
THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **THE VIRGINIA REGISTER** has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in **THE VIRGINIA REGISTER OF REGULATIONS**. In addition, **THE VIRGINIA REGISTER** is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day

extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

"THE VIRGINIA REGISTER OF REGULATIONS" (USPS-001831) is published bi-weekly, with quarterly cumulative indices published in January, April, July and October, for \$100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Periodical Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to **THE VIRGINIA REGISTER OF REGULATIONS, 910 CAPITOL STREET, 2ND FLOOR, RICHMOND, VIRGINIA 23219.**

The Virginia Register of Regulations is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia. Individual copies, if available, may be purchased for \$4.00 each from the Registrar of Regulations.

Members of the Virginia Code Commission: **Robert L. Calhoun; Bernard S. Cohen; Frank S. Ferguson; J. Randy Forbes; William J. Howell; James E. Kulp; R. Steven Landes; E.M. Miller, Jr.; William C. Mims; James B. Wilkinson.**

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PUBLICATION SCHEDULE AND DEADLINES

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

June 2000 through March 2001

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
16:20	May 31, 2000	June 19, 2000
INDEX 3 - Volume 16		July 2000
16:21	June 14, 2000	July 3, 2000
16:22	June 28, 2000	July 17, 2000
16:23	July 12, 2000	July 31, 2000
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16:26	August 23, 2000	September 11, 2000
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17:3	October 4, 2000	October 23, 2000
17:4	October 18, 2000	November 6, 2000
17:5	November 1, 2000	November 20, 2000
17:6	November 14, 2000 (Tuesday)	December 4, 2000
17:7	November 29, 2000	December 18, 2000
INDEX 1 - Volume 17		January 2001
17:8	December 12, 2000 (Tuesday)	January 1, 2001
17:9	December 27, 2000	January 15, 2001
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17:11	January 24, 2001	February 12, 2001
17:12	February 7, 2001	February 26, 2001
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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 4. Conservation and Natural Resources			
4 VAC 20-252-120	Amended	16:14 VA.R. 1860	3/1/00
4 VAC 20-270-40 emer	Amended	16:14 VA.R. 1885	3/1/00-3/30/00
4 VAC 20-270-40	Amended	16:16 VA.R. 2041	3/30/00
4 VAC 20-310-30	Amended	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-35	Added	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-40	Amended	16:19 VA.R. 2378	5/15/00
4 VAC 20-310-50	Amended	16:19 VA.R. 2379	5/15/00
4 VAC 20-430-55	Added	16:14 VA.R. 1860	3/1/00
4 VAC 20-430-70	Amended	16:14 VA.R. 1860	3/1/00
4 VAC 20-500-55	Added	16:14 VA.R. 1861	3/1/00
4 VAC 20-561-10 through 4 VAC 20-561-30 emer	Added	16:12 VA.R. 1710	2/2/00-2/22/00
4 VAC 20-620-10 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-20 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-30 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-40 emer	Amended	16:18 VA.R. 2292	4/26/00-5/25/00
4 VAC 20-620-50	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-620-50 emer	Amended	16:18 VA.R. 2293	4/26/00-5/25/00
4 VAC 20-620-70	Amended	16:14 VA.R. 1861	3/1/00
4 VAC 20-620-70 emer	Amended	16:18 VA.R. 2294	4/26/00-5/25/00
4 VAC 20-700-20	Amended	16:16 VA.R. 2041	4/1/00
4 VAC 20-720-20	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-40	Amended	16:12 VA.R. 1671	2/4/00
4 VAC 20-720-50	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-60	Amended	16:12 VA.R. 1672	2/4/00
4 VAC 20-720-70	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-720-80	Amended	16:12 VA.R. 1673	2/4/00
4 VAC 20-890-25	Amended	16:12 VA.R. 1674	2/2/00
4 VAC 20-910-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 20-950-45	Amended	16:14 VA.R. 1862	3/1/00
4 VAC 25-130-700.5	Amended	16:15 VA.R. 1956	5/10/00
4 VAC 25-130-795.1	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.6	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.7	Amended	16:15 VA.R. 1968	5/10/00
4 VAC 25-130-795.8	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.9	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.10	Amended	16:15 VA.R. 1969	5/10/00
4 VAC 25-130-795.11	Amended	16:15 VA.R. 1970	5/10/00
4 VAC 25-130-795.12	Amended	16:15 VA.R. 1970	5/10/00
Title 6. Criminal Justice and Corrections			
6 VAC 20-171-420	Erratum	16:14 VA.R. 1911	--
Title 9. Environment			
9 VAC 5-10-20	Amended	16:17 VA.R. 2135	7/1/00
9 VAC 5-20-21	Amended	16:17 VA.R. 2161	7/1/00
9 VAC 5-20-180	Amended	16:17 VA.R. 2142	7/1/00

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9 VAC 5-20-202	Amended	16:17 VA.R. 2163	7/1/00
9 VAC 5-40-10	Amended	16:17 VA.R. 2144	7/1/00
9 VAC 5-40-20	Amended	16:17 VA.R. 2145	7/1/00
9 VAC 5-40-30	Amended	16:17 VA.R. 2149	7/1/00
9 VAC 5-40-40	Amended	16:17 VA.R. 2150	7/1/00
9 VAC 5-40-50	Amended	16:17 VA.R. 2151	7/1/00
9 VAC 5-40-6000 through 9 VAC 5-40-6230	Added	16:17 VA.R. 2164-2178	7/1/00
9 VAC 5-40-6180	Erratum	16:19 VA.R. 2399	--
9 VAC 5-50-10	Amended	16:17 VA.R. 2152	7/1/00
9 VAC 5-50-20	Amended	16:17 VA.R. 2152	7/1/00
9 VAC 5-50-30	Amended	16:17 VA.R. 2155	7/1/00
9 VAC 5-50-40	Amended	16:17 VA.R. 2156	7/1/00
9 VAC 5-50-50	Amended	16:17 VA.R. 2157	7/1/00
9 VAC 5-50-400	Amended	16:14 VA.R. 1863	5/1/00
9 VAC 5-60-10	Amended	16:17 VA.R. 2158	7/1/00
9 VAC 5-60-20	Amended	16:17 VA.R. 2158	7/1/00
9 VAC 5-60-30	Amended	16:17 VA.R. 2159	7/1/00
9 VAC 5-60-60	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 5-60-90	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 5-60-100	Amended	16:14 VA.R. 1864	5/1/00
9 VAC 25-210 (Forms)	Amended	16:12 VA.R. 1711-1714	--
9 VAC 25-220-60	Amended	16:15 VA.R. 1971	5/10/00
9 VAC 25-220-70	Amended	16:15 VA.R. 1971	5/10/00
9 VAC 25-260-350	Amended	16:17 VA.R. 2178	6/7/00
9 VAC 25-260-400	Amended	16:17 VA.R. 2179	6/7/00
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12 VAC 5-80-10	Amended	16:16 VA.R. 2042	7/1/00
12 VAC 5-80-20	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-30	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-40	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-50	Repealed	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-80	Amended	16:16 VA.R. 2043	7/1/00
12 VAC 5-80-90	Amended	16:16 VA.R. 2045	7/1/00
12 VAC 5-80-95	Added	16:16 VA.R. 2045	7/1/00
12 VAC 5-80-100	Repealed	16:16 VA.R. 2046	7/1/00
12 VAC 5-80-110	Repealed	16:16 VA.R. 2046	7/1/00
12 VAC 5-80-120	Repealed	16:16 VA.R. 2046	7/1/00
12 VAC 5-165-10 through 12 VAC 5-165-310	Added	16:16 VA.R. 2048-2051	5/24/00
12 VAC 5-165-100	Erratum	16:19 VA.R. 2399	--
12 VAC 5-610-10	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-20	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-30	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-40	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-50	Amended	16:16 VA.R. 2051	7/1/00
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12 VAC 5-610-75	Added	16:16 VA.R. 2053	7/1/00
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12 VAC 5-610-90	Repealed	16:16 VA.R. 2051	7/1/00
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12 VAC 5-610-150	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-170	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-180	Repealed	16:16 VA.R. 2051	7/1/00

