure classified as a residential group 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.

D. Change Section 1207.1 of the IBC to read:

1207.1 Scope. Sections 1207.2 and 1207.3 shall apply to common interior walls, partitions and floor/ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as halls, corridors, stairs or service areas. Section 1207.4 applies to the construction of the exterior envelope of Group R occupancies within airport noise zones [and to the exterior envelope of Group A, B, E, I and M occupancies in any locality in whose jurisdiction a United States Master Jet Base is located or any adjacent locality] when [such requirements are] enforced by a locality pursuant to § 15.2-2295 of the Code of Virginia.

E. Add Section 1207.4 to the IBC to read:

1207.4 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 1207.4. As an alternative to compliance with Table 1207.4, 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 an RDP.

F. Add Table 1207.4 to the IBC to read:

Table 1207.4.
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 5-63-265. Chapter 13 Energy efficiency.

Add Section 1301.1.2 to the IBC to read:

1301.1.2 Changes to the International Energy Conservation Code. The following changes shall be made to the International Energy Conservation Code:

1. Change the referenced standards in Chapter 10 of the International Energy Conservation Code as follows:

Standard reference number	Title	Referenced in code section number
ASHRAE 90.1-2004	Energy Standard for Buildings	701.1, 801.2, 802.1, 802.2]

Except Low-Rise Residential Buildings

13 VAC 5-63-270. Chapter 16 Structural design.

A. [Delete Figure 1609 of the IBC and replace with Table 1609 to read as follows:

Table 1609. Basic Wind Speeds for Virginia Localities Based on Basic Wind Speed (3 Second Gust) Map.			
90 V mph (m/s)	100 V mph (m/s)	110 V mph (m/s)	Special Wind Region
All other localities	City of Chesapeake	Accomack County	Bland County
	City of Franklin	Northampton County	Grayson County
	Gloucester County	City of Virginia Beach	Scott County
	City of Hampton		Smyth County
	Isle of Wight County		Tazewell County
	Lancaster County		Washington County
	Mathews County		Wythe County
	Middlesex County		
	City of Newport News		
	City of Norfolk		
	Northumberland County		
	City of Poquoson		
	City of Portsmouth		
	Southampton County		
	City of Suffolk		
	Surry County		
	York County		

Note: The basic wind speed for a town shall be the same as the basic wind speed shown for the county in which the town is located.

B.] Change Section 1609.3 of the IBC to read:

1609.3 Basic wind speed. The basic wind speed, in mph, for the determination of the wind loads shall be determined by [Table Figure] 1609 [or by ASCE 7 Figure 6-1 when using the provisions of ASCE 7]. [All references to Figure 1609 in the IBC shall be considered to be references to Table 1609. The basic] Wind [speed speeds] for [localities in] special wind regions [near mountainous terrains and near gorges] shall be [based on elevation. Areas at 4,000 feet in elevation or higher shall use 110 V mph (48.4 m/s) and areas under 4,000 feet in elevation shall use 90 V mph (39.6 m/s). Gorge areas shall be based on the highest recorded speed per locality or] in accordance with local jurisdiction requirements determined in accordance with Section 6.5.4 of ASCE 7.

In nonhurricane-prone regions, when the basic wind speed is estimated from regional climatic data, the basic wind speed shall be not less than the wind speed associated with an annual probability of 0.02 (50-year mean recurrence interval), and the estimate shall be adjusted for equivalence to a three-second gust wind speed at 33 feet (10 m) above ground in exposure Category C. The data analysis shall be performed in accordance with Section 6.5.4 of ASCE 7.

[~~C. B.~~] Add Section 1612.1.1 to the IBC to read:

1612.1.1 Elevation of manufactured homes. New or replacement manufactured homes to be located in any flood hazard zone shall be placed in accordance with the applicable elevation requirements of this code.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches (914 mm) above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

[C. Change the second paragraph of Section 1615.1 of the IBC to read:

The mapped maximum considered earthquake spectral response acceleration at short periods (S_s) and at one-second period (S_1) shall be determined from Figures 22-1 and 22-2 of ASCE 7. Where a site is between contours, straight-line interpolation or the value of the higher contour shall be used. Any references in this code to Figures 1615(1) through (10) shall be considered to be references to Figures 22-1 and 22-2 of ASCE 7.

D. Change the exception to Section 1616.3 of the IBC to read:

Exception: The seismic design category is permitted to be determined from Table 1616.3(1) alone when all of the following apply:

1. In each of the two orthogonal directions, the approximate fundamental period of the structure, T_a , determined in accordance with Section 9.5.5.3.2 of ASCE 7, is less than $0.8 T_s$ where T_s is determined in accordance with Section 1615.1.4,
2. In each of the two orthogonal directions, the fundamental period of the structure, T , use to calculate the story drift is less than T_s ,
3. Equation 9.5.5.2.1-1 of ASCE 7 is used to determine the seismic response coefficient, C_s , and
4. The diaphragms are rigid as defined in Section 1602 or for diaphragms that are flexible, the distance between vertical elements of the seismic force-resisting system does not exceed 40 feet.]

13 VAC 5-63-280. Chapter 17 Structural test and special inspections.

A. Change Section 1704.1 of the IBC to read:

1704.1. General. Where application is made for construction as described in this section, the owner or the RDP in responsible charge acting as the owner's agent shall employ

one or more special inspectors to provide inspections during construction on the types [~~of~~] work listed under Section 1704. The special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the building official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in Section 113.3.

Exceptions:

1. Special inspections are not required for work of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.
2. Special inspections are not required for building components unless the design involves the practice of professional engineering or architecture as defined by the laws of this Commonwealth and regulations governing the professional registration and certification of engineers and architects.
3. Unless otherwise required by the building official, special inspections are not required for occupancies in Groups R-3, R-4 or R-5 and occupancies in Group U that are accessory to a residential occupancy including, but not limited to, those listed in Section 312.1.

B. Change Section 1704.1.1 of the IBC to read:

1704.1.1 Building permit requirement. The permit applicant shall submit a statement of special inspections prepared by the RDP in responsible charge in accordance with Section 111.1. This statement shall include a complete list of materials and work requiring special inspections by this section, the inspections to be performed and a list of the individuals, approved agencies or firms intended to be retained for conducting such inspections.

C. Add a category "11" to Table 1704.4 of the IBC to read:

Verification and inspection	Continuous	Periodic	Referenced Standard	IBC Reference
11. Inspection of concrete formwork, shoring and reshoring.	-	X	ACI 318: 6.1, 6.2	1906

13 VAC 5-63-290. Chapter 18 Soils and foundations.

Change the exception to Section 1803.5 of the IBC to read:

Exception: Compacted fill material less than 12 inches (305 mm) in depth need not comply with an approved report, provided it is a natural non-organic material that is not susceptible to swelling when exposed to moisture and it has been compacted to a minimum of 90% Modified Proctor in accordance with ASTM D1557. The compaction shall be verified by a qualified inspector approved by the building official. Material other than natural material may be used as fill material when accompanied by a certification from an RDP and approved by the building official.

Final Regulations

13 VAC 5-63-300. Chapter 27 Electrical.

[A. Change Section 2701.1 of the IBC to read:

2701.1 Scope. This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of this code and NFPA 70. Any references in this code to the ICC Electrical Code shall be considered to be references to NFPA 70.

B.] Add Section 2701.1.1 to the IBC to read:

2701.1.1 Changes to the [~~ICC Electrical Code~~ NFPA 70]. The following [~~changes~~ change] shall be made to [~~the ICC Electrical Code~~ NFPA 70]:

1. [~~Add Section 801.2.1 to the ICC Electrical Code~~ Change Sections 334.10(2) and 334.10(3) of NFPA 70] to read:

[(2) Multifamily dwellings not exceeding four floors above grade and multifamily dwellings of any height permitted to be of Types III, IV and V construction except in any case as prohibited in 334.12.

(3) Other structures not exceeding four floors above grade and other structures of any height permitted to be of Types III, IV and V construction except in any case as prohibited in 334.12. In structures exceeding four floors above grade, cables shall be concealed within walls, floors or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

For the purpose of Items 2 and 3 above, the first floor of a building shall be that floor that has 50% or more of the exterior wall surface area level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage or similar use shall be permitted.

C. Add Section 2701.1.2 to the IBC to read:]

[~~801.2.1~~ 2701.1.2] Temporary connection to dwelling units. The building 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. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
4. Service equipment covers shall be installed.
5. The building roof covering shall be installed.

6. Temporary electrical service equipment shall be suitable for wet locations unless the interior is dry and protected from the weather.

[~~2. Change Section 1202.2 of the ICC Electrical Code to read:~~

~~1202.2 Nonmetallic sheathed cable. The use of Type NM, NMC and NMS (nonmetallic sheathed) cable wiring methods in buildings not exceeding four floors above grade shall not be limited based upon construction type of the building. For the purpose of this section, the first floor of a building shall be that floor that has 50% or more of the exterior wall surface level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage, or similar use shall be permitted.]~~

13 VAC 5-63-310. Chapter 28 Mechanical systems.

A. Change Section 2801.1 of the IBC to read:

2801.1 Scope. Mechanical appliances, equipment and systems shall be constructed and installed in accordance with this chapter, the International Mechanical Code and the International Fuel Gas Code. Masonry chimneys, fireplaces and barbecues shall comply with the International Mechanical Code and Chapter 21 of this code.

Exception: This code shall not govern the construction 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). However, the building official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

B. Add IBC Section 2802 Heating Facilities.

C. Add Section 2802.1 to the IBC to read:

2802.1 Required heating in dwelling units. Heating facilities shall be required in 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. The heating facilities shall be capable of maintaining the room temperature at 65°F (18°C) during the period from October 15 to May 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.

D. Add Section 2802.2 to the IBC to read:

2802.2 Required heating in nonresidential structures. Heating facilities shall be required in every enclosed occupied space in nonresidential structures. The heating facilities shall be 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.

E. Add [~~IBC~~] Section [~~2803-Fuel Gas~~, 2803.1 to the IBC to read:

2803.1 Changes to the International Mechanical Code. The following changes shall be made to the International Mechanical Code:

1. Add the following to the end of Section 510.1 of the International Mechanical Code:

For the purposes of the provisions of Section 510, a laboratory shall be defined as a facility where the use of chemicals is related to testing, analysis, teaching, research or development activities. Chemicals are used or synthesized on a non-production basis, rather than a manufacturing process.

2. Add an exception to Section 510.2 of the International Mechanical Code to read:

Exception: Laboratories, as defined in Section 510.1, except where the concentrations listed in Item 1 are exceeded or a vapor, gas, fume, mist or dust with a health-hazard rating of 1, 2, 3 or 4 is present in concentrations exceeding 1 percent of the median lethal concentration of the substance for acute inhalation toxicity.

3. Change Section 510.4 of the International Mechanical Code to read:

510.4 Independent system. Hazardous exhaust systems shall be independent of other types of exhaust systems. Incompatible materials, as defined in the International Fire Code, shall not be exhausted through the same hazardous exhaust system. Hazardous exhaust systems shall not share common shafts with other duct systems, except where such systems are hazardous exhaust systems originating in the same fire area.

Exception: The provision of this section shall not apply to laboratory exhaust systems where all of the following conditions apply:

- 1. All of the hazardous exhaust ductwork and other laboratory exhaust within both the occupied space and the shafts is under negative pressure while in operation.*
- 2. The hazardous exhaust ductwork manifolded together within the occupied space must originate within the same fire area.*
- 3. Each control branch has a flow regulating device.*
- 4. Perchloric acid hoods and connected exhaust shall be prohibited from manifolding.*
- 5. Radioisotope hoods are equipped with filtration or carbon beds, or both, where required by the RDP.*
- 6. Biological safety cabinets are filtered.*

7. Provision is made for continuous maintenance of negative static pressure in the ductwork.

Contaminated air shall not be recirculated to occupied areas unless the contaminants have been removed. Air contaminated with explosive or flammable vapors, fumes or dusts; flammable, highly toxic or toxic gases; or radioactive material shall not be recirculated.

4. Add Exception 3 to Section 510.7 of the International Mechanical Code to read:

3. For laboratories, as defined in Section 510.1, automatic fire protection systems shall not be required in laboratory hoods or exhaust systems.

5. Change Section 604.3 of the International Mechanical Code to read:

604.3 Coverings and linings. Coverings and linings, including adhesives when used, shall have a flame spread index not more than 25 and a smoke-developed index not more than 50, when tested in accordance with ASTM E 84, using the specimen preparation and mounting procedures of ASTM E 2231. Duct coverings and linings shall not flame, glow, smolder or smoke when tested in accordance with ASTM C 411 at the temperature to which they are exposed in service. The test temperature shall not fall below 250°F (121°C).

6. Add Section 801.1.1 to the International Mechanical Code to read:

801.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

- 1. Vent or chimney systems are sized in accordance with this code.*
- 2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.*

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

7. Change Section 1204.1 of the International Mechanical Code to read:

1204.1 Insulation characteristics. Pipe insulation installed in buildings shall conform to the requirements of the International Energy Conservation Code, shall be tested in accordance with ASTM E 84, using the specimen preparation and mounting procedures of ASTM E 2231, and shall have a maximum flame spread index of 25 and a smoke-developed index not exceeding 450. Insulation installed in an air plenum shall comply with Section 602.2.1.

Final Regulations

Exception: The maximum flame spread index and smoke-developed index shall not apply to one- and two-family dwellings.

8. Add Section 1301.5 to the International Mechanical Code to read:

1301.5 Tanks abandoned or removed. All exterior above-grade fill piping shall be removed when tanks are abandoned or removed. Tank abandonment shall be in accordance with the International Fire Code.

9. Change the referenced standards in Chapter 15 of the International Mechanical Code as follows:

Standard reference number	Title	Referenced in code section number
ASTM E 2231-02	Standard Practice for Specimen Preparation and Mounting of Pipe and Duct Insulation Materials to Assess Surface Burning Characteristics.	604.3, 1204.1]

F. Add Section [~~2803.4~~ 2804.1] to the IBC to read:

[~~2803.4~~ 2804.1] Changes to the International Fuel Gas Code. The following changes shall be made to the International Fuel Gas Code:

1. Change Section 301.1 of the International Fuel Gas Code to read:

301.1 Scope. This code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, and related accessories as follows:

1. Coverage of piping systems shall extend from the point of delivery to the connections with gas utilization equipment. (See "point of delivery.")

2. Systems with an operating pressure of 125 psig (862 kPa gauge) or less.

Piping systems for gas-air mixtures within the flammable range with an operating pressure of 10 psig (69 kPa gauge) or less.

LP-Gas piping systems with an operating pressure of 20 psig (140 kPa gauge) or less.

3. Piping systems requirements shall include design, materials, components, fabrication, assembly, installation, testing and inspection.

4. Requirements for gas utilization equipment and related accessories shall include installation, combustion and ventilation air and venting.

This code shall not apply to the following:

1. Portable LP-Gas equipment of all types that are not connected to a fixed fuel piping system.

2. Installation of farm equipment such as brooders, dehydrators, dryers, and irrigation equipment.

3. Raw material (feedstock) applications except for piping to special atmosphere generators.

4. Oxygen-fuel gas cutting and welding systems.

5. Industrial gas applications using gases such as acetylene and acetylenic compounds, hydrogen, ammonia, carbon monoxide, oxygen, and nitrogen.

6. Petroleum refineries, pipeline compressor or pumping stations, loading terminals, compounding plants, refinery tank farms, and natural gas processing plants.

7. Integrated chemical plants or portions of such plants where flammable or combustible liquids or gases are produced by chemical reactions or used in chemical reactions.

8. LP-Gas installations at utility gas plants.

9. Liquefied natural gas (LNG) installations.

10. Fuel gas piping in power and atomic energy plants.

11. Proprietary items of equipment, apparatus, or instruments such as gas generating sets, compressors, and calorimeters.

12. LP-Gas equipment for vaporization, gas mixing, and gas manufacturing.

13. Temporary LP-Gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.

14. Installation of LP-Gas systems for railroad switch heating.

15. Installation of LP-Gas and compressed natural gas (CNG) systems on vehicles.

16. Except as provided in Section 401.1.1, gas piping, meters, gas pressure regulators, and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-Gas.

17. Building design and construction, except as specified herein.

2. Add Section 404.8.3 to the International Fuel Gas Code to read:

404.8.3 Coating application. Joints in [~~ferrous metal~~ gas] piping [~~exposed in exterior locations~~ systems] shall not be coated prior to testing and approval.

[3. Add Section 501.1.1 to the International Fuel Gas Code to read:

501.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the

connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.]

13 VAC 5-63-320. Chapter 29 Plumbing systems.

A. Change Section 2901.1 of the IBC to read:

2901.1 Scope. The provisions of this chapter and the International Plumbing Code shall govern the design and installation of all plumbing systems and equipment, except that water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health. The approval of pumping and electrical equipment associated with such water supply sources and sewage disposal systems shall, however, be the responsibility of the building official.

B. Add Section 2901.1.1 to the IBC to read:

2901.1.1 Changes to the International Plumbing Code. The following change shall be made to the International Plumbing Code:

1. Delete Sections 311 and 311.1.

13 VAC 5-63-330. Chapter 30 Elevators and conveying equipment.

[A. Change Section 3001.2 of the IBC to read:

3001.2 Referenced standards. Except as otherwise provided for in this code, the design, construction, installation, alteration and repair of elevators and conveying systems and their components shall conform to ASME A17.1, ASME A90.1, ASME B20.1, ALI ALCTV. In addition, ASCE 24 shall apply to construction in flood hazard areas established in Section 1612.3.

B.] Change Section 3002.4 of the IBC to read:

3002.4 Elevator car to accommodate ambulance stretcher. In buildings four or more stories in height where an elevator or elevators are provided, at least one of the elevators shall be capable of providing fire department personnel emergency access to all floors and shall have the elevator car of such a size and arrangement to accommodate a 24-inch by 76-inch (610 mm by 1930 mm) ambulance stretcher in the horizontal, open position. The elevator shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than three inches (76 mm) high and shall be placed inside on both sides of the hoistway door frame [on the designated and alternate landing floors required to be established by ASME A17.1].

Exception: Elevators in multistory dwelling units or guest rooms.

13 VAC 5-63-340. Chapter 33 Safeguards during construction.

Delete IBC Sections 3305 and 3305.1.

13 VAC 5-63-350. Chapter 34 Existing structures.

A. Change Section 3401.1 of the IBC to read:

3401.1 Scope. The provisions of this chapter and the applicable requirements of Chapter 1 shall control the alteration, repair, addition and change of occupancy of existing structures.

B. Delete IBC Sections 3401.2 and 3401.3.

C. Delete IBC Section 3403.

D. Change Section 3405.1 of the IBC to read:

3405.1 Standards for replacement glass. In accordance with § 36-99.2 of the Code of Virginia, any replacement glass installed in buildings constructed prior to [the] first edition of the USBC shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation. [In addition, as a requirement of this code, the installation or replacement of glass in buildings constructed under any edition of the USBC shall be as required for new installations.]

E. Delete IBC Section 3406.

F. Delete IBC Section 3408.

G. Change Section 3410.2 of the IBC to read:

3410.2 Applicability. When specifically requested by an owner or an owner's agent in structures where there is work involving additions, alterations or changes of occupancy, the provisions in Sections 3410.2.1 through 3410.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

H. [Add an exception to Section 3410.2.1 of the IBC to read:

Exception: Plumbing, mechanical and electrical systems in buildings undergoing a change of occupancy shall be subject to any applicable requirements of Section 103.3 of this code.

I.] Add IBC Section 3411 Retrofit Requirements.

[† J.] Add Section 3411.1 to the IBC to read:

3411.1 Scope. In accordance with Section 103.7 and as setout herein, the following buildings are required to be provided with certain fire protection equipment or systems or other retrofitted components.

[‡ K.] Add Section 3411.2 to the IBC to read:

3411.2 Smoke detectors in colleges and universities. In accordance with Section 36-99.3 of the Code of Virginia, 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 such detectors regardless of when the building was constructed. The chief administrative office of the college or

Final Regulations

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.

[~~K~~. L.] Add Section 3411.3 to the IBC to read:

3411.3 Smoke detectors in certain juvenile care facilities. In accordance with § 36-99.4 of the Code of Virginia, battery-powered or AC-powered smoke detectors shall be installed 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 of the smoke detector devices.

[~~L~~. M.] Add Section 3411.4 to the IBC to read:

3411.4 Smoke detectors for the deaf and hearing-impaired. In accordance with Section 36-99.5 of the Code of Virginia, 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.

[~~M~~. N.] Add Sections 3411.5, 3411.5.1 and 3411.5.2 to the IBC to read:

3411.5 Assisted living facilities (formerly known as adult care residences or homes for adults). Existing assisted living facilities licensed by the Virginia Department of Social Services shall comply with this section.

3411.5.1. Fire protective signaling system and fire detection system. A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

3411.5.2. Single and multiple station smoke detectors. Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with single and multiple station smoke detectors.

[~~N~~. O.] Add Section 3411.6 to the IBC to read:

3411.6 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 building official that the responsible party of such building or dwelling unit fails to maintain battery-powered smoke detectors in working condition.

[~~O~~. P.] Add Section 3411.7 to the IBC to read:

3411.7 Fire suppression, fire alarm and fire detection 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. 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.

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.

[~~P~~. Q.] Add Section 3411.8 to the IBC to read:

3411.8 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.

[~~Q~~. R.] Add Section 3411.9 to the IBC to read:

3411.9 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.

[R. S.] Add Section 3411.10 to the IBC to read:

3411.10 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.

[S. T.] Add Section 3411.11 to the IBC to read:

3411.11 Sprinkler systems in hotel 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.

[T. U.] Add Section 3411.12 to the IBC to read:

3411.12 Fire suppression systems in dormitories. An automatic fire suppression system shall be provided throughout all buildings having a 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 edition of this code in effect on August 20, 1997, and the requirements for sprinkler systems under the edition of the NFPA 13 standard referenced by that code. 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 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.

Exceptions:

1. Buildings equipped with an automatic fire suppression system in accordance with Section 903.3.1.1 or the 1983 or later editions of NFPA 13.
2. Any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.
3. Application of the requirements of this section shall be modified in accordance with the following:
 - 3.1. 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.

3.2. 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.

3.3. Sprinklers shall not be required in wardrobes in sleeping rooms that 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 ²) in area, (ii) have the smallest dimension less than 36 inches (914 mm), and (iii) comply with all of the following:

3.3.1. A single station smoke detector monitored by the building fire alarm system is installed in the room containing the wardrobe or closet that will activate the general alarm for the building if the single station smoke detector is not cleared within five minutes after activation.

3.3.2. 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.

3.3.3. The ceiling of the wardrobe, closet or room shall have a fire resistance rating of not less than 1/2 hour.

3.4. 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.

3.5. 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 - 94 are met.

3.6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.

3.7. 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 - 96 shall be permitted.

[U. V.] Add Section 3411.13 to the IBC to read:

3411.13 Fire extinguishers and smoke detectors in SRCF's. SRCF's shall be provided with at least one approved type ABC portable fire extinguisher with a minimum rating of 2A10BC installed in each kitchen. In addition, SRCF's shall provide at least one approved and properly installed battery operated smoke detector outside of each sleeping area in the vicinity of bedrooms and bedroom hallways and on each additional floor.

[V. W.] Add Section 3411.14 to the IBC to read:

Final Regulations

3411.14 Smoke detectors in adult day care centers. Battery-powered or AC-powered smoke detector devices shall be installed in all 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 center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

[X. Add Section 3411.15 to the IBC to read:

3411.15 Posting of occupant load. Every room or space that is an assembly occupancy shall have the occupant load of the room or space as determined by the building official posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and shall be maintained by the owner or authorized agent.]

13 VAC 5-63-360. Chapter 35 Referenced standards.

[~~Add new~~ Change the] referenced [~~standard to standards~~ in Chapter 35 of] the IBC as follows [(standards not shown remain the same)]:

Standard reference number	Title	Referenced in code section number
[ASCE/SEI 7-05 (in addition to ASCE/SEI 7-02)	Minimum Design Loads for Buildings and Other Structures (Figures 22-1 and 22-2 only)	1615.1
ASME A17.1-2000 (replacing A17.1-00)	Safety Code for Elevators and Escalators – with A17.1a 2002 and A17.1b 2003 Addenda	1007.4, 1607.8.1, 3001.2, 3001.4, 3002.5, 3003.2, 3409.7.2]
ASTM E329-02	Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction	111.2
[ICC/ANSI A117.1-03 (replacing A117.1-98)	Accessible and Usable Buildings and Facilities	406.2.2, 907.9.1.3, 1007.6.5, 1010.1, 1010.6.5, 1010.9, 1011.3, 1101.2, 1102.1, 1103.2.13, 1106.6, 1107.2, 1109.2.2, 1109.3, 1109.4, 1109.8, 1109.15, 3001.3, 3409.5, 3409.7.2, 3409.7.3
NFPA 70-02	National Electrical Code	2701.1]

13 VAC 5-63-370. Appendix F Rodent proofing.

The following provisions of Appendix F of the IBC are part of this code:

F101.2 Foundation wall ventilation openings.

F101.6 Pier and wood construction. (Includes all provisions.)

13 VAC 5-63-380. Appendix H Signs.

The following provisions of Appendix H of the IBC are part of this code:

H101.2 Signs exempt from permits.

H102 Definitions. (Includes all definitions.)

H103 Location. (Includes Section H103.1.)

H105 through H114. (Includes all provisions.)

13 VAC 5-63-390. Appendix I Patio covers.

The following provisions from Appendix I of the IBC are part of this code:

I101 through I104 (Includes all provisions.)

PART II. REHABILITATION.

13 VAC 5-63-400. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part II, Rehabilitation, may be cited as the Virginia Rehabilitation Code.

B. Section 101.2 Incorporation by reference. Chapters 2 – 14 of the 2003 International Existing Building Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the Virginia Rehabilitation Code. The term "IEBC" means the 2003 International Existing Building Code, published by the International Code Council, Inc. Any codes and standards referenced in the IEBC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference.

C. Section 101.3 Numbering system. A dual numbering system is used in the Virginia Rehabilitation Code to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IEBC. IEBC numbering system designations are provided in the catch-lines of the Virginia Administrative Code sections and cross references between sections or chapters of the Virginia Rehabilitation Code use only the IEBC numbering system designations. The term "chapter" is used in the context of the numbering system of the IEBC and may mean a chapter in the Virginia Rehabilitation Code, a chapter in the IEBC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The Virginia Rehabilitation Code is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 – 14 of the IEBC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IEBC

that are specifically identified. The terminology "changes to the text of the incorporated chapters of the IEBC that are specifically identified" shall also be referred to as the "state amendments to the IEBC." Such state amendments to the IEBC are set out using corresponding chapter and section numbers of the IEBC numbering system. In addition, since Chapter 1 of the IEBC is not incorporated as part of the Virginia Rehabilitation Code, any reference to a provision of Chapter 1 of the IEBC in the provisions of Chapters 2 - 14 of the IEBC is generally invalid. However, where the purpose of such a reference would clearly correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 – 14 of the IEBC or in the state amendments to the IEBC means the Virginia Rehabilitation Code, unless the context clearly indicates otherwise. The term "this code," or "the code," where used in a code or standard referenced in the IEBC means that code or standard, unless the context clearly indicates otherwise. The term "USBC" where used in this code means Part I of the Virginia Uniform Statewide Building Code, also known as the "Virginia Construction Code," unless the context clearly indicates otherwise. In addition, [where the phrase "of the International Building Code under which the building was constructed" is used in the IEBC, it shall be construed to mean the USBC or other code that was in effect when the building was built. Further,] the use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IEBC, in the codes and standards referenced in the IEBC and in the state amendments to the IEBC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 – 14 of the IEBC and any conflicting provisions of the codes and standards referenced in the IEBC. In addition, the state amendments to the IEBC supersede any conflicting provisions of Chapters 2 – 14 of the IEBC and any conflicting provisions of the codes and standards referenced in the IEBC. Further, the provisions of Chapters 2 – 14 of the IEBC supersede any conflicting provisions of the codes and standards referenced in the IEBC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope and enforcement of the code. Any provisions of Chapters 2 – 14 of the IEBC or any provisions of the codes and standards referenced in the IEBC that address the same subject matter to a lesser or greater extent are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IEBC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 – 14 of the IEBC or of the codes and standards referenced in the IEBC are specifically identified as valid administrative requirements in Chapter 1 of

this code or in the state amendments to the IEBC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for administrative, procedural and enforcement requirements of this code.

H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be defined in other chapters or provisions of the code and such definitions are also valid.

13 VAC 5-63-410. Section 102 Purpose and scope.

A. Section 102.1 Purpose. In accordance with § 36-99.01 of the Code of Virginia, the General Assembly of Virginia has declared that (i) there is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the Commonwealth; (ii) there are large numbers of older residential buildings in the Commonwealth, both occupied and vacant, which are in urgent need of rehabilitation and must be rehabilitated if the state's citizens are to be housed in decent, sound, and sanitary conditions; and (iii) the application of those building code requirements currently in force to housing rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.

The General Assembly further declares that (i) there is an urgent need to improve the existing condition of many of the Commonwealth's stock of commercial properties, particularly in older cities; (ii) there are large numbers of older commercial buildings in the Commonwealth, both occupied and vacant, that are in urgent need of rehabilitation and that must be rehabilitated if the citizens of the Commonwealth are to be provided with decent, sound and sanitary work spaces; and (iii) the application of the existing building code to such rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.

B. Section 102.2 Scope. In accordance with Section 103.6 of the USBC, this code shall be an acceptable alternative to compliance with the Virginia Construction Code for the rehabilitation of existing buildings and structures.

13 VAC 5-63-420. Section 103 Application of code.

A. Section 103.1 General. The provisions of this code shall control the rehabilitation, alteration, repair, addition and change of occupancy of existing buildings and structures when this code is chosen as an alternative to compliance with the Virginia Construction Code. All administrative provisions of the Virginia Construction Code, including but not limited to, requirements for permits, inspections and approvals by the local building department, provisions for appeals from decisions of the local building department and the issuance of modifications, are applicable to the use of this code, except where this code sets out differing requirements. [Where there is a conflict between a general requirement and a specific

Final Regulations

requirement in the IEBC, the specific requirement shall govern.

Exception: the use of this code shall not be permitted for change of occupancy involving Group I-2 or Group I-3.

B. Section 103.1.1 Use of performance code. Compliance with the provisions of a nationally recognized performance code when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.

C. Section 103.1.2 Preliminary meeting. When requested by a prospective permit applicant or when determined necessary by the code official, the code official shall meet with the prospective permit applicant prior to the application for a permit to discuss plans for the proposed work or change of occupancy in order to establish the specific applicability of the provisions of this code.]

[~~B.~~ D.] Section 103.2 Requirements relating to maintenance. Any requirements of the IEBC requiring the maintenance of existing buildings or structures are invalid.

Note: Requirements for the maintenance of existing buildings and structures and for unsafe conditions are contained in Part III of the Virginia Uniform Statewide Building Code, also known as the "Virginia Maintenance Code."

[~~C.~~ E.] Section 103.3 Use of Appendix A. Appendix A of the IEBC provides guidelines for the seismic retrofit of existing buildings. The use of this appendix is not mandatory but shall be permitted to be utilized at the option of an owner, the owner's agent or the RDP involved in a rehabilitation project. However, in no case shall the use of Appendix A be construed to authorize the lowering of existing levels of health or safety in buildings or structures being rehabilitated.

[~~D.~~ F.] Section 103.4 Use of Appendix B. Appendix B of the IEBC provides supplementary accessibility requirements for existing buildings and facilities. All applicable requirements of Appendix B shall be met in buildings and structures being rehabilitated.

[~~E.~~ G.] Section 103.5 Use of Resource A. Resource A of the IEBC provides guidelines for the evaluation of fire resistance ratings of archaic materials and may be used in conjunction with rehabilitation projects.

13 VAC 5-63-430. Chapter 2 Definitions.

[A.] Change Section 201.3 of the IEBC to read:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the other International Codes, such terms shall have the meanings ascribed to them in those codes, except that terms [that are not defined in this code and that are] defined in the Virginia Construction Code shall [~~be used for this code and shall~~] take precedence over other definitions.

[B. Change the following definitions in Section 202 of the IEBC to read:

Existing building. A building for which a legal certificate of occupancy has been issued under any edition of the USBC

and that has been occupied for its intended use; or, a building built prior to the initial edition of the USBC.

Work area. That portion or portions of a building consisting of all spaces where provisions of this code are applicable. Except when involving change in occupancy, work area excludes other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by this code.

13 VAC 5-63-432. Chapter 4 Repairs.

Change Section 410.1 of the IEBC to read:

410.1 Materials. Existing plumbing materials and supplies shall be allowed to be repaired and replaced with like material.

Exceptions:

1. Sheet and tubular copper and brass trap and tailpiece fittings less than the minimum wall thickness of .027 inch (0.69 mm).

2. Solder having more than 0.2-percent lead in the repair of potable water systems.

3. Water closets having a concealed trap seal or an unventilated space or having walls that are not thoroughly washed at each discharge in accordance with ASME A112.19.2M.

4. The following types of joints shall be prohibited:

4.1. Cement or concrete joints.

4.2. Mastic or hot-pour bituminous joints.

4.3. Joints made with fittings not approved for the specific installation.

4.4. Joints between different diameter pipes made with elastomeric rolling O-rings.

4.5. Solvent-cement joints between different types of plastic pipe.

4.6. Saddle-type fittings.

5. The following types of traps are prohibited.

5.1. Traps that depend on moving parts to maintain the seal.

5.2. Bell traps.

5.3. Crown-vented traps.

5.4. Traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation.

13 VAC 5-63-434. Chapter 6 Alterations – Level 2.

A. Change Section 604.2.1 of the IEBC to read:

604.2.1 High-rise buildings. In high-rise buildings, work areas that include either exits or corridors shared by more than one tenant or exits or corridors that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection

where the work area is located on a floor that has a sufficient sprinkler water supply system from an existing standpipe or a sprinkler riser serving that floor.

B. Change Section 604.2.2 of the IEBC to read:

604.2.2 Groups A, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2. In buildings with occupancies in Groups A, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2, work areas that include either exits or corridors shared by more than one tenant or exits or corridors that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection where all of the following conditions occur:

1. The work area is required to be provided with automatic sprinkler protection in accordance with the International Building Code as applicable to new construction;
2. The work area exceeds 50 percent of the floor area; and
3. The building has sufficient municipal water supply for design of a fire sprinkler system available to the floor without installation of a new fire pump.

C. Change Section 604.2.3 of the IEBC to read:

604.2.3 Windowless stories. Work located in a windowless story, as determined in accordance with the International Building Code, shall be sprinklered where the work area is required to be sprinklered under the provisions of the International Building Code for newly constructed buildings and the building has a sufficient municipal water supply available without installation of a new fire pump.

D. Change Section 604.2.4 of the IEBC to read:

604.2.4 Other required suppression systems. In buildings and areas listed in Table 903.2.13 of the International Building Code, work areas that include either exits or corridors shared by more than one tenant or exit or corridors serving an occupant load greater than 30 shall be provided with sprinkler protection under the following conditions:

1. The work area is required to be provided with automatic sprinkler protection in accordance with the International Building Code applicable to new construction; and
2. The building has sufficient municipal water supply for design of a fire sprinkler system available to the floor without installation of a new fire pump.

E. Change Section 604.2.5 of the IEBC to read:

604.2.5 Supervision. Fire sprinkler systems required by this section shall be supervised by one of the following methods:

1. Approved central station system in accordance with NFPA 72;
2. Approved proprietary system in accordance with NFPA 72; or
3. Approved remote station system of the jurisdiction in accordance with NFPA 72.

Exception: Supervision is not required for the following:

1. Underground gate valve with roadway boxes.
2. Halogenated extinguishing systems.

3. Carbon dioxide extinguishing systems.

4. Dry and wet chemical extinguishing systems.

5. Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic and automatic sprinkler systems and a separate shutoff valve for the automatic sprinkler system is not provided.

F. Change Exception 2 of Section 605.2 to read:

2. Means of egress conforming to the requirements of the International Building Code under which the building was constructed shall be considered compliant means of egress.

G. Change Item 7 of Section 605.3.1.1 of the IEBC to read:

7. In Group R-2, H-4, H-5 and I occupancies and in rooming houses and childcare centers, a single exit is permitted in a one-story building with a maximum occupant load of 10 and the exit access travel distance does not exceed 75 feet (22 860 mm). In dwelling units within Group R-2 buildings, an occupant load of 12 shall be permitted to be substituted for the occupant load established above and, in addition, staff of such family day homes shall not be counted for the purposes of establishing occupant loads.

13 VAC 5-63-436. Chapter 7 Alterations – Level 3.

A. Change Section 704.1 of the IEBC to read:

704.1 Automatic sprinkler systems. In buildings with occupancies in Groups A, E, F-1, H, I, M, R-1, R-2, R-4 and S, work areas that include either exits or corridors shared by more than one tenant or exits or corridors that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection when the work area is required to be provided with automatic sprinkler protection in accordance with the International Building Code as applicable to new construction.

B. Change Section 704.1.2 of the IEBC to read:

704.1.2 Rubbish and linen chutes. Rubbish and linen chutes located in the work area shall be provided with sprinkler protection where protection of the rubbish or linen chute would be required under the provisions of the International Building Code for new construction.

C. Change Section 704.2 of the IEBC to read:

704.2 Fire alarm and detection systems. Fire alarm and detection systems complying with Sections 604.4.1 and 604.4.3 shall be provided throughout the building in accordance with the International Building Code.

Exception: For a change of occupancy, fire alarm and detection systems shall be provided with and wherever required by the International Building Code for new construction.

D. Change Section 705.1 of the IEBC to read:

705.1 General. The means of egress shall comply with the requirements of Section 605 except as specifically required in Sections 705.2 and 705.3.

Final Regulations

Exception: For a change of occupancy, fire alarm and detection systems shall be provided with and wherever required by the International Building Code for new construction.

13 VAC 5-63-437. Chapter 8 Change of occupancy.

A. Change Section 801.1 of the IEBC to read:

801.1 Repair and alteration with no change of occupancy classification. Any change of occupancy that does not involve a change of occupancy classification as described in the International Building Code shall conform to the applicable requirements for work as classified in Chapter 3 and to the requirements of Sections 802 through 811.

Exceptions:

1. As modified in Section 1005 for historic buildings.
2. As permitted in Chapter 12.

B. Change Section 804.1 of the IEBC to read:

804.1 General. Fire protection requirements of Section 812 shall apply where a building or portions thereof undergo a change of occupancy where the hazard from the fire load is increased.

C. Change Section 805.1 of the IEBC to read:

805.1 General. Means of egress in portions of buildings undergoing a change of occupancy where such change of occupancy increases the occupant load shall comply with Section 812.