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12 VAC 5-610-190	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-200	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-230	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-250	Amended	16:16 VA.R. 2055	7/1/00
12 VAC 5-610-255	Added	16:16 VA.R. 2057	7/1/00
12 VAC 5-610-260	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-270	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-280	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-290	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-300	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-330	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-340	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-360	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-370	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-380	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-390	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-420	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-430	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-440	Amended	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-441 through 12 VAC 5-610-448	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-449	Added	16:16 VA.R. 2058	7/1/00
12 VAC 5-610-449.1	Added	16:16 VA.R. 2060	7/1/00
12 VAC 5-610-450	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-470	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-480	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-490	Amended	16:16 VA.R. 2061	7/1/00
12 VAC 5-610-500	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-510 through 12 VAC 5-610-550	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-560	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-570	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-580	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-591	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-592	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-593	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-594	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-596	Added	16:16 VA.R. 2063	7/1/00
12 VAC 5-610-597	Added	16:16 VA.R. 2064	7/1/00
12 VAC 5-610-598	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-599	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-599.1 through 12 VAC 5-610-599.3	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-620	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-650	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-670	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-690	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-700	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-740	Amended	16:16 VA.R. 2068	7/1/00
12 VAC 5-610-800	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-810	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-815	Added	16:16 VA.R. 2068	7/1/00
12 VAC 5-610-817	Added	16:16 VA.R. 2069	7/1/00
12 VAC 5-610-820	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-830	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-840	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-880	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-890	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-930	Amended	16:16 VA.R. 2051	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-610-940	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-950	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-960	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-965	Added	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-980	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1080	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1140	Amended	16:16 VA.R. 2051	7/1/00
12 VAC 5-610-1150	Repealed	16:16 VA.R. 2051	7/1/00
12 VAC 30-10-140	Amended	16:18 VA.R. 2239	7/1/00
12 VAC 30-40-345	Added	16:15 VA.R. 1973	5/10/00
12 VAC 30-50-10	Amended	16:18 VA.R. 2240	7/1/00
12 VAC 30-50-100	Amended	16:18 VA.R. 2244	7/1/00
12 VAC 30-50-105	Amended	16:18 VA.R. 2246	7/1/00
12 VAC 30-50-140	Amended	16:18 VA.R. 2247	7/1/00
12 VAC 30-50-180	Amended	16:19 VA.R. 2380	7/5/00
12 VAC 30-50-220	Amended	16:18 VA.R. 2248	7/1/00
12 VAC 30-50-320	Added	16:18 VA.R. 2240	7/1/00
12 VAC 30-50-560	Amended	16:18 VA.R. 2249	7/1/00
12 VAC 30-50-570	Amended	16:18 VA.R. 2250	7/1/00
12 VAC 30-50-580	Added	16:18 VA.R. 2251	7/1/00
12 VAC 30-70-200	Repealed	16:18 VA.R. 2253	7/1/00
12 VAC 30-70-201	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-210	Repealed	16:18 VA.R. 2253	7/1/00
12 VAC 30-70-211	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-220	Repealed	16:18 VA.R. 2256	7/1/00
12 VAC 30-70-221	Added	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-230	Repealed	16:18 VA.R. 2256	7/1/00
12 VAC 30-70-231	Added	16:18 VA.R. 2263	7/1/00
12 VAC 30-70-240	Repealed	16:18 VA.R. 2257	7/1/00
12 VAC 30-70-241	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-250	Repealed	16:18 VA.R. 2257	7/1/00
12 VAC 30-70-251	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-260	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-261	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-270	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-271	Added	16:18 VA.R. 2264	7/1/00
12 VAC 30-70-280	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-281	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-290	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-291	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-300	Repealed	16:18 VA.R. 2258	7/1/00
12 VAC 30-70-301	Added	16:18 VA.R. 2265	7/1/00
12 VAC 30-70-310	Repealed	16:18 VA.R. 2259	7/1/00
12 VAC 30-70-311	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-320	Repealed	16:18 VA.R. 2259	7/1/00
12 VAC 30-70-321	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-330	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-331	Added	16:18 VA.R. 2266	7/1/00
12 VAC 30-70-340	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-341	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-350	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-351	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-360	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-361	Added	16:18 VA.R. 2267	7/1/00
12 VAC 30-70-370	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-371	Added	16:18 VA.R. 2267	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-380	Repealed	16:18 VA.R. 2260	7/1/00
12 VAC 30-70-381	Added	16:18 VA.R. 2268	7/1/00
12 VAC 30-70-390	Repealed	16:18 VA.R. 2261	7/1/00
12 VAC 30-70-391	Added	16:18 VA.R. 2268	7/1/00
12 VAC 30-70-400	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-410	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-420	Amended	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-435	Added	16:18 VA.R. 2269	7/1/00
12 VAC 30-70-450	Amended	16:18 VA.R. 2270	7/1/00
12 VAC 30-70-460	Amended	16:18 VA.R. 2270	7/1/00
12 VAC 30-80-160	Repealed	16:19 VA.R. 2380	7/5/00
12 VAC 30-100-260	Amended	16:18 VA.R. 2252	7/1/00
12 VAC 30-120-61 through 12 VAC 30-120-68	Added	16:18 VA.R. 2240-2243	7/1/00
Title 13. Housing			
13 VAC 5-111-10	Amended	16:17 VA.R. 2189	6/8/00
13 VAC 5-111-100	Amended	16:17 VA.R. 2193	6/8/00
13 VAC 5-111-120	Amended	16:17 VA.R. 2193	6/8/00
13 VAC 5-111-130	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-160	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-165	Added	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-170	Amended	16:17 VA.R. 2194	6/8/00
13 VAC 5-111-180	Amended	16:17 VA.R. 2195	6/8/00
13 VAC 5-111-190	Amended	16:17 VA.R. 2195	6/8/00
13 VAC 5-111-240	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-280	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-300	Amended	16:17 VA.R. 2196	6/8/00
13 VAC 5-111-310	Amended	16:17 VA.R. 2197	6/8/00
13 VAC 5-111-390	Amended	16:17 VA.R. 2197	6/8/00
13 VAC 10-40-20	Amended	16:19 VA.R. 2384	5/17/00
13 VAC 10-40-120	Amended	16:19 VA.R. 2386	5/17/00
13 VAC 10-40-160	Amended	16:19 VA.R. 2386	5/17/00
13 VAC 10-40-170	Amended	16:19 VA.R. 2387	5/17/00
13 VAC 10-40-230	Amended	16:19 VA.R. 2387	5/17/00
Title 14. Insurance			
14 VAC 5-215-20	Erratum	16:14 VA.R. 1912	--
14 VAC 5-215-30	Erratum	16:14 VA.R. 1912	--
Title 15. Judicial			
15 VAC 10-10-10	Amended	16:16 VA.R. 2069	3/24/00
Title 16. Labor and Employment			
16 VAC 15-40-10	Amended	16:18 VA.R. 2272	6/22/00
16 VAC 15-40-50	Amended	16:18 VA.R. 2272	6/22/00
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-10	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-80	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-170	Amended	16:18 VA.R. 2273	6/21/00
18 VAC 30-20-180	Amended	16:18 VA.R. 2274	6/21/00
18 VAC 30-20-230	Amended	16:18 VA.R. 2274	6/21/00
18 VAC 47-10-10 through 18 VAC 47-10-90	Added	16:12 VA.R. 1675-1676	3/29/00
18 VAC 47-20-10 through 18 VAC 47-20-240	Added	16:13 VA.R. 1776-1782	4/12/00
18 VAC 60-20-30	Amended	16:18 VA.R. 2278	6/21/00
18 VAC 60-20-110	Amended	16:18 VA.R. 2281	6/21/00
18 VAC 60-20-120	Amended	16:18 VA.R. 2281	6/21/00
18 VAC 76-10-65	Added	16:17 VA.R. 2198	4/19/00
18 VAC 85-20-22	Amended	16:13 VA.R. 1766	4/12/00
18 VAC 85-20-240	Amended	16:13 VA.R. 1767	4/12/00
18 VAC 85-31-10	Amended	16:13 VA.R. 1772	4/13/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-31-25	Added	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-40	Amended	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-50	Amended	16:13 VA.R. 1773	4/13/00
18 VAC 85-31-60	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-65	Added	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-80	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-90	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-100	Amended	16:13 VA.R. 1774	4/13/00
18 VAC 85-31-120	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-130	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-135	Added	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-140	Amended	16:13 VA.R. 1775	4/13/00
18 VAC 85-31-160	Amended	16:13 VA.R. 1768	4/12/00
18 VAC 85-40-80	Amended	16:13 VA.R. 1769	4/12/00
18 VAC 85-50-170	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-80-120	Amended	16:13 VA.R. 1770	4/12/00
18 VAC 85-101-160	Amended	16:13 VA.R. 1771	4/12/00
18 VAC 85-110-35	Amended	16:13 VA.R. 1771	4/12/00
18 VAC 90-20-30	Amended	16:13 VA.R. 1782	4/12/00
18 VAC 90-20-190	Amended	16:13 VA.R. 1782	4/12/00
18 VAC 90-20-230	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 90-20-350	Amended	16:13 VA.R. 1783	4/12/00
18 VAC 115-20-10	Amended	16:13 VA.R. 1786	4/12/00
18 VAC 115-20-20	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-30	Repealed	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-35	Added	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-40	Amended	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-40	Erratum	16:16 VA.R. 2081	--
18 VAC 115-20-45	Added	16:13 VA.R. 1787	4/12/00
18 VAC 115-20-49	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-49	Erratum	16:16 VA.R. 2081	--
18 VAC 115-20-50	Amended	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-51	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-52	Added	16:13 VA.R. 1788	4/12/00
18 VAC 115-20-60	Repealed	16:13 VA.R. 1790	4/12/00
18 VAC 115-20-70	Amended	16:13 VA.R. 1790	4/12/00
18 VAC 115-20-80	Repealed	16:13 VA.R. 1791	4/12/00
18 VAC 115-20-100	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-110	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-20-130	Amended	16:13 VA.R. 1791	4/12/00
18 VAC 115-20-140	Amended	16:13 VA.R. 1792	4/12/00
18 VAC 115-20-150	Amended	16:13 VA.R. 1785	4/12/00
18 VAC 115-30-30	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-40	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-110	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-120	Amended	16:13 VA.R. 1793	4/12/00
18 VAC 115-30-160	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-20	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-35	Amended	16:13 VA.R. 1794	4/12/00
18 VAC 115-40-61	Added	16:13 VA.R. 1794	4/12/00
18 VAC 115-50-20	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-30	Amended	16:13 VA.R. 1795	4/12/00
18 VAC 115-50-40	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-90	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-100	Amended	16:13 VA.R. 1796	4/12/00
18 VAC 115-50-130	Added	16:13 VA.R. 1796	4/12/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 120-10-10 through 18 VAC 120-10-90	Repealed	16:14 VA.R. 1867-1868	5/1/00
18 VAC 120-10-170	Amended	16:14 VA.R. 1868	5/1/00
18 VAC 125-20-30	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 125-20-130	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 125-20-170	Amended	16:13 VA.R. 1797	4/12/00
18 VAC 155-20-10 through 18 VAC 155-20-50	Amended	16:14 VA.R. 1869-1871	5/1/00
18 VAC 155-20-60 through 18 VAC 155-20-90	Repealed	16:14 VA.R. 1871-1872	5/1/00
18 VAC 155-20-100 through 18 VAC 155-20-160	Amended	16:14 VA.R. 1872-1874	5/1/00
18 VAC 155-20-170	Repealed	16:14 VA.R. 1874	5/1/00
18 VAC 155-20-175	Added	16:14 VA.R. 1874	5/1/00
18 VAC 155-20-180 through 18 VAC 155-20-230	Amended	16:14 VA.R. 1875-1877	5/1/00
18 VAC 155-20-240 through 18 VAC 155-20-270	Repealed	16:14 VA.R. 1879-1880	5/1/00
18 VAC 155-20-280	Amended	16:14 VA.R. 1880	5/1/00
18 VAC 155-20-290	Repealed	16:14 VA.R. 1880	5/1/00
Title 22. Social Services			
22 VAC 15-30-10	Amended	16:18 VA.R. 2282	6/21/00
22 VAC 40-30-10 et seq.	Repealed	16:18 VA.R. 2284	6/21/00
22 VAC 40-60-10 through 22 VAC 40-60-60	Amended	16:12 VA.R. 1676-1679	7/1/00
22 VAC 40-60-70	Repealed	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-80	Amended	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-90	Amended	16:12 VA.R. 1679	7/1/00
22 VAC 40-60-100	Repealed	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-110 through 22 VAC 40-60-150	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-180	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-190	Amended	16:12 VA.R. 1680	7/1/00
22 VAC 40-60-200	Amended	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-210	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-220	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-230	Repealed	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-235	Added	16:12 VA.R. 1681	7/1/00
22 VAC 40-60-240	Repealed	16:12 VA.R. 1682	7/1/00
22 VAC 40-60-250	Repealed	16:12 VA.R. 1682	7/1/00
22 VAC 40-60-260	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-270	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-280	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-290	Repealed	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-300	Amended	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-310	Repealed	16:12 VA.R. 1683	7/1/00
22 VAC 40-60-320	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-330	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-340	Amended	16:12 VA.R. 1684	7/1/00
22 VAC 40-60-350	Repealed	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-360	Repealed	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-370 through 22 VAC 40-60-420	Amended	16:12 VA.R. 1685	7/1/00
22 VAC 40-60-425	Added	16:12 VA.R. 1686	7/1/00
22 VAC 40-60-430 through 22 VAC 40-60-470	Amended	16:12 VA.R. 1686-1687	7/1/00
22 VAC 40-60-480	Repealed	16:12 VA.R. 1687	7/1/00
22 VAC 40-60-490	Amended	16:12 VA.R. 1687	7/1/00
22 VAC 40-60-510	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-520	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-530	Repealed	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-540	Repealed	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-550	Amended	16:12 VA.R. 1688	7/1/00
22 VAC 40-60-554	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-556	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-560	Amended	16:12 VA.R. 1689	7/1/00

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-60-564	Added	16:12 VA.R. 1689	7/1/00
22 VAC 40-60-570 through 22 VAC 40-60-610	Amended	16:12 VA.R. 1689-1691	7/1/00
22 VAC 40-60-620 through 22 VAC 40-60-650	Repealed	16:12 VA.R. 1691-1692	7/1/00
22 VAC 40-60-670	Repealed	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-680	Amended	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-690	Amended	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-691	Added	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-692	Added	16:12 VA.R. 1692	7/1/00
22 VAC 40-60-694	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-695	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-697	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-698	Added	16:12 VA.R. 1693	7/1/00
22 VAC 40-60-699	Added	16:12 VA.R. 1695	7/1/00
22 VAC 40-60-700	Amended	16:12 VA.R. 1696	7/1/00
22 VAC 40-60-705	Added	16:12 VA.R. 1696	7/1/00
22 VAC 40-60-710 through 22 VAC 40-60-760	Repealed	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-770	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-780	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-790	Repealed	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-800	Amended	16:12 VA.R. 1697	7/1/00
22 VAC 40-60-810 through 22 VAC 40-60-840	Repealed	16:12 VA.R. 1697-1698	7/1/00
22 VAC 40-60-850	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-860	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-870	Repealed	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-880	Amended	16:12 VA.R. 1698	7/1/00
22 VAC 40-60-885	Added	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-890 through 22 VAC 40-60-950	Repealed	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-960	Amended	16:12 VA.R. 1699	7/1/00
22 VAC 40-60-970	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-980	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-990	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1000	Repealed	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1010	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1020	Amended	16:12 VA.R. 1700	7/1/00
22 VAC 40-60-1030 through 22 VAC 40-60-1060	Repealed	16:12 VA.R. 1701-1702	7/1/00
22 VAC 40-705-10	Amended	16:12 VA.R. 1705	3/29/00
22 VAC 40-705-40	Amended	16:12 VA.R. 1707	3/29/00
Title 24. Transportation and Motor Vehicles			
24 VAC 30-40-30	Amended	16:18 VA.R. 2285	7/1/00
24 VAC 30-40-580	Amended	16:18 VA.R. 2287	7/1/00
24 VAC 30-40-600 through 24 VAC 30-40-640	Amended	16:18 VA.R. 2288-2290	7/1/00

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-120-10 et seq. Regulated Medical Waste Management Regulations.** As a result of a periodic review, the board is considering amendment of the regulation to include, but not be limited to, storage of separately accumulated objects. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until July 7, 2000.

Contact: John E. Ely, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4249 or FAX (804) 698-4327.

VA.R. Doc. No. R00-174; Filed May 3, 2000, 11:56 a.m.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-210-10 et seq. Virginia Water Protection Permit Regulation.** The purpose of the proposed action is to amend the regulation to incorporate changes to §§ 62.1-44.3, 62.1-44.5, 62.1-44.15, 62.1-44.15:5 and 62.1-44.29 of the Code of Virginia relating to wetlands as mandated by the 2000 General Assembly in Senate Bill 648 and House Bill 1170 and other changes that the department or the public deems necessary and are warranted. These changes are designed to clarify and streamline the permitting process and to establish and implement policies and programs to protect and enhance the Commonwealth's wetland resources, using a regulatory approach to achieve no net loss of wetlands and a voluntary approach to achieve a net resource gain.

The board is seeking comments on the intended regulatory action, including ideas to assist in the revisions to the regulation. An informational public meeting will be held and notice of the meeting will be posted in the Calendar of Events section of the Virginia Register of Regulations. In addition, a Technical Advisory Committee has been formed to assist in the development of the regulation; notice of the meeting dates will be posted in the Calendar of Events section of the Virginia Register of Regulations. The board is using the participatory

approach to assist the agency in the revisions to the regulation. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.15:5 of the Code of Virginia.

Public comments may be submitted until August 16, 2000.

Contact: Ellen Gilinsky, Virginia Water Protection Permit Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375 or FAX (804) 698-4032.