D. Change Section 806.1 of the IEBC to read:

806.1 General. Accessibility in portions of buildings undergoing a change of occupancy shall comply with Section 812.5.

E. Delete the exception to Section 812.1.1 of the IEBC.

F. Change the exception to Section 812.1.2 to read:

Exception: Requirements for fire protection, fire alarm and detection systems and means of egress shall be in accordance with Chapter 7.

G. Delete the exception to Section 812.2.1 of the IEBC.

H. Change Exception 4 of Section 812.4.1.1 of the IEBC to read:

4. Existing corridor walls constructed of wood lath and plaster on both sides in good condition or constructed of 1/2-inch-thick (12.7 mm) gypsum wallboard on both sides shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or shall extend to the underside of the floor or roof next above.

13 VAC 5-63-438. Chapter 10 Historic buildings.

Change Section 1001.2 of the IEBC to read:

1001.2 Report. The code official shall be permitted to require that an historic building undergoing repair, alteration or change of occupancy be investigated and evaluated by an RDP or other qualified person or agency as a condition of determining compliance with this code.]

13 VAC 5-63-440. Chapter 12 Compliance alternatives.

[A.] Change Section 1201.2 of the IEBC to read:

1201.2 Applicability. Work involving rehabilitation, additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 10. The provisions in Sections 1201.2.1 through 1201.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

[B. Add an exception to Section 1201.2.1 of the IEBC to read:

Exception: Plumbing, mechanical and electrical systems in buildings undergoing a change of occupancy shall be subject to any applicable requirements of Section 103.3 of the Virginia Construction Code.]

PART III. MAINTENANCE.

13 VAC 5-63-450. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part III, Maintenance, may be cited as the Virginia Maintenance Code.

B. Section 101.2 Incorporation by reference. Chapters 2 – 8 of the 2003 International Property Maintenance Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the Virginia Maintenance Code. The term "IPMC" means the 2003 International Property Maintenance Code, published by the International Code Council, Inc. Any codes and standards referenced in the IPMC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference.

C. Section 101.3 Numbering system. A dual numbering system is used in the Virginia Maintenance Code to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IPMC. IPMC numbering system designations are provided in the catch-lines of the Virginia Administrative Code sections and cross references between sections or chapters of the Virginia Maintenance Code use only the IPMC numbering system designations. The term "chapter" is used in the context of the numbering system of the IPMC and may mean a chapter in the Virginia Maintenance Code, a chapter in the IPMC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The Virginia Maintenance Code is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 – 8 of the IPMC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IPMC which are specifically identified. The terminology "changes to the text of the incorporated chapters of the IPMC which are

specifically identified" shall also be referred to as the "state amendments to the IPMC." Such state amendments to the IPMC are set out using corresponding chapter and section numbers of the IPMC numbering system. In addition, since Chapter 1 of the IPMC is not incorporated as part of the Virginia Maintenance Code, any reference to a provision of Chapter 1 of the IPMC in the provisions of Chapters 2 - 8 of the IPMC is generally invalid. However, where the purpose of such a reference would clearly correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 – 8 of the IPMC or in the state amendments to the IPMC means the Virginia Maintenance Code, unless the context clearly indicates otherwise. The term "this code," or "the code," where used in a code or standard referenced in the IPMC means that code or standard, unless the context clearly indicates otherwise. The term "USBC" where used in this code means Part I of the Virginia Uniform Statewide Building Code, also known as the "Virginia Construction Code," unless the context clearly indicates otherwise. In addition, the use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IPMC, in the codes and standards referenced in the IPMC and in the state amendments to the IPMC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 – 8 of the IPMC and any conflicting provisions of the codes and standards referenced in the IPMC. In addition, the state amendments to the IPMC supersede any conflicting provisions of Chapters 2 – 8 of the IPMC and any conflicting provisions of the codes and standards referenced in the IPMC. Further, the provisions of Chapters 2 – 8 of the IPMC supersede any conflicting provisions of the codes and standards referenced in the IPMC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope of the code, enforcement, fees, permits, inspections and disputes. Any provisions of Chapters 2 – 8 of the IPMC or any provisions of the codes and standards referenced in the IPMC which address the same subject matter to a lesser or greater extent are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IPMC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 – 8 of the IPMC or of the codes and standards referenced in the IPMC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IPMC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for

administrative, procedural and enforcement requirements of this code.

H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be defined in other chapters or provisions of the code and such definitions are also valid.

Note: The order of precedence outlined in Section 101.6 may be determinative in establishing how to apply the definitions in the IPMC and in the referenced codes and standards.

13 VAC 5-63-460. Section 102 Purpose and scope.

A. Section 102.1 Purpose. In accordance with § 36-103 of the Code of Virginia, the Virginia Board of Housing and Community Development may adopt and promulgate as part of the Virginia Uniform Statewide Building Code, building regulations that facilitate the maintenance, rehabilitation, development and reuse of existing buildings at the least possible cost to ensure the protection of the public health, safety and welfare. Further, in accordance with § 36-99 of the Code of Virginia, the purpose of this code is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

B. Section 102.2 Scope. In accordance with § 36-98 of the Code of Virginia, the Virginia Maintenance Code shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies.

C. Section 102.3 Exemptions. This code shall not regulate those buildings and structures specifically exempt from the Virginia Construction Code, except that existing industrialized buildings and manufactured homes shall not be exempt from this code.

13 VAC 5-63-470. Section 103 Application of code.

A. Section 103.1 General. This code prescribes regulations for the maintenance of all existing buildings and structures and associated equipment, including regulations for unsafe buildings and structures.

B. Section 103.2 Maintenance requirements. [~~The equipment, systems, devices and safeguards which were required, provided and approved when an existing building or structure was constructed~~ Buildings and structures] shall be maintained and kept in good repair in accordance with the requirements of this code [and when applicable in accordance with the USBC under which such building or structure was constructed]. [~~Buildings and structures subject to any edition of the USBC when constructed shall also be maintained and kept in good repair in accordance with the USBC under which such building or structure was constructed.~~] No provision of this code shall require alterations to be made to an existing building [, or] structure or [to] equipment unless conditions

Final Regulations

are present which meet the definition of an unsafe structure or a structure unfit for human occupancy.

C. [103.2.1 Maintenance of nonrequired fire protection systems. Nonrequired fire protection systems shall be maintained to function as originally installed. If any such systems are to be reduced in function or discontinued, approval shall be obtained from the building official in accordance with Section 103.8.1 of the Virginia Construction Code.

D.] Section 103.3 Continued approval. Notwithstanding any provision of this code to the contrary, alterations shall not be required to be made to existing buildings or structures which are occupied in accordance with a certificate of occupancy issued under any edition of the USBC.

13 VAC 5-63-480. Section 104 Enforcement, generally.

A. Section 104.1 Scope of enforcement. In accordance with § 36-105 of the Code of Virginia, the local governing body may also inspect and enforce the provisions of the USBC for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

Note: Generally, official action must be taken by the local government to enforce the Virginia Maintenance Code. Consultation with the legal counsel of the jurisdiction when initiating or changing such action is advised.

B. [Section 104.1.1 Rental inspections. Rental inspection programs in localities enforcing this code shall be in accordance with Section 104.1.1 of the Virginia Construction Code.

C.] Section 104.2 Fees. In accordance with § 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

[~~C~~. D.] Section 104.3 State buildings. In accordance with § 36-98.1 of the Code of Virginia, this code shall be applicable to state-owned buildings and structures. Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for state-owned buildings.

[~~D~~. E.] Section 104.4 Local enforcing agency. In jurisdictions enforcing this code, the local governing body shall designate the agency within the local government responsible for such enforcement and appoint a code official. The local governing body may also [~~employ, appoint or contract with~~ utilize] technical assistants to assist the code official in the enforcement of this code. A permanently appointed 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. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting code official and within 60 days after retaining or terminating a technical assistant.

Note: Code officials and technical assistants are subject to sanctions in accordance with the VCS.

[~~E~~. F.] Section 104.4.1 Qualifications of code official [and technical assistants]. The code official shall have at least five years of building experience as a licensed professional engineer or architect, building [, fire or trade] inspector, contractor, housing inspector or superintendent of building [, fire or trade] construction [or at least five years of building experience after obtaining a degree in architecture or engineering], with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The 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.

[A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: building construction, building, fire or housing inspections, plumbing, electrical or mechanical trades, fire protection, elevators or property maintenance work. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional certification requirements.]

[~~F~~. G.] Section 104.4.2 Certification of code official and technical assistants. An acting or permanent code official shall be certified as a code official in accordance with the VCS within one year after being appointed as acting or permanent code official. A technical assistant shall be certified in the appropriate subject area within [~~three years after being retained~~ 18 months after becoming a technical assistant]. When required by a locality to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

Exception: A code official or technical assistant in place prior to April 1, 1995, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

[~~G~~. H.] Section 104.4.3 Noncertified code official. Except for a code official exempt from certification under the exception to Section 104.4.2, any acting or permanent code official who is not certified as a code official in accordance with the VCS shall [~~complete an orientation course provided by DHCD within 60 days of appointment and shall~~] attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 104.4.2.

[~~H~~. I.] Section 104.4.4 Continuing education requirements. Code officials and technical assistants shall attend periodic training courses designated by DHCD.

[~~I~~. J.] Section 104.4.5 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, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

[~~J. K.~~] Section 104.4.6 Records. The local enforcing agency shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspections in accordance with The Library of Virginia's General Schedule Number [~~Four Six~~].

[~~K. L.~~] Section 104.5 Powers and duties, generally. The code official shall enforce this code as set out herein and as interpreted by the State Review Board and shall issue all necessary notices or orders to ensure compliance with the code.

[~~L. M.~~] Section 104.5.1 Delegation of authority. The code official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the code official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

[~~M. N.~~] Section 104.5.2 Issuance of modifications. Upon written application by an owner or an owner's agent, the code official may approve a modification of any provision of this code provided the spirit and intent of the code are observed and public health, welfare and safety are assured. The decision of the code official concerning a modification shall be made in writing and the application for a modification and the decision of the code official concerning such modification shall be retained in the permanent records of the local enforcing agency.

[~~N. O.~~] Section 104.5.2.1 Substantiation of modification. The code official may require or may consider a statement from a professional engineer, architect or other person competent in the subject area of the application as to the equivalency of the proposed modification.

[~~O. P.~~] Section 104.5.3 Inspections. The code official may inspect buildings or structures to determine compliance with this code and shall carry proper credentials when performing such inspections.

[~~Q.~~] Section 104.5.4 Notices, reports and orders. Upon findings by the code official that violations of this code exist, the code official shall issue a correction notice or notice of violation to the owner or the person responsible for the maintenance of the structure.

R. Section 104.5.4.1 Correction notice. The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation or violations within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 105. Upon request, the correction notice shall reference the code section that serves as the basis for the defects and shall state that such defects shall be corrected and reinspected in a reasonable time designated by the code official.]

[~~P. S.~~] Section [~~104.5.4~~ 104.5.4.2] Notice of violation. If the code official determines there are violations of this code other than those for unsafe structures, unsafe equipment or structures unfit for human occupancy under Section 105, the

code official [~~shall~~ may] issue a notice of violation to be communicated promptly in writing to the owner or the person responsible for the maintenance or use of the building or structure [in lieu of a correction notice as provided for in Section 104.5.4.1]. [~~Upon request of the owner of the building or structure to which the notice of violation pertains, if such notice does not contain reference to the section numbers of this code serving as the basis for the violations, then~~ In addition, the code official shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 104.5.4.1. A notice of violation shall be issued by the code official before initiating legal proceedings unless the conditions violate the unsafe building conditions of Section 105 and the provisions established therein are followed.] The code official shall provide the section numbers to the owner [for any code provision cited in the notice of violation]. The notice shall require correction of the [violation or] violations within a reasonable time [~~and the code official shall be responsible unless an emergency condition exists as provided under the building provisions of Section 105. The owner or person to whom the notice of violation has been issued shall be responsible for contacting the code official within the time frame established~~] for any reinspections to assure the violations have been corrected. [The code official will be responsible for making such inspection and verifying the violations have been corrected.] In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section [of this code].

Note: Work done to correct violations of this code is generally subject to the permit, inspection and approval provisions of the Virginia Construction Code.

[~~Q. T.~~] Section 104.5.5 Coordination of inspections. The code official shall coordinate inspections and administrative orders with any other state or local agencies having related inspection authority and shall coordinate those inspections required by the Virginia Statewide Fire Prevention Code (13 VAC 5-51) for maintenance of fire protection devices, equipment and assemblies so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The Fire Prevention Code requires the fire official to coordinate such inspections with the code official.

[~~R. U.~~] Section 104.5.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the code official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality so authorizes, the code official may issue or obtain a summons or warrant.

[~~S. V.~~] Section 104.5.7 Penalties and abatement. Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the code shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

Final Regulations

13 VAC 5-63-490. Section 105 Unsafe structures or structures unfit for human occupancy.

A. Section 105.1 General. This section shall apply to existing buildings or structures which are classified as unsafe or unfit for human occupancy. All such structures shall be made safe through compliance with this code or shall be vacated and secured against public entry; however, such vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy [~~is of~~ constitutes] such a [~~potential for collapse hazard~~] that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

Note: Buildings or structures which become unsafe during construction are regulated under the Virginia Construction Code.

B. Section 105.2 Inspection of unsafe or unfit structures. The code official shall inspect any structure reported as unsafe or unfit for human habitation and shall prepare a report to be filed in the records of the local enforcing agency and a copy issued to the owner. The report shall include the use of the structure and a description of the nature and extent of any conditions found.

C. Section 105.3 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 a building or structure constructed prior to the initial edition of the USBC and when that condition is of a cause other than improper maintenance or failure to comply with state or local building codes that were in effect when the building or structure was constructed, then the code official shall be permitted to order those minimum changes to the design or construction of the building or structure to remedy the condition.

D. Section 105.3.1 Limitation to requirements for retrofitting. In accordance with Section 103.2, this code does not generally provide for requiring the retrofitting of any building or structure. However, conditions may exist in [~~older~~] buildings or structures [constructed prior to the initial edition of the USBC] because of faulty design or equipment that constitute a danger to life or health or a serious hazard. Any changes to the design or construction required by the code official under this section shall be only to remedy the serious hazard or danger to life or health and such changes shall not be required to fully comply with the requirements of the Virginia Construction Code applicable to newly constructed buildings or structures.

E. Section 105.4 Notice of unsafe structure or structure unfit for human occupancy. When a building or structure is determined to be unsafe or unfit for human occupancy by the code official, a written notice of unsafe structure or structure unfit for human occupancy shall be issued in person to the owner, the owner's agent or the person in control of such structure. The notice shall specify the corrections necessary to comply with this code, or if the structure is required to be demolished, the notice shall specify the time period within which the demolition must occur. Requirements in Section

104.5.4 for notices of violation are also applicable to notices issued under this section to the extent that any such requirements are not in conflict with the requirements of this section. In addition, the notice shall contain a statement requiring the person receiving to notice to either accept or reject the terms of the notice.

Note: Whenever possible, the notice should also be given to any tenants of the affected building.

F. Section 105.5 Posting of notice. If the notice is unable to be issued in person as required by Section 105.4, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises.

G. Section 105.6 Posting of placard. In the case of a structure unfit for human habitation, at the time the notice is issued, a placard with the following wording shall be posted at the entrance to the building: "THIS STRUCTURE IS UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." In the case of an unsafe structure, if the notice is not complied with, a placard with the above wording shall be posted at the entrance to the building. After a building is placarded, entering the building shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the building. In addition, the placard shall not be removed until the building is determined by the code official to be safe to occupy, nor shall the placard be defaced.

H. Section 105.7 Revocation of certificate of occupancy. If a notice of unsafe structure or structure unfit for human habitation is not complied with within the time period stipulated on the notice, the code official shall be permitted to request the local building department to revoke the certificate of occupancy issued under the Virginia Construction Code.

I. Section 105.8 Vacant and open structures. When an unsafe structure or a structure unfit for human habitation is open for public entry at the time a placard is issued under Section 105.6, the code official shall be permitted to authorize the necessary work to make such structure secure against public entry whether or not legal action to compel compliance has been instituted.

J. Section 105.9 [~~Temporary safeguards and~~] Emergency repairs [and demolition]. To the extent [authorized permitted] by the locality, [~~when an~~ the code official may authorize emergency repairs to] unsafe [~~structure~~ structures] or [~~a structure~~ structures] unfit for human habitation [~~is in~~ when it is determined that there is an] immediate danger [~~of collapse or failure and is endangering life or when violations of this code result in a hazard that is an~~ of any portion of the unsafe structure or structure unfit for human habitation collapsing or falling and when life is endangered. Emergency repairs may also be authorized where there is a code violation resulting in the] immediate serious and imminent threat to the life and safety of the occupants [~~;~~ .] The code official shall be permitted to authorize the necessary work to make the structure temporarily safe whether or not legal action to compel compliance has been instituted. In addition, ~~also to the extent authorized by the locality, the code official shall be permitted to employ the necessary labor and to purchase the~~

~~necessary materials to perform any necessary emergency repairs as expeditiously as possible. whenever an owner of an unsafe structure or structure unfit for human habitation fails to comply with a notice to demolish issued under Section 105.4 in the time period stipulated, the code official shall be permitted to cause the structure to be demolished. In accordance with §§ 15.2-906 and 15.2-1115 of the Code of Virginia,] the legal counsel of the locality may be requested to institute appropriate action against the [property] owner to recover the costs associated with any such emergency repairs [or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3490 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia].~~

[Note: Code officials and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the owner cannot be located and whether the demolition order must be delayed until the owner has been given the opportunity for a hearing.]

K. Section 105.10 Closing of streets. When necessary for public safety, the code official shall be permitted to order the temporary closing of sidewalks, streets, public ways or premises adjacent to unsafe or unfit structures and prohibit the use of such spaces.

~~[L. Section 105.11 Demolition of unsafe or unfit structures. When the code official has ordered the demolition of an unsafe structure or a structure unfit for human habitation and when the demolition has not occurred in the time period required, or when the notice issued under Section 105.4 has not been complied within the time period stipulated, the code official shall be permitted to proceed with demolition to the extent permitted by the locality. The legal counsel of the locality may be requested to institute appropriate action against the owner to recover the costs associated with such demolition.~~

~~Note: A locality may be able to take actions to compel demolition or recover costs, or both, pursuant to §§ 15.2-900, 15.2-906 or § 15.2-1115 of the Code of Virginia.]~~

13 VAC 5-63-500. Section 106 Appeals.

A. Section 106.1 Establishment of appeals board. In accordance with § 36-105 of the Code of Virginia, there shall be established within each local enforcing agency a LBBCA. Whenever a county or a municipality does not have such a LBBCA, 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 DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to defray the cost of such appeals. The LBBCA for hearing appeals under the Virginia Construction Code shall be permitted to serve as the appeals board required by this section.

B. Section 106.2 Membership of board. The LBBCA shall consist of at least five members appointed by the locality for a specific term 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 locality. 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. Section 106.3 Officers and qualifications of members. The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality 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; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

D. Section 106.4 Conduct of members. No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

E. Section 106.5 Right of appeal; filing of appeal application. The owner of a building or structure, the owner's agent or any other person involved in the use of a building or structure may appeal a decision of the code official concerning the application of the this code to such building or structure and may also appeal a refusal by the code official to grant a modification to the provisions of this code pertaining to such building or structure. The applicant shall submit a written request for appeal to the LBBCA within 21 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is 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 LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision.