VA.R. Doc. No. R00-201; Filed May 31, 2000, 11:41 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled:

- 1. 9 VAC 25-660-10 et seq. General Virginia Water Protection Permit for Wetland Impacts Less than One-Half Acre;**
- 2. 9 VAC 25-670-10 et seq. General Virginia Water Protection Permit for Wetland Impacts Related to Facilities and Activities of Utility and Public Service Companies Regulated by FERC and SCC;**
- 3. 9 VAC 25-680-10 et seq. General Virginia Water Protection Permit for Wetland Impacts from Linear Transportation Projects;**
- 4. 9 VAC 25-690-10 et seq. General Virginia Water Protection Permit for Wetland Impacts from Development Activities;**
- 5. 9 VAC 25-700-10 et seq. General Virginia Water Protection Permit for Wetland Impacts from Mining Activities; and**
- 6. 9 VAC 25-710-10 et seq. General Virginia Water Protection Permit for Wetland Restoration and Creation Activities.**

The purpose of the proposed action is to develop general permits for activities in wetlands as specified in changes to § 62.1-44.15:5 of the Code of Virginia relating to wetlands as mandated by the General Assembly in Senate Bill 648 and House Bill 1170. The new regulations are needed to expedite and streamline the wetland permitting process in Virginia.

Need: Pursuant to the actions of the 2000 General Assembly, Virginia Water Protection Permit General Permits are to be developed in accordance with changes to § 62.1-44.15:5 of the Code of Virginia relating to wetlands. General permits are to be developed for such activities in wetlands as the board deems appropriate, and are to include such terms and conditions as the board deems necessary to protect state

Notices of Intended Regulatory Action

resources and fish and wildlife resources from significant impairment. The adoption of general permits for wetland impacts is essential to protect the health, safety and welfare of citizens because they will streamline the permitting process, allowing agencies and applicants to save time and money.

Substance: The proposed regulatory action is to develop a series of Virginia Water Protection Permit General Permits in response to the requirements of new legislation. These general permits are for classes of similar activities with minimal environmental consequence. The board shall develop general permits for:

1. Activities causing wetland impacts of less than one-half of an acre;
2. Facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or State Corporation Commission;
3. Coal, natural gas, and coal bed methane gas mining activities authorized by the Department of Mines, Minerals and Energy, and for sand mining activities;
4. Virginia Department of Transportation or other linear transportation projects; and
5. Activities governed by nationwide or regional permits approved by the board and issued by the U.S. Army Corps of Engineers. Conditions contained in the general permits shall include, but not be limited to, filing with the board copies of any preconstruction notification, postconstruction report and certificate of compliance required by the U.S. Army Corps of Engineers. The permits will contain specific thresholds for use and mitigation ratios for compensation for unavoidable wetland impacts.

Alternatives: The alternative of not developing these general permits is not feasible as the proposed changes are mandated by action of the General Assembly. The alternative of developing these permits will clarify and streamline the permitting process and help alleviate duplicative requirements of state and federal programs.

Public Participation: The board is seeking comments on the intended regulatory action, including ideas to assist in the development of general permits. An informational public meeting will be held and notice of the meeting posted in the Calendar of Events section of the Virginia Register of Regulations. In addition, a Technical Advisory Committee has been formed to assist in the development of the general permits; notice of the meeting dates will be posted in the Calendar of Events section of the Virginia Register of Regulations.

The board is using the participatory approach in the development of these regulations.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.15:5 of the Code of Virginia.

Public comments may be submitted until August 16, 2000.

Contact: Ellen Gilinsky, Virginia Water Protection Permit Program Manager, Department of Environmental Quality,

P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375 or FAX (804) 698-4032.

VA.R. Doc. Nos. R00-195 through R00-200; Filed May 31, 2000, 11:41 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled: **18 VAC 10-20-10 et seq. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to make general clarifying changes to the regulation and to permit the use of electronic seals, signatures and dates so that documents may be filed electronically. Other changes which may be necessary, either pursuant to the board's periodic review of its regulation or otherwise, will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 13.1-549, 13.1-1111, 54.1-404 and 54.1-411 of the Code of Virginia.

Public comments may be submitted until July 7, 2000.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R00-175; Filed May 10, 2000, 11:54 a.m.

BOARD FOR ASBESTOS AND LEAD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Asbestos and Lead intends to consider amending regulations entitled: **18 VAC 15-20-10 et seq. Virginia Asbestos Licensing Regulations.** The purpose of the proposed action is to continue to establish procedures and requirements for the approval of accredited asbestos training programs, for licensure of individuals and firms to engage in asbestos abatement work, and for the establishment of standards for performing the various aspects of asbestos related work. The intent of the amendments is to ensure that no person is exposed to asbestos fibers. The

planned regulatory action will implement House Bill 951, which was passed during the 1996 Session of the Virginia General Assembly, by deleting all references to roofing, flooring and siding contractors, inspectors and training providers. In addition, the board will carefully evaluate its existing regulations for effectiveness and continued need and will propose any amendments necessary to protect the public health, safety, and welfare or to further the efficient and economical performance of important government functions. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public comments may be submitted until July 19, 2000.

Contact: Joseph C. Kossan, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R00-185; Filed May 23, 2000, 1:14 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Asbestos and Lead intends to consider amending regulations entitled: **18 VAC 15-30-10 et seq. Virginia Lead-Based Paint Activities Regulations.** The purpose of the proposed action is to continue to establish procedures and requirements for the approval of accredited lead-based paint training programs, for licensure of individuals and firms to engage in lead-based paint abatement work, and for the establishment of standards for performing the various aspects of lead-based paint related work. Virginia statute requires that the board's regulations be no more stringent than EPA's regulations. The planned regulatory action will ensure that Virginia maintains its authority from EPA to operate the Lead-Based Paint Activities program in the Commonwealth. The board is proposing modifications that will implement final EPA regulations by deleting the current Virginia regulations' provisions concerning public buildings and superstructures, and by adding the provisions to implement the final EPA regulations' requirements for target housing and child-occupied facilities. In addition, the board will carefully evaluate its existing regulations for effectiveness and continued need, and will propose any amendments necessary to protect the public health, safety, and welfare or to further the efficient and economical performance of important government functions. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Public comments may be submitted until July 19, 2000.

Contact: Thomas K. Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R00-186; Filed May 23, 2000, 1:13 p.m.



TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to consider amending regulations entitled: **19 VAC 30-165-10 et seq. Regulations Relating to Standards and Specifications for Purple Warning Lights Used by Vehicles Leading or Escorting Funeral Processions.** The purpose of the proposed action is to promulgate regulations as required by § 46.2-1025 of the Code of Virginia, which authorizes flashing purple warning lights on vehicles used to lead or provide escorts for funeral processions. These regulations will replace emergency regulations currently in effect. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 46.2-1005 and 46.2-1025 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Major Jerry S. Conner, Regulatory Coordinator, Department of State Police, 7700 Midlothian Turnpike, Richmond, VA 23225, telephone (804) 674-2060 or FAX (804) 674-2234.

VA.R. Doc. No. R00-176; Filed May 15, 2000, 9:39 a.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-560-10 et seq. Monthly Reporting in the Food Stamp Program.** The purpose of the proposed action is to repeal the regulation that defines which food stamp households must submit monthly reports as an eligibility requirement. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public comments may be submitted until July 19, 2000.

Contact: Patricia Duva, Food Stamp Program Manager, Department of Social Services, Division of Temporary Assistance Programs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1712 or FAX (804) 692-1704.

Notices of Intended Regulatory Action

VA.R. Doc. No. R00-187; Filed May 24, 2000, 10:02 a.m.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider amending regulations entitled: **22 VAC 45-30-10 et seq. Regulations Governing the Sale and Distribution of Goods and Articles Made by Blind Persons.** The purpose of the proposed action is to rewrite this regulation so that it is clear, easily understood and contains only those elements that are essential for implementing the requirements of § 63.1-167 of the Code of Virginia. The purpose of the regulation is to provide the public with authenticity of goods or articles made by the blind when solicited or purchasing such goods or articles from agencies, firms, associations or corporations. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-167 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Robert C. Berrang, Deputy Commissioner Enterprises, Department for the Visually Handicapped, 1102 Monticello Rd., Charlottesville, VA 22902, telephone (804) 295-6034, FAX (804) 295-5811 or (804) 295-5168/TTY ☎

VA.R. Doc. No. R00-178; Filed May 12, 2000, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider amending regulations entitled: **22 VAC 45-50-10 et seq. Regulation Governing Provisions of Services in Vocational Rehabilitation.** The purpose of the proposed action is to amend the current regulation by (i) substantially adopting the federal vocational rehabilitation regulations; (ii) promulgating regulations in areas that the federal vocational rehabilitation state plan requires options to be chosen which bear directly on customer services, including financial need and order of selection for services; and (iii) deleting unnecessary detail from the body of the regulation, thus making it more easily understood and less burdensome to maintain and update. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: James G. Taylor, Program Director, Vocational Rehabilitation, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3351, toll-free 1-800-622-2155, or (804) 371-3140/TTY ☎

VA.R. Doc. No. R00-179; Filed May 12, 2000, 11:14 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider amending regulations entitled: **22 VAC 45-70-10 et seq. Provision of Services in Rehabilitation Teaching.** The purpose of the proposed action is to make minor content changes to eliminate unnecessary detail and bring it up to date in the areas of visual eligibility and certification of eligibility. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Jane B. Ward-Solomon, Program Director, Rehabilitative Teaching/Independent Living, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3112, FAX (804) 371-3351, toll-free 1-800-622-2155, or (804) 371-3140/TTY ☎

VA.R. Doc. No. R00-180; Filed May 12, 2000, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider amending regulations entitled: **22 VAC 45-80-10 et seq. Provision of Independent Living Rehabilitation Services.** The purpose of the proposed action is to (i) amend this regulation by deleting the Part VII of the regulation which is now obsolete, (ii) substantially adopt the federal regulations that govern the operation of the federally funded independent living formula grant program under Title VII, Part B of the Rehabilitation Act of 1973 as amended; (iii) amend sections of the regulation where the state has options of how or where to spend money under the state independent living plan; and (iv) make minor content changes to eliminate unnecessary detail. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Jane B. Ward-Solomon, Program Director, Rehabilitative Teaching/Independent Living, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3112, FAX (804) 371-3351, toll-free 1-800-622-2155, or (804) 371-3140/TTY ☎

VA.R. Doc. No. R00-181; Filed May 12, 2000, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider repealing regulations entitled: **22 VAC 45-90-10 et seq. Supervision of Administrative Regulations Governing Intake and Social Services.** The purpose of the proposed action is to repeal this regulation. With reductions in state funding and

Notices of Intended Regulatory Action

personnel the department no longer has welfare services staff to carry out the supervision of local administration or the associated functions. Under this authority the department certifies legal blindness for local social services departments when individuals apply for blindness-related social services or benefits. The department will continue to provide such certification of legal blindness upon request; however, this is a procedural matter only and does not need a regulation. The agency does not intend to hold a public hearing on the proposed repeal of this regulation after publication.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Joseph A. Bowman, Deputy Commissioner, Services Delivery, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3144, FAX (804) 371-3157, toll-free 1-800-622-2155, or (804) 371-3140/TTY ☎

VA.R. Doc. No. R00-182; Filed May 12, 2000, 11:15 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to consider amending regulations entitled: **22 VAC 45-110-10 et seq. Regulations Governing Low Vision**. The purpose of the proposed action is to delete the obsolete section that deals with using the department's endowment funds and make language changes to update terminology. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-85 of the Code of Virginia.

Public comments may be submitted until July 5, 2000.

Contact: Marge A. Owens, Human Services Program Coordinator, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3344, FAX (804) 371-3092, toll-free 1-800-622-2155, or (804) 371-3151/TTY ☎

VA.R. Doc. No. R00-177; Filed May 12, 2000, 11:15 a.m.



PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

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

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The Board of Education seeks to set forth an alternative route for teacher licensure that may be taken by military personnel who wish to become fully licensed teachers in Virginia. The alternative route is available to military personnel who seek teaching endorsements pre-K through 12, with the exception of special education.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.

June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The Board of Education seeks to establish an endorsement teaching area in American Sign Language and to incorporate related licensure requirements into the licensure regulations.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.

June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **8 VAC 20-640-10. Regulations Governing Substitute Teachers.** The purpose of the proposed action is to ensure that substitute teachers employed by Virginia's public schools meet the basic requirements before teaching in the classroom. The Code of Virginia requires the Board of Education to promulgate regulations for temporarily employed teachers.

Statutory Authority: §§ 22.1-16 and 22.1-302 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BRANCH PILOTS

August 2, 2000 - 9:30 a.m. -- Public Hearing
Virginia Port Authority, 600 World Trade Center, 6th Floor, Norfolk, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to amend regulations entitled: **18 VAC 45-20-05 et seq. Board for Branch Pilots Rules and Regulations.** The purpose of the proposed action is to

Public Comment Periods - Proposed Regulations

clarify the regulations relating to chemical and physical impairments and testing thereof and make other changes which may be necessary pursuant to the board's periodic review of its regulations.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Public comments may be submitted until August 21, 2000.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY ☎



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

June 23, 2000 - 9 a.m. -- Public Hearing
Theatre Row Building, 730 East Broad Street, 7th Floor
Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-680-10 et seq. Virginia Energy Assistance Program.** The proposed regulatory change eliminates the requirement for verification of resources for Energy Assistance applicants and removes the resource reference from the definitions.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Charlene H. Chapman, Human Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1751 or FAX (804) 225-2196.



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 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel (amending 8 VAC 20-21-10, 8 VAC 20-21-50, and 8 VAC 20-21-80).**

Statutory Authority: § 22.1-298 of the Code of Virginia.

Public Hearing Date: June 22, 2000 - 2:30 p.m.

Public comments may be submitted until August 18, 2000.

(See Calendar of Events section for additional information)

Basis: Section 22.1-16 of the Code of Virginia authorizes the Board of Education to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia.

Section 22.1-298 of the Code of Virginia requires the Board of Education to prescribe the requirements for licensure of teachers. Regardless of the authority of other agencies of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The 1999 Appropriation Act (Items 127 D and 129 Q) requires the Department of Education, in collaboration with the Secretary of Education, to develop a plan to afford school divisions the flexibility to hire nontraditional teachers. The Appropriation Act also requires the Board of Education to identify and recommend changes to laws and regulations that prohibit school divisions from hiring quality individuals who are college graduates or practicing professionals but do not possess a teaching certificate.

Additionally, Senate Joint Resolution 384 (99) requests the Board of Education to consider pioneering alternative licensure programs and models established in Texas and New Jersey in its study of alternative teacher licensure programs.

Purpose: The purpose of the regulatory change is to eliminate unnecessary and burdensome paperwork for local school divisions, to streamline and shorten the time required for training for military personnel who wish to be licensed as classroom teachers, and to permit qualified personnel to utilize prior, relevant training and experience to meet the requirements for a Virginia teaching license.

During the Board of Education meeting in February 1999, personnel in the Department of Education submitted a conceptual proposal to amend the licensure regulations for school personnel (8 VAC 20-21-10 et seq.) and establish an alternative licensure route for military personnel.

Substance: Currently, individuals seeking licensure via the alternative route must apply for a license through an employing school division; therefore, they must be employed as a classroom teacher prior to applying for a teaching license. The proposed amendments would permit an applicant with military experience to apply directly to the Department of Education. This change in procedure will expedite the licensure of qualified military personnel while still maintaining high quality standards for the teaching force. The proposed changes specify the prerequisites that the applicant must possess prior to applying for and receiving a license to teach in Virginia.

The proposal recognizes that military personnel have considerable expertise and training, and some have had extensive teaching experience while in the military. Instructional opportunities offered in the military include preparation in instructional training, multi-cultural sensitivity, motivational theory, management by objectives, organizational skills, accountability, leadership, assessment, substance abuse, counseling skills, and computer technology.

Issues: In comparing Virginia's alternative route to licensure to that of New Jersey and Texas, which have successful alternate programs, one issue emerges. Virginia's licensure regulations currently require that applicants be hired by a school division prior to applying for a teaching license. The regulations stipulate that the superintendent must apply to the Department of Education in order for the employee to be considered for a license. Because school divisions are often reluctant to hire persons who are not already fully licensed, the current regulation has the effect of limiting the number of qualified persons available to teach in Virginia's schools. Also, the current requirement for a full-time student-teaching practicum places a financial hardship on some military persons who would have to leave full-time employment to complete the practicum experience.

There is strong support from the public and school divisions for an alternative route to licensure for career switchers; however, the issues are as follows: (i) developing a program of high quality that requires preassignment preparation, continued preparation during the first year of teaching with the guidance of a mentor teacher; (ii) allowing applicants to apply and receive a license from the Department of Education before employment by a school division; (iii) establishing prerequisites for an alternative route that are consistent with program admission requirements in a traditional preparation program; and (iv) offering the professional studies preparation (method) in ways other than college courses.

This regulation will offer an alternative route for military persons to receive a license to teach in Virginia. Thus, it is anticipated that the regulation will have a positive impact on the employability of qualified military personnel. The regulation will have a positive impact on the communities across the state. As education reform efforts have increased

the academic performance expectations of students, the need for more qualified teachers and smaller class sizes has emerged. Further, the need for qualified teachers, particularly minority teachers, has increased in urban school divisions. There are advantages to the public and to the agency because the proposed regulation removes potential barriers, such as requiring employment prior to licensure and, as a result, provides a benefit to communities and to families, even those without children in the public schools. No disadvantages to the public and the agency are identified.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The current Licensure Regulations for School Personnel includes a provisional license that provide potential teachers an alternative route (versus the traditional route) to licensure. The Board of Education (board) proposes to add an additional route for teacher licensure. Through this proposed route, qualified military personnel would be able to obtain an Eligibility License as an entry into the teaching profession.

Estimated economic impact.

Differences between Routes to Teacher Licensure. In the traditional route to teacher certification in Virginia, the candidate completes a state-approved teacher preparation program, which includes professional studies and student teaching. The candidate also takes courses necessary for endorsement in specific content areas (for example, math courses for an endorsement to teach¹ mathematics). Additionally, the candidate is required to pass¹ the PRAXIS I (basic skills: reading, writing, and mathematics) and PRAXIS II (subject area) exams, the national standardized qualifying exams for teachers. The Department of Education (department) will grant a collegiate professional license to candidates that meet these requirements and earn a bachelor's degree.

¹ The board specifies which scores must be met or exceeded in order to qualify for a state teaching license.

Table 1: Differences between Routes to Teacher Licensure

	Standard Route	Current Alternative	Career Change
First License	Collegiate Professional	Provisional	Eligibility
When Obtained	Before employment	After employment	Before employment
Duration	5 years	3 years	1 year
Student Teaching	Required	One year of successful, full-time experience in lieu of student teaching	Summer field experience and one year of successful, full-time experience in lieu of student teaching
Professional Studies	Completion of a state-approved teacher preparation program	15 credits (for secondary) or 18 (for elementary) during 3 year license period	Intensive 9 credit-equivalent before employment
PRAXIS I and II	Pass before employment	Pass after employment	Pass before employment
Requirements for Endorsement in a Content Area	Course work	Course work	Course work, but can use work experience to meet elements of the course content requirements

Currently, individuals may enter the teaching profession via an alternative route (see Table 1 for a summary of the differences between routes to licensure). A person can obtain a provisional license to teach if he possesses a bachelor's degree, has completed the subject-specific coursework necessary for endorsement in a content area, and gains employment with a Virginia school division. The provisional license lasts for three years and is not renewable. In order to be granted a collegiate professional license, the individual must accomplish the following by the end of the three-year period: pass PRAXIS I and II; complete 15 credits of professional studies if teaching at the secondary level, or 18 credits if teaching at the elementary level; and be judged to have demonstrated at least one year of successful, full-time teaching experience by the school division. The school division is required to provide a fully licensed experienced teacher in the school building to assist the provisionally licensed teacher.

The board proposes, as a pilot program, to permit military personnel leaving their employment in the military to enter the teaching profession through an alternative, somewhat accelerated licensing process. Retiring military personnel can obtain an Eligibility License to teach if the following requirements are satisfied: a bachelor's degree, completion of teaching area requirements in an endorsement area, passing scores on PRAXIS I and II, and completion of an intensive professional studies program which includes field experience with summer school students. Unlike the provisional license, individuals can earn the Eligibility License prior to employment with a school division. The Eligibility License lasts one year. In order to be granted a collegiate professional license, the individual must be judged by a

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school division to have demonstrated at least one year of successful, full-time teaching. School divisions are required to provide a trained mentor for each teacher with an Eligibility License.

Teacher's Perspective. From the prospective teacher's perspective, the proposed new licensing process has several advantages. First, the professional studies requirement appears to be considerably less burdensome than under either the current alternative route or the traditional route. The candidate would complete a three-week intensive course on professional studies, as compared to coursework usually lasting significantly longer under the traditional route, or 15 to 18 credits (about five or six classes) under the current alternative. Second, candidates can use work experience to meet elements of the course content requirements for endorsement in a content area. Third, the prospective teacher can obtain a license without first obtaining a position with a school division. According to the department, school divisions often do not consider job candidates who are not already licensed. This can create a barrier for individuals seeking to enter the profession via the current alternative route. Thus, the new process may make it easier for nontraditional teaching candidates to obtain teaching positions. Fourth, the student teaching requirement for individuals following the new route is limited to some summer field experience, considerably less time than in the traditional route. Instead, the licensee is assigned a mentor to confer with during her time teaching under the Eligibility License. This will allow the candidate to become employed as a teacher significantly sooner than she would be able to under the traditional route.

Finally, the monetary cost to the candidate may be less under the new process than under either the traditional route or the current alternative. This is clearly the case for the proposed pilot program which will be conducted by the department during the summers of 2000 and 2001. Under the pilot program, military personnel will receive three intensive weeks of professional studies education at no cost (to the candidate). Additionally, the department will reimburse PRAXIS I and II test fees. Individuals using the traditional and current alternative routes must pay for their professional studies education and PRAXIS I and II test fees. The department will also give school divisions \$2,000 for mentoring per eligibility-licensed teacher employed. This may make candidates going through the proposed route more attractive to school divisions, holding other attributes constant, than candidates following the current alternative route, since under the current alternative school divisions receive no funding for mentoring or assistance from a fully-licensed experienced teacher.

The department's payment for the professional studies education, PRAXIS I and II test fees, and \$2,000 contribution toward mentoring costs are proposed for the pilot program. The board is not specifying the funding source for the new process beyond the pilot. But even if the candidate is required to contribute to the funding of her training, the cost will still likely be somewhat less than under the current alternative route since the intensive professional studies program lasts only three weeks and is equivalent to only 9

credits,² versus 15 to 18 credits for the current alternative route.

From the prospective teacher's perspective, the new licensing process also has some disadvantages. Unlike the current alternative route, candidates must pass PRAXIS I and II and complete professional studies requirements prior to licensure and employment. Also, the Eligibility License lasts only one year, versus three years for the provisional license. If the school division believes the individual has the potential to be a good teacher, but has yet to demonstrate the necessary skills to advance on to the collegiate professional license, then the Eligibility License may be renewed for one year. Thus, the candidate has only one or two years in which to demonstrate one year of successful, full-time teaching versus three years under the current alternative.

Overall, the proposed addition of the Eligibility License and the accelerated route to licensure is a positive development for military personnel considering entry into teaching. The advantages of the new route will likely outweigh the disadvantages for at least some military personnel; and the current alternative route remains open for those individuals that find that route preferable.

Commonwealth's Perspective. For the citizens of Virginia, the proposed new route to licensure has several advantages. If the proposed route encourages individuals who would not have otherwise to enter the teaching profession, then it increases the pool of prospective teachers from which local school districts may hire. The department has indicated that there are widespread and persistent teacher shortages in Virginia, and that the shortages are projected to increase over the next decade. An increased pool of qualified teachers would help reduce the current and projected shortage. Also, the candidate needs to show sufficient teaching competence within one (or possibly two) years, rather than the three in the current alternative. If the candidate lacks the ability to be a successful teacher, then he may stop teaching sooner under the new route versus the current alternative route. Additionally, the candidate demonstrates knowledge in relevant subject areas prior to teaching via passing PRAXIS I and II prior to teaching. Teachers with provisional licenses can teach up to three years without passing these exams. If some individuals who would have otherwise followed the current alternative route choose the proposed new route, then these individuals will need to acquire sufficient knowledge to pass the PRAXIS exams prior to teaching. Therefore, students with teachers entering by the new route may be more likely to have a new teacher with greater knowledge in the subject than they would otherwise.

For the citizens of Virginia, the proposed new licensing process to licensure also has some disadvantages. This route does involve the highest cost to taxpayers among the alternative licensing routes. The department estimates that the cost of the pilot program will be \$5,000 to \$6,500 per candidate. With 100 participants in the program this year and another 100 next year, that is \$500,000 to \$650,000 for each year. It has not been determined who will pay the costs once

² Source: Department of Education

the pilot program is over and the department begins to approve professional studies training programs for Eligibility Licenses run by colleges, training schools, etc. The costs could be borne by the Commonwealth, localities, teaching candidates themselves, or some combination of those entities.

Also, individuals following the new licensing process will have fewer hours of professional studies education and will not be required to have student teaching experience. The 1996 National Commission on Teaching and America's Future report, "What Matters Most: Teaching for America's Future," emphasizes the importance of pedagogy training and that all teachers should graduate from an accredited school of education. However, research exists that indicates that students with teachers who have not had the additional hours of professional studies and student teaching experience perform no worse than students who have traditionally certified teachers. Barnes, Salmon, and Wale (1989), Goebel, Romacher, and Sanchez (1989), and Miller, McKenna, and McKenna (1996) all find that students of alternative route teachers do at least as well as pupils of traditionally licensed teachers. In a careful study that uses the *National Educational Longitudinal Study of 1988* (NELS) data set, Goldhaber and Brewer (2000) find that math and science students who have teachers with emergency credentials do no worse than students whose teachers have standard teaching credentials. Goldhaber and Brewer also find that science students who have a teacher with a BA in education perform no better than students whose teacher does not have an education degree; and having a teacher with a BA in education actually has a statistically significant negative impact on students' math scores.