F. Section 106.6 Meetings and postponements. The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A 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, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a

Final Regulations

quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

G. Section 106.7 Hearings and decision. All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the code official's decision in question 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. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be [~~given or~~] sent to all parties [by certified mail]. In addition, the resolution shall contain the following wording:

~~"[Upon receipt of this resolution,]~~ Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days [upon receipt by certified mail of this resolution]. Application forms are available from the Office of the State Review Board, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7150."

H. Section 106.8 Appeals to the State Review Board. After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the code official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the code official's decision. For appeals from a LBBCA, a copy of the code official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the Office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the code official's decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

13 VAC 5-63-510. Chapter 2 Definitions.

A. Change Section 201.3 of the IPMC to read:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the International

Building Code, International Fire Code, International Plumbing Code, International Mechanical Code, International Existing Building Code or the ICC Electrical Code, such terms shall have the meanings ascribed to them in those codes, except that terms defined in the Virginia Construction Code shall be used for this code and shall take precedence over other definitions.

B. Add the following definitions to Section 202 of the IPMC to read:

Structure unfit for human occupancy. An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment that is in such disrepair or condition that such equipment is determined by the code official to be dangerous to the health, safety and welfare of the occupants of a structure or the public.

Unsafe structure. An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

13 VAC 5-63-520. Chapter 3 General requirements.

A. Delete Section 302.1 of the IPMC.

B. Change Section 302.2 of the IPMC to read:

302.2 Grading and drainage. All premises shall be graded and maintained to protect the foundation walls or slab of the structure from the accumulation and drainage of surface or stagnant water in accordance with the Virginia Construction Code.

C. Change Section 302.3 of the IPMC to read:

Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the Virginia Construction Code shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702.

D. Delete Section 302.4 of the IPMC.

E. Change Section 302.5 of the IPMC to read:

302.5 Rodent harborage. All structures and adjacent premises shall be kept free from rodent harborage and infestation where such harborage or infestation adversely affects the structures.

F. Delete Sections 302.8 and 302.9 of the IPMC.

G. [Change Section 304.7 of the IPMC to read:

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

H.] Change Section 304.14 of the IPMC to read:

304.14 Insect screens. During the period from April 1 to December 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working conditions.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

[I. Delete Sections 304.18, 304.18.1, 304.18.2 and 304.18.3 of the IPMC.]

[H. J.] Add Section 305.7 to the IPMC to read:

305.7 Lead-based paint. Interior and exterior painted surfaces of dwellings and child care facilities, including fences and outbuildings, that contain lead levels equal to or greater than 1.0 milligram per square centimeter or in excess of 0.50% lead by weight shall be maintained in a condition free from peeling, chipping and flaking paint or removed or covered in an approved manner. Any surface to be covered shall first be identified by approved warning as to the lead content of such surface.

[K.] Change Section 307.1 of the IPMC to read as follows and delete the remaining provisions of Section 307:

307.1 Accumulation of rubbish and garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

[~~J. Delete L. Change~~] Section [~~308~~ 308.1] of the IPMC [- to read:

308.1 Infestation. This section shall apply to the extent that insect and rodent infestation adversely affects a structure. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.]

13 VAC 5-63-530. Chapter 5 Plumbing facilities and fixture requirements.

A. Add Section 505.5 to the IPMC to read:

505.5 Inspection and testing of backflow prevention assemblies. Inspection and testing shall comply with Sections 505.5.1 and 505.5.2.

B. Add Section 505.5.1 to the IPMC to read:

505.5.1 Inspections. Inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable.

C. Add Section 505.5.2 to the IPMC to read:

505.5.2 Testing. Reduced pressure principle backflow preventer assemblies, double check-valve assemblies, double-detector check valve assemblies and pressure vacuum breaker assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5010-1013-1, Sections 1 and 2; ASSE 5010-1015-1, Sections 1 and 2; ASSE 5010-1015-2; ASSE 5010-1015-3, Sections 1 and 2; ASSE 5010-1015-4, Sections 1 and 2; ASSE 5010-1020-1, Sections 1 and 2; ASSE 5010-1047-1, Sections 1, 2, 3 and 4; ASSE 5010-1048-1, Sections 1, 2, 3 and 4; ASSE 5010-1048-2; ASSE 5010-1048-3, Sections 1, 2, 3 and 4; ASSE 5010-1048-4, Sections 1, 2, 3 and 4; or CAN/CSA B64.10.

[D. Change Section 507.1 of the IPMC to read:

507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall be discharged in a manner to protect the buildings and structures from the accumulation of overland water runoff.]

13 VAC 5-63-540. Chapter 6 Mechanical and electrical requirements.

A. Change Section 602 of the IPMC to read:

Section 602 Heating and Cooling Facilities.

B. Change Section 602.1 of the IPMC to read:

602.1 Facilities required. Heating and cooling facilities shall be maintained and operated in structures as required by this section.

C. Change Section 602.2 of the IPMC to read:

602.2 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

D. [Add Section 602.2.1 to the IPMC to read:

Final Regulations

602.2.1 *Prohibited use.* In dwelling units subject to Section 602.2, one or more unvented room heaters shall not be used as the sole source of comfort heat in a dwelling unit.

E.] Change Section 602.3 of the IPMC to read:

602.3 *Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

[E. F.] Change Section 602.4 of the IPMC to read:

602.4 *Cooling supply.* Every owner and operator of a Group R-2 apartment building who rents, leases or lets one or more dwelling units, rooming units or guestrooms on terms, either expressed or implied, to furnish cooling to the occupants thereof shall supply cooling during the period from May 15 to October 1 to maintain a temperature of not more than 80°F (27°C) in all habitable rooms.

Exception: When the outdoor temperature is higher than the summer design temperature for the locality, maintenance of the room temperature shall not be required provided that the cooling system is operating at its full design capacity. The summer outdoor design temperature for the locality shall be as indicated in the International Energy Conservation Code.

[F. G.] Add Section 606.3 to the IPMC to read:

606.3 *Inspection standard.* [~~Routine or periodic inspections shall be performed in accordance with Part X of ASME A-17.1-96, Safety Code for Elevators and Escalators, with A17.1a-97 and A17.1b-98 Addenda~~ An annual periodic inspection and test is required of elevators and escalators. A locality shall be permitted to require a six-month periodic inspection and test. All periodic inspections shall be performed in accordance with Section 8.11 of ASME A17.1]. 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 the VCS.

[13 VAC 5-63-550. Chapter 8 Referenced standards.

Add a referenced standard in Chapter 8 of the IMPC as follows:

Standard reference number	Title	Referenced in code section number
ASME A17.1-00	Safety Code for Elevators and Escalators – with Addenda A17.1b-2003	606.3]

DOCUMENTS INCORPORATED BY REFERENCE

International Building Code – 2003 Edition, International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401.

International Existing Building Code – 2003 Edition, International Code Council, Inc.

International Property Maintenance Code – 2003 Edition, International Code Council, Inc.

[ASTM C411-97, *Standard Test Method for Hot-Surface Performance of High-Temperature Thermal Insulation*, American Society of Testing Materials International, 100 Barr Harbor Dr., P.O. Box C700, West Conshocken, PA 19428-2959.

ASTM E84-01, *Standard Test Method for Surface Burning Characteristics of Building Materials*, American Society of Testing Materials International, 100 Barr Harbor Dr., P.O. Box C700, West Conshocken, PA 19428-2959.]

ASTM E329-02, *Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction*, American Society of Testing Materials International, 100 Barr Harbor Dr., P.O. Box C700, West Conshocken, PA 19428-2959.

[ASTM E2231-02, *Standard Practice for Specimen Preparation and Mounting of Pipe and Duct Insulation Materials to Assess Surface Burning Characteristics*, American Society of Testing Materials International, 100 Barr Harbor Dr., P.O. Box C700, West Conshocken, PA 19428-2959.]

ASTM D1557-00, *Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³))*, ASTM International.

ASTM E90-90, *Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions*, ASTM International.

CAN/CSA-B64.10-01, *Manual for the Selection and Installation of Backflow Prevention Devices/Manual for the Maintenance and Field Testing of Backflow Prevention Devices*, June 2003, National Standards of Canada.

[~~ASCE 7-02, § 6.5.4, *Basic Wind Speed*, American Society of Civil Engineers.~~]

ASME A17.1- [1996 2000], [~~Routine, Periodic, and Acceptance Inspections and Tests~~ Safety Code for Elevators and Escalators, with A17.1a- [1997 2002] and A17.1b- [1998 2003] Addenda, American Society of Mechanical Engineers.

[ASME A90.1-97, *Safety Standard for Belt Manlifts*, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASME A112.19.2M-98, *Vitreous China Plumbing Fixtures*, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASME B20.1-00, *Safety Standard for Conveyors and Related Equipment*, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASSE 1010-98, *Performance Requirements for Water Hammer Arrestors*, American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, OH 44145.]

ASSE 5010-1013-1, *Field Test Procedure for a Reduced Pressure Principle Assembly Using a Differential Pressure Gauge*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-1, *Field Test Procedure for a Double Check Valve Assembly Using a Duplex Gauge*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-2, *Field Test Procedure for a Double Check Valve Assembly Using a Differential Pressure Gauge -- High- and Low-Pressure Hose Method*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-3, *Field Test Procedure for a Double Check Valve Assembly Using a Differential Pressure Gauge -- High Pressure Hose Method*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-5, *Field Test Procedure for a Double Check Valve Assembly Using a Site Tube*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1020-1, *Field Test Procedures for a Pressure Vacuum Breaker Assembly*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1047-1, *Field Test Procedure for a Reduced Pressure Detector Assembly Using a Differential Pressure Gauge*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-1, *Field Test Procedure for a Double Check Detector Assembly Using a Duplex Gauge*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1047-1, *Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge -- High- and Low-Pressure Hose Method*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-3, *Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge -- High-Pressure Hose Method*, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-4, *Field Test Procedure for a Double Check Detector Assembly Using a Site Tube*, 1991, American Society of Sanitary Engineering.

[ANSI/ALI ALCTV-98, *Standard for Automobile Lifts - Safety Requirements for Construction, Testing and Validation (ANSI)*, Automotive Lift Institute, P.O. Box 33116, Indialantic, FL 32903-3116.

SEI/ASCE 7-02, *Minimum Design Loads for Buildings and Other Structures*, American Society of Civil Engineers/Structural Engineering Institute, 1801 Alexander Bell Drive, Reston, VA 20191-4400.

SEI/ASCE 7-05 (Figures 22-1 and 22-2 only), *Minimum Design Loads for Buildings and Other Structures*, American Society of Civil Engineers/Structural Engineering Institute, 1801 Alexander Bell Drive, Reston, VA 20191-4400.

SEI/ASCE 24-98, *Flood Resistant Design and Construction*, American Society of Civil Engineers/Structural Engineering Institute, 1801 Alexander Bell Drive, Reston, VA 20191-4400.

ASHRAE 90.1-2004, *Energy Standard for Buildings Except Low-Rise Residential Buildings*, American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE, Atlanta, GA 30329-2305.

AWPA P1/P13-01, *Standard for Creosote Preservative*, American Wood-Preservers' Association, P. O. Box 5690, Grandbury, TX 76049.

AWPA P2-01, *Standard for Creosote Solutions*, American Wood-Preservers' Association, P. O. Box 5690, Grandbury, TX 76049.

AWPA P3-01, *Standard for Creosote-Petroleum Solution*, American Wood-Preservers' Association, P. O. Box 5690, Grandbury, TX 76049.

AWPA P5-02, *Standard for Waterborne Preservatives*, American Wood-Preservers' Association, P. O. Box 5690, Grandbury, TX 76049.

AWPA U1-02, *Specification for Treated Wood except Section 7 Commodity Specification H*, American Wood-Preservers' Association, P. O. Box 5690, Grandbury, TX 76049.

NFPA 70-02, *National Electrical Code*, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 72-99, *National Fire Alarm Code*, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 495-96, *Explosive Materials Code*, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.]

VA.R. Doc. Nos. R04-170 and R04-171; Filed September 16, 2005, 9:42 a.m.

Title of Regulation: 13 VAC 5-91. **Virginia Industrialized Building Safety Regulations (amending 13 VAC 5-91-10, 13 VAC 5-91-20, 13 VAC 5-91-40, 13 VAC 5-91-50, 13 VAC 5-91-70, 13 VAC 5-91-80, 13 VAC 5-91-90, 13 VAC 5-91-110 through 13 VAC 5-91-220, and 13 VAC 5-91-245 through 13 VAC 5-91-270).**

Statutory Authority: § 36-73 of the Code of Virginia.

Effective Date: November 16, 2005.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail steve.calhoun@dhcd.virginia.gov.

Summary:

The amendments update building codes and standards developed by the International Code Council (ICC) and incorporated by reference into the Virginia Industrialized Building Safety Regulations (IBSR) from the 2000 edition to

Final Regulations

the 2003 edition. The codes being updated include the International Building Code (IBC), the International Residential Code, and the International Property Maintenance Code. The International Plumbing Code, the International Mechanical Code, the ICC Electrical Code, the International Fuel Gas Code, and the International Energy Conservation Code, which are referenced by the IBC, have also been updated from the 2000 edition to the 2003 edition.

There are several substantive differences between the 2000 edition and the 2003 edition of the ICC codes. Updating from the 2000 edition to the 2003 edition (i) requires greater fire safety methods of garage construction in residential buildings when a garage is located below a habitable room; (ii) allows the limited use of wood treated with fire retardant in roof construction of certain types of noncombustible buildings; (iii) requires installation of entrapment avoidance devices in the drains of all commercial and residential swimming pools; (iv) eliminates several provisions relating to the number of window and door openings allowed in courtyard walls of commercial buildings; (v) allows a putty pad protection system to be used for electrical outlets on fire-rated walls; (vi) permits the use of platform lifts instead of ramps in certain areas to accommodate people with disabilities; and (vii) prohibits the use of wired glass in Group E (educational) occupancies and requires the use of tempered glass in its place. Amendments also update the American Society of Testing and Materials (ASTM) standards relating to system analysis and compliance assurance for manufactured buildings, incorporated by reference into the IBSR, from the 1984 edition to the 2001 edition.

Other amendments provide that all unregistered buildings offered for sale now have to be inspected and approved by a building official and marked by a warning sign indicating that the building is not registered. The size, form, and placement of the sign have to be approved by DHCD.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

13 VAC 5-91-10. Definitions.

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

"Administrator" means the Director of DHCD or his designee.

"Approved" as applied to a material, device, method of construction, registered building, or as otherwise used in this chapter means approved by the administrator.

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

~~"BOCA" means the Building Officials and Code Administrators International, Inc.~~

"Building official" means the officer or other designated authority charged with the administration and enforcement of the USBC, or duly authorized representative.

~~"CABO" means the Council of America Building Officials.~~

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by the ~~department~~ DHCD to be specially qualified by reason of facilities, personnel, experience, and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to ~~those promulgated by the board~~ this chapter; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each registered industrialized building.

"DHCD" means the Virginia Department of Housing and Community Development.

"ICC" means the International Code Council, Inc.

"Industrialized building" means 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 defined in § 36-85.3 of the Code of Virginia and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act (42 USC § 5401 et seq.) shall not be considered industrialized buildings for the purpose of this law.

~~"Model" means a specific design, as designated by the producer, of an industrialized building. designated by the producer of the building including production buildings of any model may include with variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical, or electrical systems or any other items governed by this chapter.~~

~~"NFPA" means the National Fire Protection Association.~~

"Registered" means an industrialized building which displays a registration seal issued by DHCD in accordance with this chapter.

~~"Regulation" or "regulations" means 13 VAC 5-91.~~

~~"State Building Code Administrative Office" or "SBCAO" means the office of State Building Code Administrative Office within DHCD that has been designated to carry out the enforcement of the Virginia Industrialized Building Safety Regulations.~~

~~"State Review Board" means the Virginia State Building Code Technical Review Board as established by § 36-108 of the Code of Virginia.~~

~~"The law" or "This law" means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia.~~

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

"USBC" means the Virginia Uniform Statewide Building Code, 13 VAC 5-64 (13 VAC 5-63).

13 VAC 5-91-20. Application and compliance.

A. This chapter shall apply to industrialized building, ~~as defined in 13 VAC 5-91-10 buildings.~~

B. No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building produced after the effective date of any provision of ~~these regulations this chapter~~ unless it conforms with such provision ~~of the regulations.~~

C. Industrialized buildings subject to any edition of ~~these regulations this chapter~~ when constructed shall be maintained in compliance with the applicable edition by the owners or occupants, or both.

D. Industrialized buildings constructed prior to ~~the effective date of the first edition of these regulations (January 1, 1972) when relocated January 1, 1972,~~ shall be subject to the pertinent provisions of the USBC ~~when relocated.~~

13 VAC 5-91-40. Inspection and enforcement.

A. The SBCAO is designated as the administrator's representative for the enforcement of this chapter ~~and shall act as the building official for registered industrialized buildings.~~ It shall have authority to make such inspections and to take such other actions as are required to enforce ~~the regulations this chapter.~~

~~NOTE: The SBCAO shall act as the code official for registered industrialized buildings.~~

B. The SBCAO will maintain a list of approved compliance assurance agencies. Each manufacturer producing registered industrialized buildings will contract with one or more compliance assurance agencies for required evaluation, monitoring and inspection services. The contract will delineate the services to be provided by the compliance assurance agency. The compliance assurance agency will notify the SBCAO within 30 days of signing a new contract or terminating an existing contract with any manufacturer.

13 VAC 5-91-50. Factory and field inspections.

A. The SBCAO shall, ~~during reasonable hours, make~~ *conduct* such inspections of factories producing industrialized buildings as may be necessary *during reasonable hours* to determine whether the *designated* compliance assurance agency ~~having jurisdiction~~ is performing its evaluation and compliance assurance functions in a satisfactory manner.

B. The SBCAO may, ~~during reasonable hours,~~ *also* make inspections *during reasonable hours* to determine whether *unoccupied* industrialized buildings ~~not at the time occupied~~ are in compliance with this chapter. Such inspections may include, but are not limited to, industrialized buildings on dealer lots or industrialized buildings that are otherwise offered for sale to the public. *Occupied* industrialized buildings ~~that are occupied~~ may be inspected *by the SBCAO* at the request of the owners or occupants.

13 VAC 5-91-70. Appeals.

A. Appeals from ~~local code building~~ officials, compliance assurance agencies or manufacturers of industrialized buildings concerning DHCD's application of this chapter ~~will be~~

~~heard by shall be submitted to the TRB upon application by the aggrieved party. The application shall be submitted to the office of the TRB State Review Board within 21 calendar days of receipt of the DHCD's decision by DHCD.~~ A copy of the decision of DHCD to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of DHCD's decision.

B. Procedures of the ~~TRB State Review Board~~ 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 State Review Board~~ shall be final if no appeal is made therefrom.

13 VAC 5-91-80. Limitation of manufacturer's liability.

The manufacturer of ~~the~~ a *registered industrialized* building shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the registered industrialized building.

13 VAC 5-91-90. Penalty for violation.

In accordance with § 36-83 of the Code of Virginia, any person, firm or corporation violating any provisions of this chapter shall be considered guilty of a Class 1 misdemeanor and, upon conviction, shall be fined not more than \$1,000 ~~(§ 36-83 of the Code of Virginia).~~

13 VAC 5-91-110. Registered industrialized buildings.

Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, building officials are authorized to carry out the following functions that apply to registered industrialized buildings provided such functions do not involve disassembly of the registered building or a change ~~of~~ *in its* design, or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.