Conclusion. Increasing the pool of qualified teachers from which school divisions may hire is beneficial in that it will help fill vacancies and may allow school divisions to be more selective in their hiring. Although there is not a complete consensus concerning the quality of teaching by alternatively certified teachers versus traditionally certified teachers, existing research implies that students with alternatively certified teachers perform at least as well as students with traditionally certified teachers, particularly in subjects with the most severe teaching shortages (math and science). It is unclear, though, how much the addition of the new process will add to the pool of qualified teachers. Some individuals who will choose the new process would likely have followed the current alternative route if the former route were not available, and thus will not be truly adding to the pool of qualified teachers. Also, the proposed regulation amendment restricts participation to military personnel. This restriction will likely keep addition to the pool of qualified teachers modest in number.³ According to the department, in 2001 the board will propose expanding eligibility for the career switcher route to individuals outside of the military. Deleting the military requirement has the potential to significantly add to the pool of qualified teachers. Since there is no compelling reason to limit participation to military personnel, the elimination of this restriction is advisable.

³ "Military personnel" is not defined in the proposed regulation. Thus, the degree of restrictiveness of this restriction is not clear.

As stated earlier, the department estimates that the cost of running the pilot program will be \$5,000 to \$6,500 per candidate. The department believes that the cost of the new licensing process per candidate will decrease as the program is more established and economies of scale are utilized. The board has not determined who will pay the costs once the pilot program is over and the department begins to approve professional studies training programs for Eligibility Licenses run by colleges, training schools, etc. If all the costs are borne by the candidate, then the proposed career switcher route would appear to produce a net economic benefit. By choosing to follow the career switcher route, the candidate demonstrates that he believes the benefits outweigh the costs for him, and thus the benefits outweigh the costs in aggregate (he bears all the costs). The participation of individuals in the new program will likely be less without any public subsidy, than with some public subsidy. Thus, the total benefit is limited when the candidate bears all the cost.

Subsidizing some or all of the costs will likely increase the participation rate in the new licensing process. Determining whether increasing the subsidy adds to net economic benefit depends on how much the subsidy improves student performance. Increasing the subsidy could potentially improve student performance by adding to participation in the new program (more qualified candidates to hire could fill more positions and reduce class size), and improving the quality of teachers that are hired (larger pool for school divisions to choose from, and higher subsidy may entice better potential teachers to enter the profession). Even if an accurate estimate of how much student performance would improve given a specific subsidy increase existed, determining whether that level of improved student performance was worth the given subsidy cost to the public would depend upon how much the public valued improved student performance. An accurate estimate of how much a subsidy would increase the pool of qualified teaching candidates and by how much that would improve student performance does not exist. Thus, it cannot be determined what the ideal subsidy, if any, would be for participants in the new program.

According to the results of a department survey of Virginia school divisions, shortages of science and mathematics teachers are much more severe than in other nonspecial education areas. The proposed regulation does not allow for focusing subsidization funds on specific teaching areas. If public funds are to be used to subsidize the participation in the new program, perhaps state funds would be most effectively used to alleviate teacher shortages by focusing proportionally more of the subsidies into the specific teaching fields where the shortages are greatest. The potential effectiveness of these subsidies on recruiting new teachers across different fields should also be taken into consideration. Since potential participants qualified to teach science or math may on average earn more in their current career than potential participants qualified to teach in other areas, the same dollar amount of subsidy may be less effective in inducing these individuals into the teaching profession than those individuals with less lucrative careers.

Businesses and entities affected. The proposed changes to the regulation will affect the 132 school divisions, as well as

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potential teachers and potential providers of the proposed intensive professional studies programs.

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

Projected impact on employment. The proposed changes to this regulation may increase the number of teacher positions that are filled in the Commonwealth. The proposed alternative may also increase employment with potential providers of the proposed intensive professional studies programs.

Effects on the use and value of private property. The proposed program may produce additional demand for professional studies training from private colleges and contractors. The potential additional demand could increase the value of these private entities.

References:

Barnes, Susan, James Salmon, and William Wale (1989), "Alternative Teacher Certification in Texas," Presented at the annual meeting of the American Educational Research Association, March. ERIC Document No. 307316.

Goebel, Stephen D., Karl Romacher, and Kathryn S. Sanchez (1989), *An Evaluation of HISD's Alternative Certification Program of the Academic Year: 1988-1989*. Houston: Houston Independent School District Department of Research and Evaluation. ERIC Document No. 322103.

Goldhaber, Dan D. and Dominic J. Brewer (2000), "Does Teacher Certification Matter? High School Teacher Certification Status and Student Achievement," forthcoming in *Educational Evaluation and Policy Analysis*.

Miller, John W., Michael C. McKenna, and Beverly A. McKenna (1996), "A Comparison of Alternately and Traditionally Prepared Teachers," *Journal of Teacher Education*, 49(3): 165-176.

National Commission on Teaching and America's Future (1996), *What Matters Most: Teaching for America's Future*. New York: Author.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis issued by the Department of Planning and Budget.

Summary:

The proposed amendments set forth an alternative route for teacher licensure that may be taken by military personnel who wish to become fully licensed teachers in Virginia. The alternative route is available to military personnel who seek teaching endorsements pre-K through 12, with the exception of special education.

8 VAC 20-21-10. Definitions.

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

"Accredited institution" means an institution of higher education accredited by a regional accrediting agency recognized by the United States Department of Education.

"Alternative route to licensure" means one route to licensure available to individuals employed by a Virginia educational agency who meet the guidelines specified in 8 VAC 20-21-80.

"Approved program" means a professional education program recognized as meeting state standards for the content and operation of such programs so graduates of the program will be eligible for state licensure. The Board of Education has the authority to approve programs in Virginia.

"Cancellation" means the annulment, voiding, or invalidation of a teaching license following voluntary surrender of the license by the license holder.

"Collegiate Professional License" means a five-year, renewable license available to an individual who has satisfied all requirements for licensure, including the professional teacher's assessment prescribed by the Board of Education.

"Competency" means a capability or skill that a person possesses and can demonstrate, given the appropriate resources and conditions. As used in this chapter, a competency refers to a behavior that a licensure candidate should be able to demonstrate prior to being issued a teaching license. In most cases, entry level proficiency relative to the competency is specified rather than desired mastery level proficiency.

"Content area course work" means courses at the undergraduate level (i.e., two-year or four-year institution) or at the graduate level that will not duplicate previous courses taken in the humanities, history and social science, the sciences, mathematics, health and physical education, and the fine arts. These courses are usually available through the college or department of arts or sciences.

"Denial" means the refusal to grant a teaching license to a new applicant or to an applicant who is reapplying after the expiration of a license.

"Division Superintendent License" means a five-year, renewable license available to an individual who has completed an earned master's degree from an accredited institution of higher education and meets the requirements specified in 8 VAC 20-21-590. The individual's name must be listed on the Board of Education's list of eligible division superintendents.

"Eligibility License" means a one-year license dated July 1-June 30. The Eligibility License is issued upon successful completion of level I of the career switcher program. This license requires a bachelor's degree from a regionally accredited institution; the completion of teaching area requirements for an endorsement in a content area as set forth in this chapter, or the equivalent through verifiable experience or academic study; and Virginia qualifying scores on Praxis I (Reading, Writing, and Mathematics) and Praxis II (subject area assessments). If the Eligibility License expires prior to the individual receiving employment in Virginia, the license holder must reapply for the second Eligibility License. The intensive program (level I) must be repeated if the

individual has not gained employment prior to the expiration of the second Eligibility License.

"Postgraduate Professional License" means a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

"Provisional License" means a nonrenewable license issued for a period of three years to individuals who have been employed by a Virginia educational agency and meet the requirements specified in 8 VAC 20-21-50 A 4.

"Pupil Personnel Services License" means a five-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement for guidance counselor, school psychologist, school social worker, or visiting teacher. This license does not require teaching experience.

"Reciprocity" means an agreement between two or more states that will recognize and accept one another's regulations and laws for privileges for mutual benefit. See 8 VAC 20-21-90 for conditions for teacher licensure by reciprocity.

"Revocation" means the annulment by recalling, repealing, or rescinding a teaching license.

"Special Education Conditional License" means a three-year, nonrenewable teaching license issued to an individual employed as a special education teacher in a public school or a nonpublic special education school in Virginia who does not hold the appropriate special education endorsement but meets the criteria specified in 8 VAC 20-21-50 A 5. This conditional license is not applicable to individuals employed as speech pathologists.

"Suspension" means the temporary withdrawal of a teaching license.

"Technical Professional License" means a five-year, renewable license available to a person who has graduated from an accredited high school (or possesses a General Education Development Certificate); has exhibited academic proficiency, technical competency, and occupational experience; and meets the requirements specified in 8 VAC 20-21-50 A 3.

8 VAC 20-21-50. Types of licenses; dating of licenses.

A. The following types of licenses are available:

1. Collegiate Professional License. The Collegiate Professional License is a five-year, renewable license available to an individual who has satisfied all requirements for licensure, including the professional teacher's assessment prescribed by the Board of Education.

2. Postgraduate Professional License. The Postgraduate Professional License is a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

3. Technical Professional License. The Technical Professional License is a five-year, renewable license available to a person who has graduated from an accredited high school (or possesses a General Education Development Certificate); has exhibited academic proficiency, technical competency, and occupational experience; and has completed nine semester hours of specialized professional studies credit from an accredited college or university. The nine semester hours of professional studies course work must include human growth and development (three semester hours), curriculum and instructional procedures (three semester hours), and applications of instructional technology or foundations of education (three semester hours). The Technical Professional License is issued at the recommendation of an employing educational agency in the areas of vocational education, educational technology, and military science. In addition to demonstrating competency in the endorsement area sought, the individual must:

- a. Hold a license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of satisfactory experience at the journeyman level or an equivalent;
- b. Have completed a registered apprenticeship program and two years of satisfactory experience at the journeyman level or an equivalent level in the trade; or
- c. Have four years of work experience at the management or supervisory level or equivalent or have a combination of four years of training and work experience at the management or supervisory level or equivalent.

Individuals holding the Technical Professional License who seek the Collegiate Professional or Postgraduate Professional License must meet the professional teacher's assessment requirement.

4. Provisional License. The Provisional License is a three-year, nonrenewable license available to individuals who are employed by a Virginia educational agency and are:

- a. Entering the teaching field through the alternative route to licensure upon recommendation of the employing educational agency;
- b. Failing to meet an allowable portion of general, professional, or specific endorsement requirements;
- c. Seeking the Technical Professional License; or
- d. Eligible for licensure but need to complete successfully the professional teacher's assessment prescribed by the Board of Education.

5. Special Education Conditional License. A Special Education Conditional License is a three-year, nonrenewable teaching license issued to an individual employed as a special education teacher in a public school or a nonpublic special education school in Virginia who does not hold the appropriate special education

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endorsement. The conditional license is not applicable to individuals employed as speech pathologists. To be issued the Special Education Conditional License an individual must:

- a. Be employed by a Virginia public or nonpublic school and have the recommendation of the employing educational agency;
- b. Hold a baccalaureate degree from an accredited college or university;
- c. Have an assigned mentor endorsed in special education; and
- d. Have a planned program of study in the assigned endorsement area and have completed a minimum of six semester hours in the core competencies of characteristics of students with disabilities and legal aspects associated with students with disabilities.

During the three years the Special Education Conditional License is valid, the individual must complete all requirements for the special education endorsement area, complete professional studies requirements, and meet Virginia's professional teacher's assessment requirement prescribed by the Board of Education.

6. Pupil Personnel Services License. The Pupil Personnel Services License is a five-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement for guidance counselor, school psychologist, school social worker, or visiting teacher. This license does not require teaching experience.

7. Division Superintendent License. The Division Superintendent License is a five-year, renewable license available to an individual who has completed an earned master's degree from an accredited institution of higher education and meets the requirements specified in 8 VAC 20-21-590. The individual's name must be listed on the Board of Education's list of eligible division superintendents.

8. "Eligibility License" means a one-year license dated July 1-June 30. The Eligibility License is issued upon successful completion of level I of the career switcher program. This license requires a bachelor's degree from a regionally accredited institution; the completion of teaching area requirements for an endorsement in a content area as set forth in this chapter, or the equivalent through verifiable experience or academic study; and Virginia qualifying scores on Praxis I (Reading, Writing, and Mathematics) and Praxis II (subject area assessments). If the Eligibility License expires prior to the individual receiving employment in Virginia, the license holder must reapply for the second Eligibility License. The intensive program (level I) must be repeated if the individual has not gained employment prior to the expiration of the second Eligibility License.

B. All licenses will be effective from July 1 in the school year in which the application is made.

8 VAC 20-21-80. Alternative route routes to licensure.

A. An alternative route is available to military personnel career switchers who seek teaching endorsements pre-K through grade 12 with the exception of special education.

1. An individual seeking an Eligibility License must meet the following requirements: an application process; a bachelor's degree from a regionally accredited institution; the completion of teaching area requirements for an endorsement in a content area as set forth in this chapter, or the equivalent through verifiable experience or academic study; and Virginia qualifying scores on Praxis I (Reading, Writing, and Mathematics) and Praxis II (subject area assessments). The Eligibility License is awarded at the end of Level I preparation. All components of the career switcher alternative route for military personnel must be completed by the candidates.

2. The professional studies requirements must be completed during the course of a single year through the following three levels of preparation that may be offered through a variety of delivery systems. Preparation programs must be approved by the Virginia Department of Education;

a. Intensive Level I Preparation phase includes, but is not limited to, the following:

- (1) Introduction to Classroom Management;
- (2) Introduction to the Standards of Learning;
- (3) Introduction to Teaching Strategies; and
- (4) Field experience with summer school students.

b. Level II Preparation during first year of employment.

- (1) Candidate seeks employment with the one-year Eligibility License;
- (2) Continued Level II preparation during the first year of employment; and
- (3) One year of successful, full-time teaching experience in an accredited public or nonpublic school under the newly created one-year Eligibility License. A trained mentor must be assigned to assist the candidate through the alternative route.

c. Level III Preparation continued.

- (1) Post preparation (if needed);
- (2) Recommendation from employer for a renewable license; and
- (3) Issuance of the five-year renewal license.

3. Verification of program completion will be documented by the program provider and the superintendent or designee.

4. Delivery systems of the career switcher for the alternative route to licensure must adhere to requirements specified by the Board of Education when proposals are requested. The programs must include the prescribed scope and sequence of preparation as well as

evaluation of the candidate and overall program evaluation. These programs must be approved by the Department of Education.

A. B. An alternative route is available to individuals employed by an educational agency who seek teaching endorsements pre-K through grade 12.

1. An individual seeking a Provisional License through the alternative route must meet the requirements specified in 8 VAC 20-21-50 A 4.

2. The professional studies requirements for the appropriate level of endorsement sought must be completed. A Virginia educational agency may submit to the Superintendent of Public Instruction for approval an alternative program to meet the professional studies requirements. The alternative program must include training (seminar, internship, course work, etc.) in human growth and development, curriculum and instructional procedures (including technology), foundations of education, and reading.

3. One year of successful, full-time teaching experience in the appropriate teaching area in an accredited public or nonpublic school must be completed. A fully-licensed experienced teacher must be available in the school building to assist the beginning teacher employed through the alternative route.

B. C. Alternative programs developed by institutions of higher education (i) recognize the unique strengths of prospective teachers from nontraditional backgrounds and (ii) prepare these individuals to meet the same standards that are established for others who are granted a Provisional License.

VA.R. Doc. No. R99-197; Filed May 31, 2000, 11:56 a.m.

Title of Regulation: 8 VAC 20-21-10 et seq. **Licensure Regulations for School Personnel (amending 8 VAC 20-21-260).**

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public Hearing Date: June 22, 2000 - 2:30 p.m.

Public comments may be submitted until August 18, 2000.

(See Calendar of Events section for additional information)

Basis: Section 22.1-16 of the Code of Virginia authorizes the Board of Education to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia.

Section 22.1-298 of the Code provides that the Board of Education shall, by regulation, prescribe the requirements for licensure of teachers.

Purpose: The primary purpose for licensing teachers and other school personnel is to maintain standards of professional competence. The licensure regulations set forth competencies required of instructional personnel in Virginia.

The Board of Education has approved instruction in American Sign Language (ASL) for foreign language credit toward an advanced studies diploma; therefore, requirements to teach ASL need to be established to ensure that students taking the courses are taught by teachers who are prepared in the area of American Sign Language.

Substance: The Board of Education approved a change in the current Licensure Regulations for School Personnel as a result of the board's action to permit, at the local division's discretion, courses in American Sign Language (ASL) to count as foreign language credit toward an advanced studies diploma. A student may take three courses in ASL (Levels I, II, and III) for foreign language credit. As a result of this action, the requirements for teachers who teach ASL courses need to be established to ensure that students taking the courses are taught by qualified teachers. The proposed changes set forth the knowledge and competencies needed by teachers of such courses.

Issues: The Board of Education currently has a policy in place that permits, at local option, a school division to offer courses in ASL. The policy also permits the division, again at local option, to count the credit for such courses toward the requirements for graduation from high school. The primary issue is that, because students take the ASL courses for high school credit, the courses should be taught by teachers who are qualified in a manner consistent with the licensure standards that apply to all other endorsement areas.

The Board of Education's policy on ASL courses specifies that local school divisions must make clear to parents and students that some, but not all, colleges and universities accept ASL for foreign language credit. School divisions offering three years of instruction in American Sign Language should include this information in all course of study documents. Hence, the regulations are consistent with the Board of Education's policy that parents should be fully informed about the nature of and the requirements for the ASL courses.

This regulation is advantageous to the public because the provision is expected to give students and their families additional options for academic studies for completing high school diploma requirements. The provision will also give the parents of public school students additional assurances that teachers meet high standards of professional competence. There are no disadvantages to the public and no advantages or disadvantages to the agency.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

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property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Education (the board) last year approved a provision allowing students to earn an advanced studies diploma in foreign language upon completing three years of instruction in American Sign Language (ASL). The current proposal establishes minimum endorsement criteria for teachers who give instruction in ASL.

Estimated economic impact. Once this regulation is promulgated, teachers of ASL who do not have endorsements will be "teaching out of field." The number of instructors teaching out of field is reported on each school's report card. In addition, according to the Department of Education (the department) teachers teaching ASL courses for foreign language credit for high school graduation will be required to have the ASL endorsement.

Under the proposal, the endorsement may be granted to a candidate who (i) has completed an approved teacher preparation program in ASL, (ii) has completed a major in ASL or 24 semester hours above the intermediate level in ASL, along with three semester hours of methods of teaching foreign languages, or (iii) holds a valid certification in ASL and has earned at least three semester hours in methods of teaching foreign languages from an accredited college or university in the United States. Note, the department does not give any indication why applicants are limited to those with training in the United States. This restriction will probably limit the available pool of teachers and may unnecessarily reduce any potential benefits of this proposal.

In assessing the economic impact of this proposed change it would be useful to know how many schools currently teach ASL classes and what percentage of ASL teachers would already qualify for an endorsement. The Department of Education does not collect this information.

It is possible that this new provision could have the unintended effect of reducing the supply of ASL teachers and reducing the number of ASL classes taught. In particular, the requirement that even certified signers will need to take three semester hours of foreign language teaching methods could reduce the available supply of sign teachers. This is especially true since the foreign language teaching methods class must be taken in the United States. Because the use of nonendorsed teachers could cause a school to run afoul of the Standards of Accreditation, there is reason to expect that some schools that would have offered ASL classes may choose not to do so if an endorsed teacher cannot be found. The department has not collected any information about the demand and supply of ASL teachers and, hence, there is no ready way of determining whether this provision will have a positive or negative impact on the amount of ASL taught in Virginia.

It would also be useful to know if there had been a substantial amount of substandard teaching of ASL in the past. It would also be useful to know how effective three semester hours of foreign language teaching methods classes are in improving sign language instruction. No evidence has been offered on these points. Thus, no conclusion can be drawn about

whether this provision is likely to result in an improvement in the quality of ASL instruction offered.

Given the lack of information available from the department regarding (i) the amount of ASL being taught, (ii) the supply and demand of ASL teachers, (iii) the proportion of current ASL teachers already satisfying the endorsement standards, (iv) the amount, if any, of substandard teaching by those meeting and not meeting the endorsement standard, and (v) the effectiveness of three-semester-hour classes in foreign language teaching methods (including information about the relative effectiveness of training in the United States and abroad), no conclusions can be drawn at this time about the sign or magnitude of any economic impact of this proposal.

Businesses and entities affected. The proposed changes to the regulation will affect the 132 school divisions, as well as current and potential ASL teachers.

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

Projected impact on employment. It cannot be known at this time if this rule will have any impact on the supply or demand for ASL teachers.

Effects on the use and value of private property. The proposed program may produce additional demand for ASL teacher preparation programs. The potential additional demand could increase the value of any private entities providing these services.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis issued by the Department of Planning and Budget.

Summary:

The proposed amendments set forth the requirements to be met by personnel who teach American Sign Language courses. Such regulations will help to ensure that students taking these courses are taught by teachers who are prepared in a manner consistent with the requirements for teachers in all other endorsement areas covered by the Licensure Regulations for School Personnel.

8 VAC 20-21-260. Foreign language preK-12.

A. The specific language of the endorsement will be noted on the license.

B. Foreign language preK-12 -- languages other than Latin.

1. The program in the foreign language will ensure that the candidate has:

a. Demonstrated the following competencies:

(1) Understanding of authentic speech at a normal tempo;

(2) Ability to speak with a command of vocabulary, pronunciation, and syntax adequate for expressing thoughts to a native speaker not used to dealing with foreigners;

(3) Ability to read and comprehend authentic texts of average difficulty and of mature content;

(4) Ability to write a variety of texts including description and narration with clarity and correctness in vocabulary and syntax;

(5) Knowledge of geography, history, social structure and artistic and literary contributions of the target societies;

(6) Ability to interpret contemporary lifestyles, customs, and cultural patterns of the target societies;

(7) Understanding of the application of basic concepts of phonology, syntax, and morphology to the teaching of the foreign language;

(8) Knowledge of the national standards for foreign language learning, current proficiency-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the assessment of foreign language skills, the use of media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching; and

(9) Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

b. Participated in opportunities for significant foreign language study or living experiences in this country or abroad, or both.

2. Endorsement requirements.

a. The candidate must have: ~~a.~~ (i) graduated from an approved teacher preparation program in a foreign language; or ~~b.~~ (ii) completed 30 semester hours above the intermediate level in the foreign language. (Endorsement in a second language may be obtained with 24 semester hours of course work above the intermediate level.) The program shall include (i) courses in advanced grammar and composition, conversation, culture and civilization, and literature and (ii) a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels; ~~or~~.

~~e.~~ b. Native speakers or candidates who have learned a foreign language without formal academic credit in a college or university must complete the following requirements:

(1) Achieved a minimum score of 600 on the Test of English as a Foreign Language, if English is not the native language. Native speakers of English are exempt from this test;

(2) Achieved a composite score at or above the 50th percentile on the listening, speaking, reading, writing, civilization and culture sections of the Modern Language Association Proficiency Test for

Teachers and Advanced Students. No individual section score shall be below the 25th percentile; and

(3) Earned a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels from an accredited college or university in the United States.

C. Foreign language preK-12 -- Latin.

1. The program in Latin will ensure that the candidate has demonstrated the following competencies:

a. Ability to read and comprehend Latin in the original;

b. Ability to pronounce Latin with consistent classical (or ecclesiastical) pronunciation;

c. Knowledge of the vocabulary, phonetics, morphology and syntax of Latin and the etymological impact of Latin;

d. Ability to discuss the culture and civilization of Greco-Roman society, including history, daily life, art, architecture, and geography;

e. Ability to explain the relationship of Greco-Roman culture and civilization to subsequent cultures and civilizations;

f. Knowledge of major literary masterpieces and their relationship to the historical and social context of the society;

g. Competency in (i) current methodologies for teaching Latin at the elementary and secondary levels; (ii) lesson planning, scope and sequencing of material, instructional strategies and assessment under the guidance of an experienced Latin teacher; and

h. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

2. Endorsement requirements. The candidate must have:

a. Graduated from an approved teacher preparation program in Latin; or

b. Completed 24 semester hours of Latin above the intermediate level. Up to six hours of Roman history, Roman life, mythology, or archaeology may be included in the total hours and 3 semester hours of methods of teaching Latin at the elementary and secondary levels are required.

D. Foreign language preK-12 -- American Sign Language.

1. The program in American Sign Language will ensure that the candidate has:

a. Demonstrated the following competencies:

(1) Understanding of native users of American Sign Language at a normal tempo;

(2) Ability to sign with a command of vocabulary, nonmanual behaviors, and syntax adequate for expressing thoughts to an American Sign Language

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user not accustomed to dealing with non-American Sign Language users;

(3) Knowledge of history, social structure and artistic and literary contributions of the deaf culture;

(4) Ability to interpret contemporary lifestyles, customs, and cultural patterns of the deaf culture;

(5) Understanding of the application of basic concepts of phonology (e.g., handshapes, types of signs, orientation on the body, sign movements), syntax, and morphology to the teaching of the American Sign Language;

(6) Knowledge of the national standards for foreign language learning, current proficiency-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the assessment of foreign language skills, the use of media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching; and

(7) Understanding of and proficiency in English grammar, usage, and mechanics and their integration in writing.

b. Participation in opportunities for significant study of the linguistics of American Sign Language and immersion experiences in the deaf culture.

2. Endorsement requirements.

a. The candidate must have (i) graduated from an approved teacher preparation program in a foreign language--American Sign Language or (ii) completed a major in American Sign Language or 24 semester hours above the intermediate level in American Sign Language. The program shall include (i) courses in advanced grammar and syntax, conversation, and culture and (ii) a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels.

b. Native users or candidates who have learned American Sign Language without formal academic credit in a college or university must complete the following requirements:

(1) Competency in American Sign Language demonstrated by written documentation of one of the following:

(a) Hold a current, valid qualified or professional certification by the American Sign Language Teachers Association;

(b) Hold a current, valid Virginia Quality Assurance Screening Level III Interpreting or higher issued by the Virginia Department for the Deaf and Hard of Hearing;

(c) Hold a current, valid Registry of Interpreters for Deaf certification in at least one of the following: Certificate of Interpretation (CI), Certificate of Deaf Interpretation (CDI), Reverse Skills Certification (RSC), or Comprehensive Skills Certificate (CSC);

(d) Hold a current, valid National Association for the Deaf Level IV or higher.

(2) Earned a minimum of 3 semester hours of methods of teaching foreign languages at the elementary and secondary levels from an accredited college or university in the United States.