1. Building officials shall verify that the registered industrialized building has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for damaged or loose wires, or both, in the electrical system.

2. Building officials shall verify that supplemental components required by the label or by this chapter are properly provided.

3. Building officials shall verify that the instructions of the label for installation and erection are observed.

4. Building officials shall verify that any special conditions or limitations of use that are stipulated by the label ~~in accordance with and authorized by~~ this chapter are observed.

5. Building officials may require submission and approval of plans and specifications for items not included or specified in the manufacturer's installation instructions such as the supporting structures, foundations ~~including and~~ anchorage, and all other components necessary to form the completed building. They may require such architectural and

Final Regulations

engineering services as may be specifically authorized by this chapter to assure that the supporting structures, foundations ~~including and~~ anchorage, and other components necessary to form the completed building are designed in accordance with this chapter.

6. Building officials shall enforce applicable requirements of this chapter and the USBC for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.

7. Building officials shall enforce the requirements of the USBC applicable to utility connections, site preparation, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.

8. Building officials shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.

13 VAC 5-91-120. Unregistered industrialized buildings.

A. The building official shall determine whether any unregistered industrialized building complies with this chapter and shall require any noncomplying unregistered building to be brought into compliance with this chapter. The building official shall enforce all applicable requirements of this chapter including those relating to the sale, rental and disposition of noncomplying buildings. The building official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The building official may also accept reports of inspections and tests from individuals or agencies deemed acceptable to the building official.

B. Unregistered industrialized buildings offered for sale by ~~dealers~~ in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with this chapter and must be inspected and approved by the ~~local code official having jurisdiction~~ building official. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

13 VAC 5-91-130. Disposition of noncomplying building.

When a building is found to be in violation of this chapter, the ~~local code~~ building official may require the violations to be corrected before occupancy of the building is permitted.

13 VAC 5-91-140. Report to the SBCAO.

If the building is moved from the jurisdiction before the violations have been corrected, the building official shall make a prompt report of the circumstances to the SBCAO. The report shall include *all of* the following:

1. A list of the uncorrected violations;

2. All information contained on the label pertinent to the identification of the building, the manufacturer and the compliance assurance agency;

3. The number of the Virginia registration seal;

4. The new destination of the building, if known; ~~and~~ .

5. The party responsible for moving the building.

13 VAC 5-91-150. When modification may be granted.

A. The administrator shall have the power upon request in specific cases to authorize modification of ~~the regulations~~ *this chapter* so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the modification requested.

B. Before a modification is authorized, the ~~local code~~ building official ~~having jurisdiction~~ may be afforded an opportunity to present his views and recommendations.

13 VAC 5-91-160. Use of model codes and standards.

A. Industrialized buildings produced after ~~October 1, 2003,~~ [~~(effective date of final regulation to be inserted)~~ November 16, 2005,] shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the following codes and standards, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision:

The following codes and standards may be used until ~~January 1, 2004~~ [~~(date three months after above date to be inserted)~~ February 16, 2006]:

1. ~~BOCA National Building Code 1996 Edition~~ ICC International Building Code - 2000 Edition
2. ICC International Plumbing Code 1995 - 2000 Edition ~~with 1996 Supplement~~
3. ICC International Mechanical Code 1996 - 2000 Edition
4. ~~National Electrical Code~~ NFPA National Fire Protection Association Standard Number 70 (National Electrical Code) 1996 - 1999 Edition
5. ~~CABO One and Two Family Dwelling Code 1995~~ ICC International Residential Code - 2000 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of ~~these regulations~~ *this chapter*:

1. ICC International Building Code-2000 - 2003 Edition
2. ICC International Plumbing Code-2000 - 2003 Edition
3. ICC International Mechanical Code-2000 - 2003 Edition
4. ~~NFPA 70~~ National Electrical Code-1999 - 2002 Edition
5. ICC International Residential Code-2000 - 2003 Edition

NOTE: The codes and standards (~~BOCA, CABO, ICC and NFPA~~) referenced above may be procured from:

International Code Council, Inc.
5203 Leesburg Pike, Suite 708 600
Falls Church, VA 22041-3404

13 VAC 5-91-170. Amendments to codes and standards.

A. All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications, and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of this chapter and the applicable provisions of Chapter 1 of the USBC.

B. The referenced codes and standards are amended as ~~per~~ set forth in the USBC.

13 VAC 5-91-180. Compliance assurance agencies.

Application may be made to the SBCAO for acceptance as a compliance assurance agency as defined in ~~13 VAC 5-91-10~~. Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the SBCAO to determine whether the applicant is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized buildings for compliance with this chapter, and to provide adequate follow-up and compliance assurance services at the point of manufacture.

13 VAC 5-91-190. Freedom from conflict of interest.

A compliance assurance agency shall not be affiliated with, nor influenced or controlled by, producers, suppliers, or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. A compliance assurance agency is judged to be free of such affiliation, influence, and control if it complies with all of the following conditions:

1. The agency has no managerial affiliation with producers, suppliers or vendors and is not engaged in the sale or promotion of any product or material.
2. The results of the agency's work accrue no financial benefits to the agency through stock ownership ~~and the like of, or other similar affiliation to,~~ any producer, supplier or vendor of the product involved.
3. The agency's directors and other management personnel, in ~~such their job capacities,~~ receive no stock option, or other financial benefit from any producer, supplier, or vendor of the product involved.
4. The agency has sufficient interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's or vendor's product with this chapter would not be a determining factor in its financial well-being.
5. The employment security status of the agency's personnel is free of influence or control by producers, suppliers, or vendors.

13 VAC 5-91-200. Information required by the administrator.

All of the following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices;
2. Specification and description of services proposed to be furnished under this chapter;
3. Description of qualifications of personnel and their responsibilities. ~~Personnel, including an assurance that personnel~~ involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors ~~shall meet~~ comply with the requirements of the American Society for Testing and Material (ASTM) ~~Standards E-541-84, Criteria Standard Number E541-01 - Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings; Building.~~
4. Summary of experience within the organization;
5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels;
6. Procedures to deal with any defective buildings resulting from oversight;
7. Acceptance of these services by independent accrediting organizations and by other jurisdictions; ~~and.~~
8. Proof of independence and absence of conflict of interest.

Note: The ASTM Standard ~~E-541-84~~ Number E541-01 may be procured from:

American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959

13 VAC 5-91-210. Compliance assurance agency certification label.

Every registered industrialized building shall be marked with a label supplied by the compliance assurance agency that includes the ~~following information:~~ 1. name and address of the compliance assurance agency; and 2. the certification label number.

13 VAC 5-91-220. Mounting of label.

To the extent practicable, the label shall be ~~so~~ installed so that it cannot be removed without destroying it. ~~The label~~ shall be applied in the vicinity of the electrical distribution panel or ~~either in another~~ location that is readily accessible for inspection. When a building is comprised of more than one section or module, the required label may be furnished as a single label for the entire building, provided each section or module is marked by the compliance assurance agency in a clearly identifiable manner ~~that is listed~~ provided with or on the label.

Final Regulations

13 VAC 5-91-245. Manufacturer's data plate.

A. ~~All of the following information shall be placed on a permanent manufacturer's data plate in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form, completeness and location of the data plate to include the following information and shall ensure that the data plate is complete:~~

1. Manufacturer's name and address;
2. Compliance assurance agency certification number;
3. Serial number of each module of the building;
4. Serial number of the Virginia registration seal;
5. Date of manufacture of the building;
6. List of codes and standards ~~for under which the building has been was evaluated, inspected and found in compliance by the compliance assurance agency and constructed~~ and the type of construction and ~~the use and occupancy classification under those codes and standards;~~
7. Design loads: roof ~~and load, design~~ floor live load and design wind load;
8. Seismic design zone number;
9. Thermal transmittance values or "~~R~~" thermal resistance ("~~R~~") values;
10. Special conditions or limitations ~~of concerning the use of the building under the codes and standards for which applicable to the building has been evaluated, or ; however,~~ a list of such conditions ~~and or~~ limitations that are furnished separately with the building; *shall satisfy this requirement.*
11. Special instructions for handling, installation and erection ~~of the building, or ; however,~~ a list of such instructions that are furnished separately with the building; *shall satisfy this requirement.*
12. Designation of electrical service ratings, directions for water and drain connections and, where applicable, identification of permissible type of gas for appliances; ~~and.~~
13. Name of manufacturer and model designation of major factory installed appliances.

B. The manufacturer shall maintain copies of the data plate and reports of inspection, tests and any corrective ~~action(s)~~ action taken for a minimum period of 10 years from the date of manufacture of the building.

13 VAC 5-91-250. Industrialized buildings eligible for registration.

Any industrialized building must meet *all of the following requirements to be registered and eligible for a Virginia registration seal:*

1. The design of the building has been found by a compliance assurance agency to be in full compliance with this chapter. Approved designs shall be evidenced by the stamp and date of approval on each design sheet by the compliance assurance agency;

2. The compliance assurance agency has conducted any necessary testing and evaluation of the building and its component parts;

3. The compliance assurance agency has provided the required inspections and other quality assurance follow-up services at the point of manufacture to assure the building complies with this chapter; ~~and .~~

4. The building ~~has been provided with~~ contains the appropriate evidence of such compliance ~~with through~~ a label permanently affixed by the compliance assurance agency.

13 VAC 5-91-260. Registration seal for industrialized buildings.

A. Registered industrialized buildings shall be marked with an approved registration seal issued by *the* SBCAO. The seal shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

B. Registered industrialized buildings shall bear a registration seal for each dwelling unit in residential occupancies. For nonresidential occupancies, a registration seal is required for each registered building.

C. Approved registration seals may be purchased from *the* SBCAO in advance of use. The fee for each registration seal shall be \$75. Checks shall be made payable to "Treasurer of Virginia." Payment for the seals must be received by the SBCAO before the seals can be sent to the user.

D. To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

E. The compliance assurance agency or the manufacturer under the supervision of the compliance assurance agency shall maintain permanent records of the disposition of all Virginia registration seals obtained by the compliance assurance agency or manufacturer.

13 VAC 5-91-270. Manufacturer's installation instructions.

A. The manufacturer of each industrialized building shall provide *specifications or instructions, or both,* with each building, ~~specifications or instructions, or both,~~ for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.

B. Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.

DOCUMENTS INCORPORATED BY REFERENCE

~~BOCA National Building Code--1996 Edition.~~

~~ICC International Plumbing Code--1995 Edition with 1996 Supplement - 2000 and 2003 Editions, International Code Council.~~

~~ICC International Mechanical Code—1996 Edition - 2000 and 2003 Editions, International Code Council.~~

~~National Electrical Code—NFPA National Fire Protection Association Standard Number 70-1996 and (National Electrical Code) - 1999 Edition and 2002 Editions.~~

~~CABO One and Two Family Dwelling Code—1995 Edition.~~

~~ICC International Building Code-- - 2000 Edition and 2003 Editions, International Code Council.~~

~~ICC International Plumbing Code--2000 Edition.~~

~~ICC International Mechanical Code—2000 Edition.~~

~~ICC International Residential Code-- - 2000 Edition and 2003 Editions, International Code Council.~~

~~ASTM E541-84, Standard Criteria Standard Number E541-01 - Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings Building, American Society for Testing and Materials.~~

VA.R. Doc. No. R04-172; Filed September 27, 2005, 11:24 a.m.



GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Environmental Study to Restore Water Quality for Occoquan Basin Streams in Northern Virginia

Purpose of notice: To announce a technical advisory committee meeting on a study by the Department of Environmental Quality (DEQ) to restore water quality for Occoquan Basin streams in Northern Virginia.

Technical advisory meeting: Conference Room #2 at the DEQ-NRO office in Woodbridge, Virginia, on November 3, 2005, from 10 a.m. to Noon.

Meeting description: Second advisory committee meeting on a study to restore water quality.

Description of study: DEQ is working to identify sources of bacteria contamination and causes of benthic aquatic life impairments in certain streams of the Occoquan watershed in Northern Virginia. This contamination exceeds water quality standards, which affects the designated swimming use, and (in some of these streams) does not provide a suitable habitat for organisms living on or near the bottom of a stream or other water body. The contamination impairs or decreases the quality of water.

The following is a list of the "impaired" waters in the Occoquan Basin, their location, the length of the impaired segment, and the reason for the impairment:

Stream	County/City	Length (mi.)	Year Listed	Impairment
Broad Run	Prince William	1.51	2002	Bacteria
Broad Run	Prince William	7.26	2002	Bacteria
Broad Run	Prince William	1.06	2004	Bacteria
South Run	Fauquier, Prince William	2.34	2004	Bacteria
		2.34	1996	Benthic
Kettle Run	Prince William	7.59	2002	Bacteria
Occoquan River	Prince William	1.61	2004	Bacteria
Little Bull Run	Prince William	3.03	2004	Bacteria
Bull Run	Prince William, Fairfax	4.80	2004	Bacteria
		4.80	1996	Benthic
Popes Head Creek	Fairfax	4.92	2004	Bacteria
		4.92	1998	Benthic

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting, and must be received by DEQ before the close of the comment period.

Fact sheets are available on the impaired waters from the contacts below or on the DEQ website at www.deq.virginia.gov.

Contact for additional information: Kimberly V. Davis, Regional TMDL Coordinator, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3937, FAX (703) 583-3841.

DEPARTMENT OF HEALTH

HIV Care & Prevention Services Public Hearings

Public comment is being solicited for the Virginia Department of Health use of Ryan White CARE Act Title II funds during the 2006-2007 grant year, the Statewide Comprehensive Plan for HIV health care, and issues, barriers and emerging risk behaviors related to HIV prevention. Interested parties may attend any of the following public hearings:

Eastern:

Tuesday, October 18, 2005 - 1 p.m.

Old Dominion University, Virginia Beach Higher Education Center, 1881 University Drive, Room 245, Virginia Beach, VA 23453, telephone (757) 368-4108.

Contact: Kenya (757) 446-6170.

Southwest:

Wednesday, October 19, 2005 - Noon

Metropolitan Community Church of the Blue Ridge, Fellowship Hall, 806 Jamison Ave., SE, Roanoke, VA 24013.

Contact: Rob Morrow (540) 985-0131 ext. 401.

Northern:

Tuesday, October 25, 2005 - 1 p.m.

Alexandria Public Library, Charles E. Beatley, Jr. Central Branch, Community Meeting Room, 5005 Duke Street, Alexandria, VA 22304-2903.

Contact: Debby Dimon (703) 838-4400 ext. 252.

Northwest:

Thursday, October 27, 2005 - 7 p.m.

James Madison University College Center, Allegheny Room, Festival Conference and Student Center, 1301 Carrier Drive, Harrisonburg, VA 22807.

Contact: Marcia Chamberlin (540) 568-6052.

Central:

Wednesday, October 26, 2005 - 5 p.m.

Fan Free Clinic, 1010 N. Thompson Street, Richmond, VA 23230.

Contact: Adrienne Fordham-Howard (804) 828-1827.

Contact Information: Ben Alonso, Health Care Planner, 109 Governor Street, Room 326, Richmond, VA 23219, telephone (804) 864-8022, FAX: Toll Free: e-mail ben.alonso@vdh.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Clarify Medicaid Utilization Calculation to Match Cost Report Practice and the Days Included for Newborns Not Enrolled in Medicaid During the Fiscal Year

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to clarify the definition of Medicaid Utilization to better articulate the actual practice of calculating Medicaid utilization from the facility cost reports. This notice is intended to satisfy the requirements of 42 CFR § 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). The change contained in this public notice is in response to Item PPP of the 2005 Appropriation Act language.

Medicaid Utilization is primarily used to determine whether or not a facility is eligible for Disproportionate Share Hospital (DSH) payment. The calculation is generally Medicaid inpatient days divided by total inpatient days at any given facility. However, there has been a lack of clarity in regulation regarding what constitutes a "Medicaid inpatient day" for this calculation. Cost report instructions, however, have been clear and consistent in this definition. This regulatory change will better articulate the definition in regulation.

This regulatory action also states that DMAS does not include days for newborns not enrolled in Medicaid during the fiscal year even though the mother was Medicaid eligible during the birth.

A copy of this notice is available for public review from Scott Crawford, Director, Provider Reimbursement Division, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall (www.townhall.com). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Crawford and such comments are available for review at the same address.

STATE WATER CONTROL BOARD

Proposed Consent Special Order for BASF Corporation

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Williamsburg, Virginia.

Public comment period: October 17, 2005, to November 16, 2005.

Consent order description: The State Water Control Board proposes to issue a consent order to BASF Corporation to address alleged violations of Virginia State Water Control Law. The location of the facility where the alleged violations occurred is 8961 Pocahontas Trail, Williamsburg. The consent order describes a settlement to resolve unpermitted discharges.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: John M. Brandt, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd, Virginia Beach, VA 23462, telephone (757) 518-2010, FAX (757) 518-2003, or e-mail jmbrandt@deq.virginia.gov.

Proposed Consent Special Order for the City of Salem

Citizens may comment on a proposed consent order for a facility in Salem, Virginia.

Public comment period: October 17, 2005, to November 16, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to the City of Salem to address alleged violations of Virginia's regulations. The location of the facility where the alleged violation occurred is the sewage collection and transmission systems serving the City of Salem. The consent order describes a settlement to resolve wet weather sewage overflows. It requires the city to identify and repair overflow locations.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ West Central Regional Office every work day by appointment or on the DEQ website at www.deq.virginia.gov.

General Notices/Errata

Contact for public comments, document requests and additional information: Robert Steele, Department of Environmental Quality, West Central Regional Office, Roanoke, VA 24019, telephone (540) 562-6777, FAX (540) 562-6725, or e-mail rpsteele@deq.virginia.gov.

Proposed Consent Special Order for Titan Virginia Ready-Mix LLC

Citizens may comment on a proposed consent order for facilities in Virginia Beach, Virginia.

Public comment period: October 17, 2005, to November 17, 2005.

Purpose of notice: To invite the public to comment on a proposed consent order.

A consent order is issued to a business owner or other responsible party to perform specific actions that will bring the entity into compliance with the relevant law and regulations. It is developed cooperatively with the facility and entered into by mutual agreement.

Consent order description: The State Water Control Board proposes to issue a consent order to Titan Virginia Ready-Mix LLC to address alleged violations of Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Ready-Mixed Concrete Plants and Virginia State Water Control Law. The location of the facility where the alleged violations occurred is 160 Oceana Boulevard, Virginia Beach. The consent order describes a settlement to resolve unpermitted discharges and the facility's failure to comply with the minimum freeboard requirements. The consent order requires the facility to comply with its current permit and pay a civil charge.

How a decision is made: After public comments have been considered, the State Water Control Board will make a final decision.

How to comment: DEQ accepts comments from the public by e-mail, fax, or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period.

To review the consent order: The public may review the proposed consent order at the DEQ Tidewater Regional Office every workday by appointment or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests, and additional information: Caroline M. Huertas, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 518-2107, FAX (757) 518-2003, or e-mail cmhuertas@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (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://register.state.va.us>.

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
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ 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. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

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 ACCOUNTANCY

- † **October 25, 2005 - 10 a.m.** -- Open Meeting
† **December 13, 2005 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Suite 395, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

A general business meeting. 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. 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: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.virginia.gov.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Pork Industry Board

- † **November 4, 2005 - 3:30 p.m.** -- Open Meeting
Holiday Inn, Staunton Golf and Conference Center, I-81, Exit 225, Staunton, Virginia.♿

A meeting to (i) review and approve the board's minutes of the last meeting, (ii) review the board's financial statement, (iii) discuss National Pork Board issues and appoint committees for the Pork Conference, and (iv) conduct general 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 John H. Parker at least three days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 786-7092, FAX (804) 371-7786, e-mail john.parker@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

State Advisory Board on Air Pollution

- October 26, 2005 - 10 a.m.** -- Open Meeting
November 16, 2005 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.♿

A regular meeting.