It is recommended that individuals who are serving as teachers of American Sign Language in a public or accredited nonpublic school who hold a current, valid Virginia teaching license (Collegiate Professional or Postgraduate Professional License) be given a period of two years from the effective date of this subsection to meet the requirements for the endorsement in American Sign Language.

VA.R. Doc. No. R99-196; Filed May 31, 2000, 11:35 a.m.

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Title of Regulation: 8 VAC 20-640-10. Regulations Governing Substitute Teachers.

Statutory Authority: §§ 22.1-16 and 22.1-302 of the Code of Virginia.

Public Hearing Date: June 22, 2000 - 2:30 p.m.

Public comments may be submitted until August 18, 2000.

(See Calendar of Events section for additional information)

Basis: Under Article VIII, Section 4 of the Constitution of Virginia (1971), the board has the authority and responsibility for the general supervision of the public school system.

Section 22.1-16 of the Code of Virginia authorizes the Board of Education to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia.

Section 22.1-302 of the Code of Virginia requires the Board of Education to promulgate regulations regarding temporarily employed teachers.

Purpose: The primary purpose of promulgating regulations for substitute teachers is to ensure that substitute teachers meet basic requirements before teaching in Virginia classrooms.

Substance: Prior to 1993, the requirements for substitute teachers were included in the Licensure Regulations for School Personnel. The Advisory Board on Teacher Education and Licensure recommended that substitute teacher regulations be removed from the licensure regulations because substitute teachers are not issued licenses. As a result of the approval of the Licensure Regulations for School Personnel in July 1993, the Board of Education regulations for substitute teachers became nonexistent. The Board of Education reviewed local school board substitute teacher

requirements and decided not to promulgate additional regulations. The General Assembly, however, has now required the board to promulgate regulations.

Issues: The topic of qualifications of substitute teachers in Virginia's public school classroom is a major issue for local school boards. The Commonwealth has an interest in the quality of these teachers especially in light of the Virginia Board of Education's initiatives to ensure that Virginia has a well qualified, high-quality teaching force. Substitute teachers are not required to be fully licensed teachers, but it is reasonable for the public to expect that substitute teachers do meet certain qualifications. The proposed regulations set those minimum statewide standards.

The substitute teacher shortage is a nationwide problem. Substitutes play a vital role in children's education, especially in light of statistics that show that American students, over the course of their K-12 studies, may have replacement teachers for an estimated 5-10% of their classroom time. National statistics also show that on any given school day, up to 10% of the nation's classrooms have substitute teachers. Obviously, schools employ substitutes to replace absent teachers, but what may not be equally evident are some of the contemporary factors that produce teacher absence. Traditionally, teacher absenteeism has occurred for the same reasons that employees in other fields are absent (e.g., personal or family illness or emergency, jury duty, professional development activities, short-term military service). Statistics also show that teacher absenteeism is on the rise. Classroom teachers are involved in a variety of nontraditional, noninstructional activities, such as professional development training, curriculum design, mentoring novice and pre-service teachers, conducting action research, and working on collaborative teams with peers and college faculty. Employing substitutes is one method of covering the classes of teachers who participate in such activities during the school day.

In Virginia, qualifications for substitutes vary considerably among school divisions. Credentials may include teacher certification, criminal background checks, college transcripts, health certificates, and evidence of classroom management training. Full licensure is not required in Virginia or in most states; frequently a high school diploma is the sole academic credential needed.

The agency's analysis of the proposed regulation finds that there will be no disadvantages to the agency or to the public.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Prior to 1993, requirements for substitute teachers were included in the Licensure Regulations for School Personnel (8 VAC 20-21). The Advisory Board on Teacher Education and Licensure recommended that substitute teacher regulations be removed from the licensure regulations because substitute teachers are not issued licenses. Requirements for substitute teachers have remained in the Code of Virginia (§ 22.1-302), but have not been present in regulations since 1993. The Board of Education is now promulgating regulations regarding temporarily employed teachers in order to comply with § 22.1-302 B of the Code of Virginia.

Estimated economic impact. Implementation of this proposed regulation will not significantly affect citizens of the Commonwealth. The proposed regulation contains only one provision that is not already required by state law; persons hired as substitute teachers must attend an orientation to familiarize themselves with school policies and procedures conducted by the local school division. The regulation does not specify what form this orientation session must follow. According to the Department of Education, local school divisions may decide on the depth and form of the orientation. A cursory orientation, just a few minutes explaining policies and procedures, would comply with this requirement.

Many local school divisions already conduct orientations for substitute teachers. Those school divisions that do not currently conduct formal orientations generally still convey the basic information on school policies and procedures and would be able to comply with the proposed requirement by conducting a brief formal orientation.¹ Thus, the introduction of this proposed regulation for substitute teachers will not significantly affect school divisions, teachers, students, or other citizens of the Commonwealth.

Businesses and entities affected. The proposed regulation applies to all 132 school divisions in Virginia.

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

Projected impact on employment. The proposed regulation is not expected to affect employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis issued by the Department of Planning and Budget.

Summary:

The proposed regulations establish qualifications that must be met by persons hired as substitute teachers by local school divisions.

¹ Source: Department of Education.

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CHAPTER 640.

REGULATIONS GOVERNING SUBSTITUTE TEACHERS.

8 VAC 20-640-10 Minimum requirements for substitute teachers.

Substitute teachers must:

1. Be a minimum of 18 years of age (21 years of age preferred);
2. Possess good moral character;
3. Have earned a high school diploma or GED; and
4. Attend orientation to school policies and procedures conducted by the local school division.

VA.R. Doc. No. R99-40; Filed May 31, 2000, 11:34 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BRANCH PILOTS

Title of Regulation: **18 VAC 45-20-5 et seq. Board for Branch Pilots Rules and Regulations (amending 18 VAC 45-20-10, 18 VAC 45-20-20, and 18 VAC 45-20-40; adding 18 VAC 45-20-5 and 18 VAC 45-20-50).**

Statutory Authority: § 54.1-902 of the Code of Virginia.

Public Hearing Date: August 2, 2000 - 9:30 a.m.

Public comments may be submitted until August 21, 2000.

(See Calendar of Events section for additional information)

Basis: Section 54.1-902 of the Code of Virginia authorizes the Board for Branch Pilots to regulate individuals in Virginia that practice as branch pilots. While the board is mandated to establish regulations, the content of the regulations is up to the discretion of the board.

Purpose: In order to protect the public, the board desires to clarify in its regulations as to when a pilot is considered impaired so that the pilots are clear when not to pilot a ship and to ensure that its regulations in this area are current with the realities of today's world. In addition, the board is proposing to add a random testing program as most chemical testing programs include random testing and, currently, the board's regulations do not include provisions for random testing. Further, the board's regulations do not clearly address impairment by over-the-counter medications, prescribed medications, or combinations thereof and the proposed changes will clarify these issues.

Substance:

18 VAC 45-20-05. Adds a new section that contains definitions.

18 VAC 45-20-10 A 4 and A 5. Requires new pilots to notify the board of any chronic or acute physical or mental

impairment that may prevent them from safely performing their duties. Clarifies the requirements for chemical testing to reflect the new language.

18 VAC 45-20-10 B 5, 18 VAC 45-20-20 B 1, and 18 VAC 45-20-20 C 1. Deletes the requirements for drug testing during renewal and when a limited pilot becomes an unlimited pilot. These are no longer necessary with the random testing program.

18 VAC 45-20-40. Clarifies language to properly implement the chemical testing program.

18 VAC 45-20-50. Details the requirements of the random chemical testing program.

Issues: The primary advantages of the proposed changes are that the public will be better protected with regards to potentially impaired branch pilots (through the random testing program) and that branch pilots will be clear when not to pilot a ship. Further, these changes will ensure that the board's regulations regarding impairment are current with the realities of today's world. The only disadvantage is a slight increase in the cost of the regulatory program to the board's regulants.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. This is a proposed revision to the existing regulations governing the licensure of branch pilots. Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia provides the Board of Branch Pilots (board) with the authority to amend these regulations. The board proposes two substantial changes. Chemical testing for impairment due to drugs or alcohol would be conducted on a random, unscheduled basis versus the current scheduled testing program. Also, under the new language, licensed branch pilots will be required to report all their prescriptions for medications and medical history to the medical review officer (MRO).

Estimated economic impact. Branch pilots must furnish to the board evidence of a satisfactory physical examination conducted within the last 60 days of each year in order to renew their license. Currently, the examination must include "a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use." Under the proposed amended regulation, the required annual physical examination will no longer include the chemical test for drugs or alcohol described above. Instead, the board proposes to introduce the random unscheduled testing of on-duty branch

pilots for evidence of impairment due to the use of drugs or alcohol.

The MRO will conduct the random unscheduled testing. According to the proposed language, between 30% and 100% of licensees will be tested annually. Once an individual is randomly chosen for testing, he will remain in the pool of candidates to be randomly chosen. Thus, some individuals may be tested more than once a year. Currently, all 41 licensed branch pilots are tested once a year. According to the Department of Professional and Occupational Regulation (department), the cost of running the random unscheduled testing program will be approximately equal to that of the current scheduled testing.

The purpose of testing for drugs and alcohol is to determine whether licensees are impaired and, thus, more likely to cause or be involved in an accident while piloting a ship. Under the current testing program, licensees only need to refrain from consumption of drugs and alcohol for a limited amount of time before their once a year scheduled test to avoid detection of use of drugs or alcohol. The proposed random unscheduled testing program will likely provide some deterrent to the consumption of drugs and alcohol throughout the year. The board may suspend a license or deny renewal of licensure if the test results indicate impairment or if the licensee refuses to take the test.

Though there have been no incidences of major accidents in Virginia linked to impaired branch pilots, there have been such incidences elsewhere in the country.¹ The cost of major accidents can be in the millions of dollars. The last major accident involving Virginia branch pilots occurred on July 1, 1990, on the Potomac River. In a collision between the oil container ship *Columbus America* and the *Neptune Jade*, the former ship sustained an estimated \$1 million worth of damage, while the latter ship had about \$300,000 in damage. Oil leaked from the *Columbus America* and produced an unspecified amount of environmental damage.² In addition to substantial damage to ships and the environment, accidents could also limit the conduct of commerce on particular bodies of water, causing significant delays and increased costs to businesses and citizens.

It seems likely that the random unscheduled chemical testing program would be more effective in deterring branch pilots from participating in activities that leave them impaired while on duty than would the current scheduled program. Licensees would be aware that the likelihood of their being caught impaired and subsequently disciplined would be greater under the proposed new program. Chemically impaired (drugs or alcohol) automobile and truck drivers are more likely to be involved in accidents than sober drivers are. It seems reasonable to speculate that the same is true for branch pilots.³ Thus, it seems likely that the proposed change in drug testing program from scheduled to random and unscheduled would decrease the chance of an accident occurring at a given time. It cannot be determined by how

much, if at all, that the probability of an accident would decrease at any given time due to the paucity of data. Nevertheless, since the cost of the proposed program is estimated to be approximately the same as the current program, and it seems likely that the probability of an accident occurring may be reduced somewhat by the proposed program, it is likely that the proposed program would produce a net economic benefit.

In addition to the proposed change in the chemical-testing program, the board also proposes to require branch pilots to report all their prescriptions for medications and medical history to the MRO. The MRO would then determine if any of the prescriptions or health status would cause the licensee to be impaired. Any time the MRO finds that the pilot may be impaired in the safe discharge of any of his duties, the MRO would report those findings to the licensee and the board. The board could then ask the licensee to voluntarily refrain from working while he is impaired, or suspend him if he refuses.

Unlike the proposed change in the chemical-testing program, this proposed amendment to the regulation would increase costs. According to the department, the Virginia Pilots Association would pay the MRO approximately an additional \$2,000 a year for the additional review work. All Virginia branch pilots are members of the Virginia Pilots Association and indirectly pay its expenses.⁴ Since there are currently 41 branch pilots in the Commonwealth and the association, the proposed amendment would cost each pilot about \$50 per year. Though it seems probable that the proposed amendment would increase the likelihood that the MRO would be able to prevent an impaired licensee from piloting a ship, there is no evidence to indicate by how much the proposed amendment would decrease the probability of accidents, if at all. Thus, it cannot be determined whether the proposal to require branch pilots to report all their prescriptions for medications and medical history to the MRO would produce a net economic benefit.

Businesses and entities affected. All current branch pilots as well as those individuals considering becoming branch pilots are affected by the proposed amendments to the regulation. According to the department, in Virginia 38 individuals possess a full branch pilot license and three individuals possess a limited branch pilot license. The MRO employed by the Virginia Pilot Association will gain additional business.

Localities particularly affected. All on-duty licensed branch pilots await duty assignments in Virginia Beach. Beyond some increased business for the MRO, the proposed amendments to the regulation will not particularly affect the local economy.

Projected impact on employment. The proposed changes may make it more likely that some licensees may have their license suspended or renewal application denied. There will be no impact on the quantity of work hours demanded.

¹ Source: Department of Professional and Occupational Regulation

² Source: Department of Professional and Occupational Regulation

³ No specific studies are known to exist.

⁴ Source: Department of Professional and Occupational Regulation

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Effects on the use and value of private property. The additional work for the MRO may increase the value of his practice.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Concur.