Contact: Janet Wynne, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4140, e-mail jtynne@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

- October 24, 2005 - 9 a.m.** -- Open Meeting
November 7, 2005 - 9 a.m. -- Open Meeting
November 21, 2005 - 9 a.m. -- Open Meeting
December 5, 2005 - 9 a.m. -- Open Meeting
December 19, 2005 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.♿

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.

Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY☎, e-mail curtis.coleburn@abc.virginia.gov.

Calendar of Events

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

NOTE: CHANGE IN MEETING DATE

† **December 6, 2005 - 10 a.m.** -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. (Interpreters for the deaf provided upon request)

A regular meeting.

Contact: Cecily Slasor, I and R Specialist, Alzheimer's Disease and Related Disorders Commission, 1610 Forest Ave., Ste. 100, Richmond, VA 23229, telephone (804) 662-9338, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY, e-mail cecily.slasor@vda.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

October 26, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail apelscidla@dpor.virginia.gov.

October 31, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail apelscidla@dpor.virginia.gov.

November 3, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail apelscidla@dpor.virginia.gov.

November 8, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail apelscidla@dpor.virginia.gov.

November 10, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. 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, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail apelscidla@dpor.virginia.gov.

† **December 7, 2005 - 3 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

An informal fact-finding conference.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.

December 8, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct any and all board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

* * * * *

December 8, 2005 - 9 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

December 8, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amend regulations entitled **18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**. The purpose of the proposed action is to make general clarifying changes to the regulation as well as clarifying the requirements relating to "responsible charge" and "direct control and personal supervision." Any other changes that may be necessary may also be considered.

Statutory Authority: §§ 54.1-201, 54.1-404 and 54.1-411 of the Code of Virginia.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD

November 4, 2005 - 10 a.m. -- Open Meeting
December 2, 2005 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street,
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.state.va.us. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

Contact: Richard L. Ford, AIA Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, (804) 786-6152/TTY , or e-mail rford@comarchs.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

November 2, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail alhi@dpor.virginia.gov.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

NOTE: CHANGE IN MEETING DATE AND TIME

November 14, 2005 - 6 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Street, House Room D, Richmond, Virginia.

A regular meeting.

Contact: Kim McGaughey, Executive Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831.

Calendar of Events

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 10, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular board meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

October 17, 2005 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

October 21, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled **18 VAC 41-50, Tattooing Regulations**. The purpose of the proposed regulations is to promulgate regulations governing the licensure and practice of tattooing as mandated by Chapter 869 of the 2002 Acts of Assembly.

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

Contact: William H. Ferguson II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail william.ferguson@dpor.virginia.gov.

October 31, 2005 - 9 a.m. -- CANCELED

December 5, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4W, Richmond, Virginia. 

A meeting to conduct general business and consider regulatory issues as may be presented. A portion of the meeting may be held in closed session. A public comment period will be held at the beginning of the meeting. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

† December 10, 2005 - 10 a.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the Statewide Rehabilitation Council for the Blind to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

Contact: Susan D. Payne, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail susan.payne@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

November 1, 2005 - 10 a.m. -- Open Meeting
December 12, 2005 - 9 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-8514 at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.virginia.gov.

CEMETERY BOARD

October 19, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. 

A meeting to discuss board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

October 25, 2005 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

The Northern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the northern area.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

October 25, 2005 - 2 p.m. -- Open Meeting
Department of Conservation and Recreation, James Monroe Building, 101 North 14th St., 17th Floor Conference Room, Richmond, Virginia.

The Southern Area Review Committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the southern area.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

December 5, 2005 - 10 a.m. -- Open Meeting
Location to be announced.

A regular business meeting and review of local programs.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

November 18, 2005 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 

The business portion of the meeting is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, Department of Health, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail angela.myrick@vdh.virginia.gov.

VIRGINIA CITIZEN-SOLDIER SUPPORT COUNCIL

† **October 27, 2005 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, 3rd Floor, Cabinet Conference Room, Richmond, Virginia. 

A regular meeting.

Contact: Doug Manley, Department of Military Affairs, Building 316, Fort Pickett, Blackstone, VA, telephone (434) 298-6405, e-mail douglas.manley@va.ngb.army.mil.

STATE BOARD FOR COMMUNITY COLLEGES

November 16, 2005 - 1:30 pm. -- Open Meeting

NOTE: CHANGE IN MEETING LOCATION

The Institute Conference Center, 150 Slayton Avenue, Danville, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, and Budget and Finance Committee begin at 1:30 p.m. The Facilities Committee and the Audit Committee will meet at 3 p.m. The Personnel Committee will meet at 3:30 p.m.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

November 17, 2005 - 9 a.m. -- Open Meeting
Danville Community College, 1008 South Main Street, Danville, Virginia. 

† **January 19, 2006 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor, Godwin-Hamel Board Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

COMPENSATION BOARD

October 19, 2005 - 11 a.m. -- Open Meeting
830 East Main Street, 2nd Floor, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

October 18, 2005 - 3 p.m. -- Open Meeting

October 18, 2005 - 7 p.m. -- Open Meeting

Accomack-Northampton Planning District Commission Office (PD22), 23372 Front Street, Accomack, Virginia.

Calendar of Events

October 18, 2005 - 3 p.m. -- Open Meeting

October 18, 2005 - 7 p.m. -- Open Meeting

Hampton Roads Planning District Commission (PD23),
Chesapeake Central Library, 298 Cedar Road, Chesapeake,
Virginia.

October 18, 2005 - 3 p.m. -- Open Meeting

October 18, 2005 - 7 p.m. -- Open Meeting

Roanoke Valley/Alleghany Planning District Commission
Office (PD5), 313 Luck Avenue, S.W., Roanoke, Virginia.

October 20, 2005 - 3 p.m. -- Open Meeting

October 20, 2005 - 7 p.m. -- Open Meeting

Central Shenandoah Planning District Commission (PD6),
1112 MacTanley Place, Staunton, Virginia.

October 25, 2005 - 3 p.m. -- Open Meeting

October 25, 2005 - 7 p.m. -- Open Meeting

Rappahannock-Rapidan Regional Council (R9), 420
Southridge Parkway, Suite 106, Culpeper, Virginia.

October 25, 2005 - 3 p.m. -- Open Meeting

October 25, 2005 - 7 p.m. -- Open Meeting

Northern Virginia Regional Council (R8), 3060 Williams Drive,
Suite 510, Fairfax, Virginia.

October 26, 2005 - 3 p.m. -- Open Meeting

October 26, 2005 - 7 p.m. -- Open Meeting

Crater Planning District Commission Office (PD19), 1964
Wakefield Street, Petersburg, Virginia.

October 26, 2005 - 3 p.m. -- Open Meeting

October 26, 2005 - 7 p.m. -- Open Meeting

Thomas Jefferson Planning District Commission (PD10), 401
East Water Street, Charlottesville, Virginia.

November 1, 2005 - 3 p.m. -- Open Meeting

November 1, 2005 - 7 p.m. -- Open Meeting

Region 2000 Local Government Council (R11), 915 Main
Street, Suite 202, Lynchburg, Virginia.

November 2, 2005 - 3 p.m. -- Open Meeting

November 2, 2005 - 7 p.m. -- Open Meeting

Commonwealth Regional Council (PD14), 102-1/2 High
Street, Farmville, Virginia.

November 2, 2005 - 3 p.m. -- Open Meeting

November 2, 2005 - 7 p.m. -- Open Meeting

West Piedmont Planning District Commission (PD12), Henry
County Administration Building, 3300 Kings Mountain, Board
Room, Martinsville, Virginia.

November 3, 2005 - 3 p.m. -- Open Meeting

November 3, 2005 - 7 p.m. -- Open Meeting

Southside Planning District Commission (PD13), 200 South
Mecklenburg Avenue, South Hill, Virginia.

November 11, 2005 - 3 p.m. -- CANCELED

November 11, 2005 - 7 p.m. -- CANCELED

RADCO Planning District Commission Office (PD16), 3304
Bourbon Street, Fredericksburg, Virginia.

A 2007 Virginia Outdoors Plan citizen input meeting. State
planners from the Virginia Department of Conservation and
Recreation are developing Virginia's comprehensive plan
for the acquisition, development and management of
outdoor recreation and open space resources. Virginia has

produced a Virginia Outdoors Plan every five years since
1966; this will be the 9th edition. At 22 locations across the
state, DCR staff will inform citizens of the progress of
developing the 2007 Virginia Outdoors Plan and provide
opportunity for citizen input on issues of interest. DCR is
accepting written comments on the update of the 2007
Virginia Outdoors Plan at VOP Comments, DCR, 203
Governor Street, Suite 326, Richmond, VA 23219.
Comments will also be accepted via e-mail at
vop@dcr.virginia.gov.

Contact: Robert Munson, Planning Bureau Manager,
Department of Conservation and Recreation, 203 Governor
St., Suite 326, Richmond, VA 23219, telephone (804) 786-
6140, FAX (804) 371-7899, e-mail
robert.munson@dcr.virginia.gov.

November 10, 2005 - Noon -- Open Meeting

December 8, 2005 - Noon -- Open Meeting

Richmond City Hall, 5th Floor Conference Room, Richmond,
Virginia.

A regular meeting of the Falls of the James River Scenic
Advisory Committee to discuss river issues.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation, 203
Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

December 1, 2005 - 10 a.m. -- Open Meeting

Location to be announced.

A regular business meeting of the Virginia Land
Conservation Foundation to review and approve grant
applications.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation, 203
Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

Virginia Soil and Water Conservation Board

November 17, 2005 - 9:30 a.m. -- Open Meeting

Location to be determined.

A regular business meeting to discuss soil and water,
stormwater management and dam safety issues.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation, 203
Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS

October 18, 2005 - 9 a.m. -- Open Meeting

October 18, 2005 - 2 p.m. -- Open Meeting

October 20, 2005 - 9 a.m. -- Open Meeting

† October 25, 2005 - 9 a.m. -- Open Meeting

October 27, 2005 - 9 a.m. -- Open Meeting

† **November 1, 2005 - 9 a.m.** -- Open Meeting
† **November 1, 2005 - 1 p.m.** -- Open Meeting
† **November 3, 2005 - 1 p.m.** -- Open Meeting
† **November 17, 2005 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

Informal fact-finding conferences.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

October 18, 2005 - 9 a.m. -- Open Meeting
November 16, 2005 - 9 a.m. -- Open Meeting
December 13, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

November 16, 2005 - 10 a.m. -- CANCELED
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Tradesman Education Committee to conduct committee business has been canceled. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

† **October 26, 2005 - 10 a.m.** -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A special meeting to review and approve community-based corrections plans for four facilities.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

November 15, 2005 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

November 15, 2005 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. 

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

November 16, 2005 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

November 16, 2005 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A regular meeting of the full board to review and discuss all matters considered by board committees that require action by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

BOARD OF COUNSELING

November 3, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. 

A meeting of the Credentials Review Committee to review the files of applicants to determine if they have met the requirements for licensure.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

Calendar of Events

November 4, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. 

A quarterly meeting to conduct board business.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

December 8, 2005 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting of the Committee on Training.

Contact: Leon D. Baker, Jr., Division Director, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.state.va.us.

December 8, 2005 - 11 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A meeting to conduct general business.

Contact: Leon D. Baker, Jr., Division Director, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.state.va.us.

BOARD OF DENTISTRY

October 28, 2005 - 9 a.m. -- Open Meeting
November 4, 2005 - 9 a.m. -- Open Meeting
December 2, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal conferences. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

December 8, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

Formal hearings. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

December 9, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting to discuss business issues. There will be a public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

October 20, 2005 - 11 a.m. -- Open Meeting
November 17, 2005 - 11 a.m. -- Open Meeting
December 15, 2005 - 11 a.m. -- Open Meeting
Department of General Services, 202 North 9th Street, Room 412, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use design-build or construction-management-type contracts. Contact the Division of Engineering and Building to confirm the meeting.

Contact: Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , or e-mail rhonda.bishton@dgs.virginia.gov.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† October 25, 2005 - 10 a.m. -- Open Meeting
901 East Byrd Street, Riverfront Plaza, West Tower, 19th Floor, Richmond, Virginia. 

A meeting of the Finance Committee to discuss finance issues pertaining to the Virginia Economic Development Partnership.

Contact: Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail kellett@yesvirginia.org.

BOARD OF EDUCATION

October 26, 2005 - 9 a.m. -- Open Meeting
November 30, 2005 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia. 

A regular business meeting of the board. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time

or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

Advisory Board on Teacher Education and Licensure

November 21, 2005 - 9 a.m. -- Open Meeting
Location to be announced.

A regular meeting. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

STATE BOARD OF ELECTIONS

† **November 15, 2005 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 

A regular meeting.

Contact: Vanessa Archie, Administrative Assistant, State Board of Elections, 200 N. 9th Street, Room 101, Richmond, VA 23219, telephone (804) 864-8908, FAX (804) 371-0194, toll-free (800) 552-9745, (800) 260-3466/TTY , e-mail vanessa.archie@sbe.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 17, 2005 - 6:30 p.m. -- Open Meeting
Cleveland Recreation Ball Park Facility, Cleveland, Virginia. 

The first public meeting on the development of a watershed cleanup plan for sediment and total dissolved solids TMDLs for Dumps Creek in Russell County. The public notice appears in the Virginia Register of Regulations on October 3, 2005, and the comment period begins on October 17, 2005, and closes on November 17, 2005.

Contact: Nancy T. Norton, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.virginia.gov.

October 27, 2005 - 7 p.m. -- Open Meeting
Sontag Elementary School, Sontag Road, Rocky Mount, Virginia. 

A public meeting on the development of bacteria TMDLs for impaired waters in the Pigg River and Old Womans Creek watersheds located in Franklin, Pittsylvania, and Campbell counties. The public notice appears in the Virginia Register of Regulations on October 3, 2005. The comment period begins on October 27, 2005, and closes on November 27, 2005.

Contact: Mary R. Dail, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, e-mail mrdail@deq.virginia.gov.

November 10, 2005 - 4 p.m. -- Open Meeting
Alleghany County Governmental Complex, 9212 Winterberry Avenue, Board of Supervisors Room, Low Moor, Virginia. 

A public meeting on the development of dissolved oxygen and benthic TMDLs for segments of the Jackson River in Alleghany and Botetourt counties and in Covington. The public notice appears in the Virginia Register of Regulations on October 3, 2005. The comment period begins on November 10, 2005, and ends on December 12, 2005.

Contact: Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhil@deq.virginia.gov.

November 15, 2005 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, FAX (804) 698-4116, e-mail mamassie@deq.virginia.gov.

CHARITABLE GAMING BOARD

December 6, 2005 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia. 

A regular quarterly meeting.

Contact: Clyde E. Cristman, Director, Charitable Gaming Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dcg.virginia.gov.

Calendar of Events

GOVERNOR'S ADVISORY BOARD OF ECONOMISTS

October 24, 2005 - 9 a.m. -- Open Meeting
2220 West Broad Street, Richmond, Virginia. 

A meeting of the Governor's Advisory Board of Economists. A request will be made for the meeting to be closed to the public.

Contact: Carolyn Johnson, Office Manager, Department of Taxation, 600 E Main Street Centre, Richmond, VA 23219, telephone (804) 371-4371, FAX (804) 371-4379, e-mail carolyn.johnson@tax.virginia.gov.

GOVERNOR'S ADVISORY COUNCIL ON REVENUE ESTIMATES

November 21, 2005 - 9:30 a.m. -- Open Meeting
To be announced

A meeting of the Governor's Advisory Council on Revenue Estimates. A request will be made for the meeting to be closed to the public.

Contact: Carolyn Johnson, Office Manager, Department of Taxation, 600 East Main Street Centre, Richmond, VA 23219, telephone (804) 371-4371, FAX (804) 371-4379, e-mail carolyn.johnson@tax.virginia.gov.

STATE BOARD OF HEALTH

October 21, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled **12 VAC 5-410, Regulations for the Licensure of Hospitals in Virginia**. The purpose of the proposed action is to require a registered nurse, qualified by education and experience in perioperative nursing, to be present as a circulating nurse in each operating room during surgical procedures conducted in inpatient hospitals and outpatient surgical centers. This amendment is the result of a petition for rulemaking received from the Virginia Council of Perioperative Nurses.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Contact: Carrie Eddy, Senior Policy Analyst, Center for Quality Health Care Services, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149 or e-mail carrie.eddy@vdh.virginia.gov.

* * * * *

November 4, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to amend regulations entitled **12 VAC 5-90, Regulations Governing Disease Reporting and Control**. The purpose of the proposed action is to (i) establish isolation and

quarantine requirements, (ii) insert and clarify definitions, (iii) clarify the reportable disease list, (iv) update the conditions that are reportable by laboratories and to the tests used to confirm those conditions, (v) revise information to be included on a disease report, and (vi) update tuberculosis reporting and control requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Contact: Diane Woolard, Ph.D., Director, Division of Surveillance and Investigation, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-8141, FAX (804) 864-8139 or e-mail diane.woolard@vdh.virginia.gov.

DEPARTMENT OF HEALTH

† **October 20, 2005 - 8:30 a.m.** -- Open Meeting
Holiday Inn Select-Koger South Conference Center, 1021 Koger Center Boulevard, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia HIV Community Planning Committee. The Research Subcommittee and Standards and Practices Committee will meet early. The Rural Issues Workgroup will meet during lunch, 2006 meeting dates will be selected and unmet needs will be prioritized.

Contact: Elaine Martin, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7962, e-mail elanie.martin@vdh.virginia.gov.

October 21, 2005 - 10 a.m. -- Open Meeting
December 9, 2005 - 10 a.m. -- Open Meeting
† **December 21, 2005 - 10 a.m.** -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Virginia Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The advisory committee meets four times a year.

Contact: Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, (800) 828-1120/TTY , e-mail pat.dewey@vdh.virginia.gov.

† **November 10, 2005 - 9 a.m.** -- Open Meeting
† **January 17, 2006 - 9 a.m.** -- Open Meeting
Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies, procedures and programs.

Contact: Donna Tiller, Executive Secretary, Department of Health, 109 Governor St., Richmond, VA 23219, telephone

(804) 864-7470, FAX (804) 864-7475, e-mail donna.tiller@vdh.virginia.gov.

Emergency Medical Services Advisory Board

December 14, 2005 - 1:30 p.m. -- Open Meeting
Madison Building, 109 Governor Street, Richmond, Virginia. 

A meeting of the Newborn Screening Regulations Advisory Group to allow and invite public participation in the development of proposed regulations.

Contact: Nancy Ford, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7022, e-mail nancy.ford@vdh.virginia.gov.

November 17, 2005 - 3 p.m. -- Open Meeting
The Place at Innsbrook, Glen Allen, Virginia. 

A meeting of the Regulation and Policy Committee of the EMS Advisory Board to conduct regular business, accept reports from staff regarding implementation of civil penalties, and receive an update on NOIRA processes.

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, e-mail michael.berg@vdh.virginia.gov.

Radiation Advisory Board

† November 2, 2005 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

A meeting to follow up with the Department of Health's progress towards participating in the Nuclear Regulatory Commission's Agreement State Program and to conduct other business regarding radiological issues of interest within the Commonwealth.

Contact: Les Foldesi, Director, Radiological Health Program, Department of Health, Radiological Health Program, PO. Box 2448, Richmond, VA 23218, telephone (804) 864-8151, FAX (804) 864-8155, toll-free (800) 468-0138, (800) 828-1120/TTY , e-mail Les.Foldesi@vdh.virginia.gov.

BOARD OF HEALTH PROFESSIONS

October 21, 2005 - 9 a.m. -- Open Meeting
December 16, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 3, Richmond, Virginia. 

A meeting of the Health Practitioners' Intervention Program Committee.

Contact: Peggy W. Call, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail peggy.call@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

November 7, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation
3600 West Broad Street, 4th Floor Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail hearingaidspec@dpor.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† October 25, 2005 - 12:30 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

Committee meetings begin at 8 a.m. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeanrung@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† November 14, 2005 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia. 

A general business meeting.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY , e-mail steve.calhoun@dhcd.virginia.gov.

Calendar of Events

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

State Building Code Technical Review Board

† **October 21, 2005 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to hear appeals concerning the application of the department's building and fire regulations by the local building departments and consider interpretations of the building and fire codes for recommendations for future changes to the Board of Housing and Community Development.

Contact: Vernon W. Hodge, Secretary, State Building Code Technical Review Board, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

E-911 Wireless Services Board

November 9, 2005 - 9 a.m. -- Open Meeting
110 South 7th Street, 1st Floor, Telecommunications Conference Room, Suite 100, Richmond, Virginia.

A subcommittee meeting. A request will be made to hold the meeting in closed session.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

November 9, 2005 - 10 a.m. -- Open Meeting
110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia.

A regular board meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

Information Technology Investment Board

† **October 18, 2005 - 1 p.m.** -- Open Meeting
Virginia Information Technologies Agency Operations Center, 110 South 7th Street, Richmond, Virginia. 

A regular meeting. The board will go immediately into closed session following approval of the prior meeting minutes at approximately 1:05 p.m. The board anticipates reconvening in open session at approximately 3:30 p.m.

Contact: Jennifer W. Hunter, Interim IT Investment Board Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone

(804) 343-9012, FAX (804) 343-9048, e-mail jenny.hunter@vita.virginia.gov.

† **December 8, 2005 - 1 p.m.** -- Open Meeting
Virginia Information Technologies Agency Operations Center, 110 S. 7th Street, Richmond, Virginia. 

A regular meeting.

Contact: Jennifer W. Hunter, Interim IT Investment Board Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9048, e-mail jenny.hunter@vita.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

November 21, 2005 - 10 a.m. -- Open Meeting

November 22, 2005 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A semiannual two-day meeting of the Board of Trustees and the board's standing committees. Time listed above is approximate as a detailed schedule is yet to be determined. Opportunity for public comment will be included on the November 22 business meeting agenda.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-7285, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-5110/TTY , e-mail laura.bailey@jyf.virginia.gov.

December 9, 2005 - 2 p.m. -- Open Meeting
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Call contact below for specific meeting location.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, (757) 253-5110/TTY , e-mail judith.leonard@jyf.virginia.gov.

BOARD OF JUVENILE JUSTICE

November 9, 2005 - 10 a.m. -- Public Hearing
Department of Juvenile Justice, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

November 25, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Juvenile Justice intends to amend regulations entitled **6 VAC 35-10, Public Participation Guidelines**. The purpose of the proposed action is to update the regulation to reflect technological and statutory changes since the original regulation was adopted in 1991.

Statutory Authority: §§ 2.2-4007 and 66-3 of the Code of Virginia.

Public comments may be submitted until November 25, 2005, to Patricia Rollston, P.O. Box 1110, Richmond, VA 23219-1110.

Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23219-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail don.carignan@djj.virginia.gov.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

December 8, 2005 - 10 a.m. -- Open Meeting
Location to be announced.  (Interpreter for the deaf provided upon request)

A regular meeting to discuss general business.

Contact: Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY , e-mail bgd@doli.state.va.us.

STATE LIBRARY BOARD

October 19, 2005 - 10 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting of the Virginia Circuit Court Records Preservation Grant Review Board to review, evaluate, and appropriately award grant applications submitted by circuit court clerks to undertake records preservation projects in their offices.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

† November 4, 2005 - 9:30 a.m. -- Open Meeting
Library of Virginia, 800 East Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Public Library Development Committee to review and discuss the public library study.

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) 692-3994, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

November 14, 2005 - 8:15 a.m. -- Open Meeting
† January 27, 2006 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room
Publications and Educational Services Committee, Conference Room B
Records Management Committee, Conference Room C

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

10:30 a.m. - Library Board, Conference Room, 2M

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

† November 10, 2005 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. 

A regular meeting.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 828-1120/TTY , e-mail ted.mccormack@dhcd.virginia.gov.

BOARD OF LONG-TERM CARE ADMINISTRATORS

October 24, 2005 - 9:30 a.m. -- Open Meeting
October 27, 2005 - 9:30 a.m. -- Open Meeting
November 21, 2005 - 9:30 a.m. -- Open Meeting
December 12, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

The Long-Term Care Administrators Task Force will meet to discuss development of regulations. There will be a public comment period during the first 15 minutes of the meeting.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

November 29, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss general business matters and receive information from the Long-Term Care Administrators Task Force. There will be a 15-minute public comment period during the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

Calendar of Events

† **January 10, 2006 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting to discuss general business matters. There will be a 15-minute public comment period during the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

MARINE RESOURCES COMMISSION

October 25, 2005 - 9:30 a.m. -- Open Meeting
November 22, 2005 - 9:30 a.m. -- Open Meeting
December 20, 2005 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue,
4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)

A monthly commission meeting.

Contact: Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

December 13, 2005 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. 

A routine quarterly meeting required in the BMAS bylaws.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail nancy.malczewski@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

NOTE: CHANGE IN MEETING DATE

† **October 31, 2005 - 9 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Richmond, Virginia. 

A meeting of the Pharmacy and Therapeutics Committee to conduct an annual review of Phase I PDL Drug Classes and Review of New Drugs and New Drug Classes.

Contact: Katina Goodwyn, Pharmacy Contract Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-0973, (800) 343-0634/TTY , e-mail katina.goodwyn@dmas.virginia.gov.

November 10, 2005 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Drug Utilization Review Board to discuss issues and concerns about Medicaid pharmacy issues with the committee and the community.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail rachel.cain@dmas.virginia.gov.

November 15, 2005 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Boardroom, Richmond, Virginia. 

A meeting of the Pharmacy Liaison Committee to discuss issues and concerns about Medicaid pharmacy issues with the committee and the community.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail rachel.cain@dmas.virginia.gov.

November 16, 2005 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Boardroom, Richmond, Virginia.

A meeting of the Medicaid Transportation Advisory Committee to discuss issues and concerns about Medicaid transportation issues with the committee and the community.

Contact: Bob Knox, Transportation Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail bob.knox@dmas.virginia.gov.

December 2, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to combine the Elderly and Disabled Waiver with the Consumer-Directed Waiver.

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

Contact: Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or email teja.stokes@dmas.virginia.gov.

BOARD OF MEDICINE

† **October 19, 2005 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg,
Virginia. ♿

A Special Conference Committee will convene an informal conference to inquire into allegations that certain practitioners of medicine or the other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed session pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail renee.dixon@dhp.virginia.gov.

November 17, 2005 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

December 1, 2005 - 9 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. ♿

December 2, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled **18 VAC 85-120, Regulations Governing the Licensure of Athletic Trainers**. The purpose of the proposed action is to require an applicant to hold current NATABOC certification for initial licensure.

Statutory Authority: §§ 54.1-2400, 54.1-2912.1 and 54.1-2957.4 of the Code of Virginia.

Public comments may be submitted until December 2, 2005, to William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

December 16, 2005 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Legislative Committee to consider regulatory matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Acupuncture

November 30, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of acupuncture. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Athletic Training

December 1, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulation of athletic training. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Occupational Therapy

November 29, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. ♿

A meeting to consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Calendar of Events

Advisory Board on Physician Assistants

December 1, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulation of physician assistants. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

Advisory Board on Radiologic Technology

November 30, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulation of radiologic technologists and radiologic technologist-limited. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

Advisory Board on Respiratory Care

November 29, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia. 

A meeting to consider issues related to the regulation of respiratory care. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **October 20, 2005 - 1 p.m.** -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake
Drive, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Interagency Civil Admissions Advisory Council to review and vote on short-term recommendations as they relate to medical screening and assessment, community alternatives to hospitalization and transportation.

Contact: Jane McDonald, Community Support Specialist, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-8950, FAX (804) 786-1587, e-mail jamcdonald@co.dhmhrsas.virginia.gov.

STATE MILK COMMISSION

December 15, 2005 - 10:45 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia. 

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Washington Bldg., 1100 Bank St., Suite 1019, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, e-mail edward.wilson@vdacs.virginia.gov.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **October 26, 2005 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

This is the third meeting of the advisory group to Secretary of Commerce and Trade's study of the possibility of exploring for natural gas in the areas offshore of the Commonwealth. Special accommodations for the disabled will be made available at the public meeting on request. Anyone needing special accommodations should contact the Department of Mines, Minerals and Energy at least seven days prior to the meeting date.

Contact: Stephen Walz, Division of Administration Director, Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219, telephone (804) 692-3211, FAX (804) 692-3237, (804) 828-1120/TTY , e-mail stephen.walz@dmme.virginia.gov.

Virginia Gas and Oil Board

† **October 18, 2005 - 9 a.m.** -- Open Meeting
Southwest Virginia Higher Education Center on the campus of Virginia Highlands Community College, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

In addition to general board business, the following will be discussed: creation/pooling/repooling (coalbed methane and conventional gas), disbursements of funds, appealing decision of director (coalbed methane well permit), and well location exceptions.

Contact: Bob Wilson, Division Director, Division of Gas and Oil, Department of Mines, Minerals and Energy, 230 Charwood

Dr., Abingdon, VA 24210, telephone (276) 676-5426, FAX (276) 676-5459, (800) 828-1120/TTY ☎, e-mail bob.wilson@dmme.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

November 1, 2005 - 8 a.m. -- Open Meeting

December 6, 2005 - 8 a.m. -- Open Meeting

NOTE: CHANGE IN LOCATION

January 3, 2006 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 200 North Boulevard, CEO 2nd Floor Meeting Room, Richmond, Virginia. ♿

A meeting for staff to update the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

BOARD OF NURSING

October 17, 2005 - 9 a.m. -- Open Meeting

October 18, 2005 - 9 a.m. -- Open Meeting

October 20, 2005 - 9 a.m. -- Open Meeting

October 25, 2005 - 9 a.m. -- Open Meeting

December 5, 2005 - 9 a.m. -- Open Meeting

December 6, 2005 - 9 a.m. -- Open Meeting

December 13, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.virginia.gov.

October 25, 2005 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting of the Medication Aide Task Force to discuss promulgating regulations regarding medication aides.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.virginia.gov.

November 14, 2005 - 9 a.m. -- Open Meeting

November 16, 2005 - 9 a.m. -- Open Meeting

November 17, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.virginia.gov.

November 15, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A general business meeting including committee reports, consideration of regulatory action and discipline case decisions as presented on the agenda. Public comment will be received at 11 a.m.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

October 19, 2005 - 9 a.m. -- Open Meeting

December 7, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ♿

A meeting of the Joint Boards of Nursing and Medicine.

Contact: Jay P. Douglas, RN, MSM, CSAC, Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.virginia.gov.

OLD DOMINION UNIVERSITY

October 24, 2005 - 3 p.m. -- Open Meeting

November 15, 2005 - 3 p.m. -- Open Meeting

Old Dominion University, Webb University Center, Norfolk, Virginia. ♿

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

Calendar of Events

December 16, 2005 - 1 p.m. -- Open Meeting
Dominion University, Webb University Center, Old Norfolk, Virginia. 

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

NOTE: CHANGE IN MEETING DATE

November 9, 2005 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive 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: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.virginia.gov.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† **October 26, 2005 - 9 a.m.** -- Open Meeting
† **October 27, 2005 - 9 a.m.** -- Open Meeting
Wyndam Richmond Airport, Laburnum Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A board retreat.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

December 1, 2005 - 10 a.m. -- Open Meeting
Location to be announced. 

An Executive Committee meeting.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

December 2, 2005 - 9 a.m. -- Open Meeting
Location to be announced.

A quarterly board meeting.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

PESTICIDE CONTROL BOARD

October 20, 2005 - 9 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. 

A general business meeting. Portions of the meeting may be held in closed session, pursuant to § 2.2-3711 of the Code of Virginia. The board will hold a public hearing on proposed amendments to 2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act. The board also intends to consider comments received on the proposed amendments to 2 VAC 20-40, Rules and Regulations Governing Licensing of Pesticide Businesses by the Department of Agriculture and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act; the board could then adopt the regulations (2 VAC 20-40) as final or delay taking final action until its January 2006 meeting. The board will entertain public comment at the beginning of the meeting on all other business for a period not to exceed 30 minutes. Any person desiring to attend the meeting, and requiring special accommodations in order to participate in the meeting, should contact Wayne Surles at least five days before the meeting date so that suitable arrangements can be made for any appropriate accommodation.

Contact: W. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, (800) 828-1120/TTY , e-mail wayne.surles@vdacs.virginia.gov.

October 20, 2005 - 9 a.m. -- Public Hearing
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia.

November 30, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to amend regulations entitled **2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act**. The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to (i) help reduce fraudulent examination activities by eliminating proctoring by private individuals; (ii)

more clearly define application and training requirements; (iii) establish applicator categories in areas where needed for industry; (iv) meet EPA requirements; (v) establish recordkeeping requirements for not-for-hire pesticide applicators, as means of ensuring that all pesticides are stored and used safely; and (vi) amend the regulation for housekeeping purposes.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Contact: W. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558, FAX (804) 371-8598, toll-free 1-800-552-9963 or e-mail wayne.surles@vdacs.virginia.gov.

BOARD OF PHARMACY

October 25, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Special Conference Committee to discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

December 1, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A meeting to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail scott.russell@dhp.virginia.gov.

December 1, 2005 - 9 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

December 2, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**, and adopt regulations entitled **18 VAC 110-50, Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen**. The purpose of the proposed action is to establish more accountability for wholesale distribution of prescription drugs.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public comments may be submitted until December 2, 2005, to Elizabeth Scott Russell, RPh, Executive Director, Board of

Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or email elaine.yeatts@dhp.virginia.gov.

BOARD OF PHYSICAL THERAPY

October 28, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular business meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

December 1, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however a portion of the board's business may be discussed in closed session. 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: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail kevin.hoeft@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

November 14, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A quarterly board meeting.

Contact: Judith A. Spiller, Executive Secretary, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8519, FAX (804) 367-9537, (804) 367-9753/TTY , e-mail judy.spiller@dpor.virginia.gov.

BOARD OF PSYCHOLOGY

October 17, 2005 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Calendar of Events

An informal conference.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.virginia.gov.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

December 8, 2005 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿

An advisory board meeting.

Contact: Janet Dingle Brown, Esq., Public Guardianship Coordinator and Legal Services Developer, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-mail janet.brown@vda.virginia.gov.

REAL ESTATE APPRAISER BOARD

November 1, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. ♿

A meeting to discuss board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail karen.oneal@dpor.virginia.gov.

REAL ESTATE BOARD

† **November 16, 2005 - 1 p.m.** -- Open Meeting
† **December 2, 2005 - 2 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

November 16, 2005 - 3 p.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Education Committee to discuss education issues.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone

(804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

November 17, 2005 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Fair Housing Committee to discuss fair housing cases.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

November 17, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia. ♿

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY ☎, e-mail reboard@dpor.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES

October 20, 2005 - 3 p.m. -- Public Hearing
Fairfax DRS Office, 11150 Fairfax Boulevard, Suite 300, Fairfax, Virginia. ♿ (Interpreter for the deaf provided upon request)

† **October 26, 2005 - 3 p.m.** -- Public Hearing
Oxbow Center, 16620 East Riverside Drive, St. Paul, Virginia. ♿ (Interpreter for the deaf provided upon request)

October 27, 2005 - 3 p.m. -- Public Hearing
Roanoke DRS Office, 3433 Brambleton Avenue, SW, Roanoke, Virginia. ♿ (Interpreter for the deaf provided upon request)

November 3, 2005 - 3 p.m. -- Public Hearing
Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

Public hearings to obtain comment regarding the Department of Rehabilitative Services State Plan for vocational rehabilitation services.

Contact: Susan Burns, Training and Development Coordinator, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7613, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 552-5019/TTY ☎, e-mail susan.burns@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

November 15, 2005 - 1 p.m. -- Open Meeting
NASA Langley Research Center/National Institute of Aerospace, Hampton, Virginia.

Tour at 10 a.m. Meeting will follow at 1 p.m. Lunch will be provided.

Contact: Nancy Vorona, VP Research Investment, CIT, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

NOTE: CHANGE IN MEETING LOCATION

October 19, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Susan Sherertz, Secretary to the Board, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

October 19, 2005 - Noon -- Open Meeting
707 East Main Street, 3rd Floor Board Room, Richmond, Virginia. 

A meeting to review applications for loans submitted to the authority for approval and to conduct general business of the board. The meeting time is subject to change depending upon the board's agenda.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, toll-free (866) 248-8814, e-mail scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

October 19, 2005 - 9 a.m. -- Open Meeting
October 20, 2005 - 9 a.m. -- Open Meeting
Department of Social Services, 170 West Shirley Avenue, Suite 200, Warrenton, Virginia. 

A regular meeting.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY , e-mail patricia.rengnerth@dss.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

† October 17, 2005 - 2:30 p.m. -- Open Meeting
Petersburg Train Station, 103 River Street, Petersburg, Virginia. 

† October 18, 2005 - 2:30 p.m. -- Open Meeting
Culpeper District Office, 1601 Orange Road, Culpeper, Virginia. 

† November 2, 2005 - 2:30 p.m. -- Open Meeting
Chesapeake Conference Center, 900 Greenbrier Circle, Chesapeake, Virginia. 

† November 10, 2005 - 2:30 p.m. -- Open Meeting
Fairfax City Hall, 10455 Armstrong Avenue, 3rd Floor, Board Room, Fairfax, Virginia. 

Public review and comment on projects and programs that are candidates for inclusion in the Fiscal Year 2007-2012 Six-Year Improvement Program (SYIP) including interstate and primary highway improvements and rail, public transportation and commuter assistance programs. Metropolitan Planning Organizations will be represented. All projects in the SYIP that are eligible for federal funding will be included in the Statewide Transportation Improvement Program (STIP), which documents how Virginia will obligate its share of federal funds.

Contact: Katherine Graham, Transportation Engineer, Commonwealth Transportation Board, Va. Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-4198, toll-free (866) 835-6070, e-mail katherine.graham@vdot.virginia.gov.

October 19, 2005 - 2 p.m. -- Open Meeting
† November 16, 2005 - 2 p.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session.

Contact: Carol Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail carol.mathis@vdot.virginia.gov.

October 20, 2005 - 9 a.m. -- Open Meeting
† November 17, 2005 - 9 a.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A regularly scheduled meeting to transact board business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups will be 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 VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Carol A. Mathis, Administrative Staff Assistant, Commonwealth Transportation Board, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, e-mail carol.mathis@vdot.virginia.gov.

Calendar of Events

† **November 1, 2005 - 7 p.m.** -- Open Meeting
Springfield Interchange Project Office, 6400 Commerce Street, Springfield, Virginia. ☎

A meeting of the I-95/I-395 PPTA Advisory Panel to discuss qualifications of PPTA project proposers and other issues, and make a recommendation concerning the project. Note: Public comment will not be collected at the meeting.

Contact: James J. Loftus, Project Manager, Department of Transportation, 1221 E. Broad St., Richmond, VA 23219, telephone (804) 786-9307, FAX (804) 786-7221, e-mail james.loftus@vdot.virginia.gov.

TREASURY BOARD

October 19, 2005 - 9 a.m. -- Open Meeting
November 16, 2005 - 9 a.m. -- Open Meeting
December 14, 2005 - 9 a.m. -- Open Meeting
Department of the Treasury, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ☎

A regular meeting.

Contact: Melissa Mayes, Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 786-0833, e-mail melissa.mayes@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Board of Veterans Services

† **October 17, 2005 - 11 a.m.** -- Open Meeting
Richmond, Virginia. ☎

A regular meeting. Call for location.

Contact: Steve Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.

Veterans Services Foundation

† **November 16, 2005 - 11 a.m.** -- Open Meeting
Richmond, Virginia. ☎

A regular meeting of the Board of Trustees. Call for location.

Contact: Steven Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.

BOARD OF VETERINARY MEDICINE

† **October 20, 2005 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

Informal (disciplinary) hearings. These are public meetings, but public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail terri.behr@dhp.virginia.gov.

COUNCIL ON VIRGINIA'S FUTURE

December 16, 2005 - Noon -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ☎

A regular meeting.

Contact: Carole Noe, Executive Assistant, 700 E. Franklin St., Suite 700, Richmond, VA 23219, telephone (804) 371-2346, e-mail cnoe@virginia.edu.

VIRGINIA WASTE MANAGEMENT BOARD

October 24, 2005 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A public meeting to receive comments on the notice of intent to amend the Solid Waste Management Regulations (amendments 5 and 6) and the Development of Solid Waste Management Plans (amendment 2). The notice of intent appears in the Virginia Register of Regulations on September 19, 2005. The comment period begins on September 19, 2005, and closes on November 4, 2005.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327, e-mail mjd Dieter@deq.virginia.gov.

October 24, 2005 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A public meeting to receive comments on the notice of intent to consider amending the Vegetative Waste Management and Yard Waste Composting Regulations. The notice of intent appears in the Virginia Register of Regulations on September 19, 2005. The public comment period begins on September 19, 2005, and ends on November 4, 2005.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327, e-mail mjd Dieter@deq.virginia.gov.

* * * * *

November 18, 2005 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled **9 VAC 20-80, Solid Waste Management Regulations**. The purpose of the proposed action is to remove the requirement for radio advertisement of a tentative decision to grant or deny a

variance petition under the solid waste management regulations.

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941 et seq.; 40 CFR Part 258.

Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, FAX (804) 698-4327, e-mail mjdieter@deq.virginia.gov.

STATE WATER CONTROL BOARD

October 18, 2005 - 9:30 a.m. -- Open Meeting

November 9, 2005 - 9:30 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the advisory committee assisting in the development of a General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia.

Contact: Kyle Winter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4182, FAX (804) 698-4032, e-mail kiwinter@deq.virginia.gov.

October 24, 2005 - 1 p.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the notice of intent to adopt a general Virginia pollution abatement permit for Industrial and Other Nonirrigation Reuses of Reclaimed Water. The notice of intent appears in the Virginia Register of Regulations on September 19, 2005. The public comment period begins on September 19, 2005 and ends on October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116, e-mail varourke@deq.virginia.gov.

October 24, 2005 - 1 p.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the notice of intent to adopt a general Virginia pollution abatement permit for irrigation reuse of level B wastewater. The notice of intent appears in the Virginia Register of Regulations on September 19, 2005. The public comment period begins on September 19, 2005 and ends on October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116, e-mail varourke@deq.virginia.gov.

October 24, 2005 - 1 p.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on the notice of intent to adopt a general Virginia pollution abatement permit for irrigation reuse of level A reclaimed water. The notice of intent appears in the Virginia Register on September 19, 2005. The comment period begins on September 19, 2005, and ends on October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, FAX (804) 698-4116, e-mail varourke@deq.virginia.gov.

October 24, 2005 - 1 p.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A public meeting to receive comments on a notice of intent to adopt a regulation for wastewater reclamation and reuse. The notice of intent appears in the Virginia Register of Regulations on September 19, 2005. The comment period begins on September 19, 2005, and ends on October 28, 2005.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, e-mail varourke@deq.virginia.gov.

October 28, 2005 - 10 a.m. -- Open Meeting

Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.

A meeting of the advisory committee assisting the department in the development of a proposal to allow for the renewal of the Virginia Water Protection General Permit Regulation and allow revisions regarding administrative procedures; permit and application requirements; definitions and terminology; compensatory mitigation; permit usage thresholds; permit conditions; and typographical and grammatical errors. The Notice of Intent appears in the Virginia Register on September 5, 2005.

Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4032, e-mail cmharold@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **October 18, 2005 - 10 a.m.** -- Open Meeting

October 20, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

Contact: David E. Dick, Assistant Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.virginia.gov.

Calendar of Events

December 7, 2005 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.virginia.gov.

INDEPENDENT

VIRGINIA INDIGENT DEFENSE COMMISSION

† **December 1, 2005 - 2 p.m.** -- Open Meeting
Virginia Indigent Defense Commission, 701 East Franklin Street, Suite 1416, Richmond, Virginia. 

A regular meeting.

Contact: Danita Pryor, Office Manager, Virginia Indigent Defense Commission, 701 E. Franklin St., Ste. 1416, Richmond, VA 23219, telephone (804) 225-3297, FAX (804) 371-8326, e-mail dpryor@idc.virginia.gov.

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

PAIMI Advisory Council

November 3, 2005 - 10 a.m. -- Open Meeting
Albemarle County Office Building, 1600 5th Street, Meeting Room B, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

Public comment is welcome and will be received at the beginning of the meeting. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi, Administrative Assistant, at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than October 20, 2005. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. Please visit the Virginia Office for Protection and Advocacy website at www.vopa.state.va.us for directions. For further information, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi, no later than October 20, 2005.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5,

Richmond, VA 23230, telephone (804) 662-7213, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

November 8, 2005 - 1 p.m. -- Open Meeting
November 16, 2005 - 2:30 p.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

November 8, 2005 - 3:30 p.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Audit and Compliance Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

November 9, 2005 - 9 a.m. -- Open Meeting
December 15, 2005 - 9 a.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

November 15, 2005 - Noon -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail lking@vrs.state.va.us.

November 16, 2005 - 11 a.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

Meetings of the following committees:

11 a.m. - Investment Advisory
4 p.m. - Administration and Personnel

No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@vrs.state.va.us.

December 14, 2005 - 3 p.m. -- Open Meeting
Virginia Retirement System Investment Department, 1111 East Main St., 3rd Floor, Richmond, Virginia. 📍

A special meeting of the Investment Advisory Committee.
No public comment will be received at the meeting.

Contact: Phyllis Henderson, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6675, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail phenderson@vrs.state.va.us.

LEGISLATIVE

JOINT SUBCOMMITTEE ON ADOPTION LAWS AND POLICIES

† **November 14, 2005 - 12:30 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 📍

A regular meeting. For questions regarding the meeting agenda, contact Greg O'Halloran or Jescey French, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

VIRGINIA CODE COMMISSION

October 18, 2005 - 1 p.m. -- Open Meeting

NOTE CHANGE IN MEETING TIME

October 19, 2005 - 9 a.m. -- Open Meeting

November 16, 2005 - 10 a.m. -- Open Meeting

December 21, 2005 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 📍

A meeting to continue work on the 2007 Code of Virginia reorganization project and the Title 3.1 recodification.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804)

786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING CONFLICTS OF INTERESTS AND LOBBYIST DISCLOSURE FILINGS

† **November 10, 2005 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 📍

A regular meeting. For questions regarding the meeting agenda, contact Amigo Wade, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

DISABILITY COMMISSION

November 16, 2005 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 📍

A regular meeting. For questions regarding the meeting agenda, contact Amy Marschean, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

DR. MARTIN LUTHER KING JR. MEMORIAL COMMISSION

October 24, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 📍

A regular meeting. For questions regarding the meeting agenda, contact Brenda Edwards, Division of Legislative Services, (804) 786-3591.

Contact: Lois V. Johnson, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING PUBLIC FUNDING OF HIGHER EDUCATION IN VIRGINIA

October 17, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 📍

A regular meeting. For questions regarding the meeting agenda, contact Amy Sebring at (804) 698-7480 or Tony Maggio at (804) 698-1590. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-

Calendar of Events

7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

HOUSE AND SENATE SUBCOMMITTEES ON LAND CONSERVATION TAX CREDIT

November 10, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Joan Putney, Division of Legislative Services, (804) 786-3591.

Contact: William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING MEDICAL, ETHICAL, AND SCIENTIFIC ISSUES RELATING TO STEM CELL RESEARCH

November 15, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Norma Szakal or Amy Marschean, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE TO EXAMINE THE COST AND FEASIBILITY OF RELOCATING THE MUSEUM AND WHITE HOUSE OF THE CONFEDERACY

November 21, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Robie Ingram or Bryan Stogdale, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

TAXES, ASSESSMENTS AND FEES IMPOSED BY THE COMMONWEALTH THAT GENERATE LITTLE REVENUE

October 17, 2005 - 1:30 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, contact Joan Putney, Division of Legislative Services, (804) 786-3591.

Contact: William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

October 18, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Emerging Technology Issues Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

October 19, 2005 - 1 p.m. -- CANCELED
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Nanotechnology Advisory Committee has been canceled.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

November 15, 2005 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Integrated Government Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

November 16, 2005 - 2 pm. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Privacy Advisory Committee.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

December 1, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

The final meeting for 2005.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail lwallmeyer@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING OPTIONS TO PROVIDE A LONG-TERM FUNDING SOURCE TO CLEAN UP VIRGINIA'S POLLUTED WATERS, INCLUDING THE CHESAPEAKE BAY AND ITS TRIBUTARIES

† **November 14, 2005 - 1 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Marty Farber, David Rosenberg or Mark Vucci, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Teague, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING THE VOTING EQUIPMENT CERTIFICATION PROCESS

November 21, 2005 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Mary Spain or Jack Austin, Division of Legislative Services, (804) 786-3591.

Contact: Barbara L. Regen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT SUBCOMMITTEE STUDYING WORKFORCE DEVELOPMENT TRAINING RESOURCES

† **October 18, 2005 - 10 a.m.** -- Open Meeting
NOTE: CHANGE IN MEETING DATE AND TIME
† **November 14, 2005 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, (804) 786-3591.

Contact: Lois V. Johnson, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

CHRONOLOGICAL LIST

OPEN MEETINGS

October 17
Environmental Quality, Department of
Higher Education in Virginia, Joint Subcommittee Studying
Public Funding of
Nursing, Board of
Psychology, Board of
Taxes, Assessments and Fees Imposed by the
Commonwealth that Generate Little Revenue
† Transportation Board, Commonwealth

† Veterans Services, Department of
- Board of Veterans Services

October 18
Code Commission, Virginia
Conservation and Recreation, Department of
Contractors, Board for
† Information Technologies Agency, Virginia
- Information Technology Investment Board
† Mines, Minerals and Energy, Department of
- Virginia Gas and Oil Board
Nursing, Board of
Technology and Science, Joint Commission on
† Transportation Board, Commonwealth
Water Control Board, State
† Waterworks and Wastewater Works Operators, Board for
† Workforce Development and Training Resources, Joint
Subcommittee Studying

October 19
Cemetery Board
Code Commission, Virginia
Compensation Board
Library Board, State
† Medicine, Board of
Nursing and Medicine, Joint Boards of
Sewage Handling and Disposal Appeal Review Board
Small Business Financing Authority, Virginia
Social Services, State Board of
Transportation Board, Commonwealth
Treasury Board

October 20
Conservation and Recreation, Department of
Contractors, Board for
Design-Build/Construction Management Review Board
† Health, Department of
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Nursing, Board of
Pesticide Control Board
Social Services, State Board of
Transportation Board, Commonwealth
† Veterinary Medicine, Board of
Waterworks and Wastewater Works Operators, Board for

October 21
Health, Department of
Health Professions, Department of
- Health Practitioners Intervention Program Committee
† Housing and Community Development, Department of
- State Building Code Technical Review Board

October 24
Alcoholic Beverage Control Board
Dr. Martin Luther King Jr. Memorial Commission
Long-Term Care Administrators, Board of
Old Dominion University
Taxation, Department of
- Governor's Advisory Board of Economists
Waste Management Board, Virginia
Water Control Board, State

October 25
† Accountancy, Board of
Chesapeake Bay Local Assistance Board
Conservation and Recreation, Department of
† Contractors, Board for

Calendar of Events

† Economic Development Partnership, Virginia
† Higher Education for Virginia, State Council of
Marine Resources Commission
Nursing, Board of
Pharmacy, Board of

October 26

Air Pollution Control Board, State
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Conservation and Recreation, Department of
† Corrections, Board of
Education, Board of
† Mines, Minerals and Energy, Department of
† People with Disabilities, Virginia Board for

October 27

† Citizen-Soldier Support Council, Virginia
Contractors, Board for
Environmental Quality, Department of
Long-Term Care Administrators, Board of
† People with Disabilities, Virginia Board for

October 28

Dentistry, Board of
Physical Therapy, Board of
Water Control Board, State

October 31

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Medical Assistance Services, Department of

November 1

Branch Pilots, Board for
Conservation and Recreation, Department of
† Contractors, Board for
Museum of Fine Arts, Virginia
Real Estate Appraiser Board
† Transportation Board, Commonwealth

November 2

Asbestos, Lead, and Home Inspectors, Virginia Board for
Conservation and Recreation, Department of
† Health, Department of
- Radiation Advisory Board
† Transportation Board, Commonwealth

November 3

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Conservation and Recreation, Department of
† Contractors, Board for
Counseling, Board of
Protection and Advocacy, Virginia Office for

November 4

† Agriculture and Consumer Services, Department of
- Virginia Pork Industry Board
Art and Architectural Review Board
Counseling, Board of
Dentistry, Board of
† Library Board, State

November 7

Alcoholic Beverage Control Board
Hearing Aid Specialists, Board for

November 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Retirement System, Virginia

November 9

Information Technologies Agency, Virginia
- E-911 Wireless Services Board
Opticians, Board for
Retirement System, Virginia
Water Control Board, State

November 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Audiology and Speech-Language Pathology, Board of
† Conflicts of Interest and Lobbyist Disclosure Filings, Joint
Subcommittee Studying
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Environmental Quality, Department of
† Health, Department of
Land Conservation Tax Credit, House and Senate
Subcommittees
† Local Government, Commission on
Medical Assistance Services, Department of
- Drug Utilization Review Board
† Transportation Board, Commonwealth

November 14

† Adoption Laws and Policies, Joint Subcommittee on
At-Risk Youth and Families, Comprehensive Services for
† Housing and Community Development, Board of
Library Board, State
Nursing, Board of
Professional and Occupational Regulation, Board for
† Virginia's Polluted Waters, Including the Chesapeake Bay
and its Tributaries, Joint Subcommittee Studying Options
to Provide a Long-Term Funding Source to Clean Up
† Workforce Development Training Resources, Joint
Subcommittee Studying

November 15

Corrections, Board of
† Elections, State Board of
Environmental Quality, Department of
Medical Assistance Services, Department of
Nursing, Board of
Old Dominion University
Research and Technology Advisory Commission, Virginia
Retirement System, Virginia
Stem Cell Research, Joint Subcommittee Studying Medical,
Ethical and Scientific Issues Relating to
Technology and Science, Joint Commission on

November 16

Air Pollution Control Board, State
Code Commission, Virginia
Community Colleges, State Board for
Contractors, Board for
Corrections, Board of
Disability Commission
Medical Assistance Services, Department of
Nursing, Board of
Real Estate Board

Retirement System, Virginia
Technology and Science, Joint Commission on
† Transportation Board, Commonwealth
Treasury Board
† Veterans Services, Department of
- Veterans Services Foundation

November 17

Community Colleges, State Board for
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Contractors, Board for
Design-Build/Construction Management Review Board
Health, Department of
Medicine, Board of
Nursing, Board of
Real Estate Board
† Transportation Board, Commonwealth

November 18

Child Fatality Review Team, State

November 21

Alcoholic Beverage Control Board
Education, Board of
Jamestown-Yorktown Foundation
Long-Term Care Administrators, Board of
Museum and White House of the Confederacy, Joint
Subcommittee to Examine the Cost and Feasibility of
Relocating the
Taxation, Department of
- Governor's Advisory Council on Revenue Estimates
Voting Equipment Certification Process, Joint
Subcommittee Studying the

November 22

Jamestown-Yorktown Foundation
Marine Resources Commission

November 29

Long-Term Care Administrators, Board of
Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care

November 30

Education, Board of
Medicine, Board of
- Advisory Board on Acupuncture
- Advisory Board on Radiologic Technology

December 1

Conservation and Recreation, Department of
† Indigent Defense Commission, Virginia
Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physician Assistants
People with Disabilities, Board for
Pharmacy, Board of
Polygraph Examiners Advisory Board
Technology and Science, Joint Commission on

December 2

Art and Architectural Review Board
Dentistry, Board of
People with Disabilities, Board for
† Real Estate Board

December 5

Alcoholic Beverage Control Board, State
Barbers and Cosmetology, Board for

Chesapeake Bay Local Assistance Board
Nursing, Board of

December 6

† Alzheimer's Disease and Related Disorders Commission
Gaming Board, Charitable
Museum of Fine Arts, Virginia
Nursing, Board of

December 7

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Nursing and Medicine, Joint Boards of
Waterworks and Wastewater Works Operators, Board for

December 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Criminal Justice Services Board
Dentistry, Board of
† Information Technologies Agency, Virginia
- Information Technology Investment Board
Labor and Industry, Department of
Public Guardian and Conservator Advisory Board

December 9

Dentistry, Board of
Health, Department of
Jamestown-Yorktown Foundation

December 10

† Blind and Vision Impaired, Department for the

December 12

Branch Pilots, Board for
Long-Term Care Administrators, Board of

December 13

† Accountancy, Board of
Contractors, Board for
Medical Assistance Services, Board of
Nursing, Board of

December 14

Health, Department of
Retirement System, Virginia
Treasury Board

December 15

Design-Build/Construction Management Review Board
Milk Commission, State
Retirement System, Virginia

December 16

Health Professions, Board of
Medicine, Board of
Old Dominion University
Virginia's Future, Council on

December 19

Alcoholic Beverage Control Board

December 20

Marine Resources Commission

December 21

Code Commission, Virginia
† Health, Department of

January 3, 2006

Museum of Fine Arts, Virginia

Calendar of Events

January 10

† Long-Term Care Administrators, Board of

January 17

† Health, Department of

January 19

† Community Colleges, State Board for

January 27

† Library Board, State

PUBLIC HEARINGS

October 17

Barbers and Cosmetology, Board for

October 20

Pesticide Control Board
Rehabilitative Services, Department of

October 26

† Rehabilitative Services, Department of

October 27

Rehabilitative Services, Department of

November 3

Rehabilitative Services, Department of

November 9

Juvenile Justice, Board of

December 1

Medicine, Board of

Pharmacy, Board of

December 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for