Summary:

The proposed amendments (i) provide that chemical testing for impairment due to drugs or alcohol will be conducted on a random, unscheduled basis versus the current scheduled testing program and (ii) require licensed branch pilots to report their medical history and prescribed medications to the medical review officer.

18 VAC 45-20-5. Definitions.

The words and terms used in this chapter have the following meanings, unless the context requires a different meaning:

"Attempting to perform" means any time when a licensee has accepted an assignment to perform any of the duties of his office or job.

"Chemical test" means any scientifically recognized test that analyzes an individual's breath, blood, urine, saliva, bodily fluids, hair or tissues for evidence of alcohol or controlled substances listed in Schedules I – V of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

"Illegal drugs" includes any controlled substance as that term is defined in the Drug Control Act at § 54.1-3401 of the Code of Virginia listed in Schedule I; § 54.1-3446 of the Code of Virginia or those controlled substances illegally acquired listed from Schedules II – V; or §§ 54.1-3448, 54.1-3450, 54.1-3452 and 54.1-3454 of the Code of Virginia, respectively. It is the intent of these regulations that in the event the contents of Schedules I – V of the Drug Control Act are changed, that these regulations incorporate such changes at the time those controlled substances are made a part of the Drug Control Act in Virginia.

"Medical review officer" or "MRO" means a Virginia licensed physician with a current valid certification from the American College of Occupational and Environmental Medicine or the American Association of Medical Review Officers whose duties, authorities and responsibilities are delineated by these organizations.

"On duty" means the period of time the licensee is available to receive orders for an assignment.

18 VAC 45-20-10. Initial licensing.

A. Any person wishing to obtain a license as a limited branch pilot shall meet the following qualifications:

1. Satisfactorily complete a two year apprenticeship in a program approved by the board;
2. Satisfactorily complete a comprehensive examination which shall be approved by the board and administered by the examining committee of the board. The examination shall be in two parts:

- a. Written; and

- b. Practical oral examination;

3. Comply with the board's regulations and Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia;

4. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. This examination must include a ~~scientifically recognized chemical test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drugs or alcohol use; and~~

5. *Notify the board of any chronic or acute physical or mental condition; and*

~~5-~~ 6. Pay a licensing fee of \$275. Each check or money order shall be made payable to the Treasurer of Virginia. All fees are nonrefundable.

B. Any limited branch pilot wishing to obtain a full branch pilot license shall meet the following qualifications:

1. Satisfactorily complete a five-year apprenticeship in a program approved by the board;

2. Hold a limited branch pilot license in good standing;

3. Pass a practical examination approved by the board and administered by the board's examining committee;

4. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch. Any such federal license acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate. A copy of this license shall be filed with the clerk of the board immediately;

5. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

6. Qualify in accordance with § 54.1-905 of the Code of Virginia; and

7. Pay a licensing fee of \$275. Each check or money order is to be made payable to the Treasurer of Virginia. All fees are nonrefundable.

18 VAC 45-20-20. License renewal.

A. Each pilot seeking renewal of his license shall complete a renewal application, comply with the provisions of this section, and appear before the board or its License Renewal Committee which shall determine if he possesses the qualifications to be renewed.

B. Any limited branch pilot seeking to renew his license shall meet the following standards:

1. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an~~

~~individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

2. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months;

3. After three years of licensure as a limited branch pilot, possess a valid First Class Pilot License issued by the United States Coast Guard for the same waters as his limited branch. Any such federal license acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate; and

4. Pay a license renewal fee of \$375. Each check or money order is to be made payable to the Treasurer of Virginia. All fees are nonrefundable.

C. Any full branch pilot seeking to renew his license shall meet the following standards:

1. Possess a valid unlimited Federal Inland Masters License with First Class Pilot endorsement issued by the United States Coast Guard for the same waters as his branch; any such federal license renewed or acquired after January 1994 shall include an Automated Radar Plotting Aids (ARPA) radar certificate;

2. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 60 days. ~~This examination must include a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use;~~

3. Furnish to the board evidence that he has transited the waters embraced by his license during the preceding 12 months, and that he has piloted 12 or more ships during that time, at least six trips as a pilot within the first six months of the calendar year and six trips as a pilot within the last six months of the calendar year;

4. Upon the showing of good cause, the board may waive the requirements of subdivision 3 of this subsection when in its judgment the pilot is otherwise qualified;

5. Qualify in accordance with § 54.1-906 of the Code of Virginia; and

6. Pay a license renewal fee of \$375. Each check or money order is to be made payable to the Treasurer of Virginia. All fees are nonrefundable.

18 VAC 45-20-40. Grounds for denial of licensure, denial of renewal, or discipline.

The board shall have the authority to deny initial licensure, deny an extension of license, or deny renewal as well as to discipline existing licensees, whether limited or not, for the following reasons:

1. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude or any alcohol or drug-related offense there being no appeal pending therefrom or the time for appeal having elapsed.

Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction;

2. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude;

3. Failing to report to the board in writing any reports of the National Transportation Safety Board involving the licensee, or the results of any disciplinary action taken by the United States Coast Guard against the licensee within 30 days of that report or action;

4. Refusing or in any other way failing to carry out an order from the pilot officers for reasons other than the public's health, safety, and welfare;

5. Negligence or misconduct in the performance of duties;

6. Violating or cooperating with others in violating any provision of Chapter 9 (§ 54.1-900 et seq.) of the Title 54.1 of the Code of Virginia or any regulation of the board;

7. Failing to, as soon as possible under the circumstances, report to the pilot officers his finishing time and other required information relating to the particulars of the ship;

8. Failing to file immediately with the president or vice president of the board with a copy to the board administrator a complete written account of any violation of the statutes of Virginia or of the United States relating to pilotage or failing to report in writing to the president or vice president of the board with a copy to the board administrator an account of all collisions, groundings, or other maritime mishaps of any description that may occur during the discharge of the pilot's duties. This report shall be received no later than seven days after such an incident;

9. Failing to report to the board any physical, ~~emotional,~~ or ~~psychological impairment~~ *mental condition* which may affect his ability to perform the duties of a pilot. Such reports must be provided within 30 days of the onset of the condition;

10. Refusal to comply with the board's requirement for a ~~scientifically recognized~~ *chemical* test which ~~analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.~~ Such test is required immediately and no later than 12 hours after involvement in a collision, grounding, or other incident resulting in personal injury, death, environmental hazard, or property damage in excess of \$100,000. Refusal to comply with this requirement ~~shall~~ *may* result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

Proposed Regulations

11. Refusal to comply with ~~the board's~~ any board requirement for a scientifically recognized chemical test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use in any instance in which the board has reasonable cause to believe a test is necessary to protect the public health, safety, or welfare. Refusal to comply with this requirement shall may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;

12. Failure to send ~~the~~ proof of any test required by ~~subsection subdivision~~ 10 or ~~subsection~~ 11 of this section to the president or vice president of the board with a copy to the board administrator within 48 hours of the administration of the test;

13. An indication of impairment ~~on a~~ in the results of any test furnished under ~~subsection 10 or subsection 11 of this section~~ administered pursuant to this chapter; and

14. Performing or attempting to perform any of the duties of his office or job while under the influence of illegal drugs;

~~44-~~ 15. Performing or attempting to perform any of the duties of his office or job while under the influence of alcohol, or any medication (controlled substance or otherwise) to the extent that he is was unfit for the performance of the duties of his office- or job; and

16. Failing to comply with any of the provisions of 18 VAC 45-20-50.

18 VAC 45-20-50. Random chemical testing.

A. All Virginia licensed branch pilots shall be subject to the random chemical testing as set forth in this chapter. Random chemical testing shall be conducted at an annual selection rate of not less than 30% and not more than 100% of total licensees. Licensees are responsible for all costs associated with random chemical testing. The chemical test shall be a comprehensive drug screen acceptable to the board that includes testing for controlled substances in Schedules I – V of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Only licensees on duty may be selected for random testing. A licensee selected for random chemical testing shall report for testing within two hours of notification. Failure to take a random chemical test is considered refusal to take the test.

B. Duties of licensee.

1. All licensees of this board shall enroll and participate in a random chemical testing program that meets the criteria of this chapter.

2. An on-duty licensee selected for random chemical testing shall report for testing within two hours of notification that he has been selected.

3. Licensees who receive a prescription for any medication from any health care provider shall have the following duties:

a. Give the health care provider a copy of the licensee's job description as a Virginia pilot;

b. Give the health care provider a complete list of medications used within the 30 days preceding the current visit;

c. Obtain a written statement from the health care provider stating if the new prescription is for a controlled substance (Schedules II – V of the Drug Control Act) and obtain a written statement from the health care provider as to the licensee's fitness to safely perform the duties found in the job description; and

d. If prescribed any medication containing a Schedule II – V controlled substance that is to be used within 12 hours of being on duty, make certain the MRO received by hand delivery or telefax each prescription written by any health care provider at the time such prescription is written along with a complete list of medications used by the licensee within the preceding 30 days.

C. The medical review officer shall:

1. Be completely familiar with all duties of a Virginia pilot.

2. Receive, evaluate and maintain records of all medications given him by or on behalf of each Virginia pilot.

3. Receive, evaluate and maintain a record of each random chemical test taken by a Virginia pilot.

4. Any time the MRO finds the presence of a drug or alcohol that may impair the safe discharge of any duty of a Virginia pilot such that he is unfit to perform those duties, report his written findings to the licensee and president or vice-president of the board and to the board's administrator.

5. To the extent consistent with state and federal law, protect the confidentiality of all licensee records.

6. Judge fitness to safely perform duties in the context of the licensee's prescription medications and the licensee's available medical history. Any time the MRO finds evidence that the Virginia pilot may be impaired in the safe discharge of any of his duties such that he may be unfit to perform those duties, his written finding shall be reported to the licensee and president or vice-president of the board and to the board's administrator.

<p>NOTICE: The forms used in administering 18 VAC 45-20-5 et seq., Board for Branch Pilots Rules and Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>

FORMS

Branch Pilot License Renewal Application Form (eff. 8/98 rev. 5/00).

Limited Branch Pilot License Renewal Application Form (eff. 8/98 rev. 5/00).

BOARD FOR BRANCH PILOTS

BRANCH PILOT LICENSE RENEWAL APPLICATION FORM

This form must be completed by each Branch Pilot and provided to the Board before renewal of license may be considered. Bring the completed renewal application and other required documentation to your appointment with the Renewal Committee.

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____

I hereby apply to the Board for Branch Pilots for renewal of my Branch Pilot License.

In support of this application I have attached the following:

- _____ A copy of my current **Unlimited Federal Inland Masters License with First Class Pilot endorsement** issued by the United States Coast Guard for the same waters as my branch.
- _____ A statement signed by a physician that I have satisfactorily completed a physical examination within the immediately preceding 60 days including the test for all controlled substances or alcohol as required by regulation 18 VAC 45-20-20.C.2.

I hereby certify that I **HAVE/HAVE NOT** transited the waters embraced by my Branch Pilot License during the preceding 12 month period.

_____ DATE SIGNATURE OF APPLICANT

I hereby certify that all of the information provided by me as a part of this application is true and complete to the best of my knowledge and belief.

_____ DATE SIGNATURE OF APPLICANT

AFFIDAVIT

STATE OF _____ City/County of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the State and City or County aforesaid this _____ day of _____, 20_____.

My commission expires _____

Affix Official Seal Here _____ NOTARY PUBLIC

I, the Chairman of the Board for Branch Pilots License Renewal Committee, state that the above named individual has personally appeared before my Committee which, being duly convened with a quorum present, and, after careful examination of the evidence of qualification for licensure presented, recommends to the Board for Branch Pilots that the above named individual be **APPROVED/DISAPPROVED** for renewal of his license for the upcoming 12 month period.

_____ DATE SIGNATURE OF CHAIRMAN

unlimited renewal app.doc
5/25/00

Proposed Regulations

BOARD FOR BRANCH PILOTS

LIMITED BRANCH PILOT LICENSE RENEWAL APPLICATION FORM

This form must be completed by each Branch Pilot and provided to the Board before renewal of license may be considered. Bring the completed renewal application and other required documentation to your appointment with the Renewal Committee.

Name: _____
(Last) (First) (Middle Initial)

Home Address: _____

I hereby apply to the Board for Branch Pilots for renewal of my Branch Pilot License.

In support of this application I have attached the following:

- _____ A copy of my current **Unlimited Federal Inland Masters License with First Class Pilot endorsement** issued by the United States Coast Guard for the same waters as my branch. **NOTE: This is only required after 3 years of licensure as a Limited Branch Pilot.**
- _____ A statement signed by a physician that I have satisfactorily completed a physical examination within the immediately preceding 60 days including the test for all controlled substances or alcohol as required by regulation 18 VAC 45-20-20.B.1.

I hereby certify that I **HAVE/HAVE NOT** transited the waters embraced by my Branch Pilot License during the preceding 12 month period.

DATE SIGNATURE OF APPLICANT

I hereby certify that all of the information provided by me as a part of this application is true and complete to the best of my knowledge and belief.

DATE SIGNATURE OF APPLICANT

AFFIDAVIT

STATE OF _____ City/County of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the State and City or County aforesaid this _____ day of _____, 20_____.

My commission expires _____

Affix Official Seal Here _____
NOTARY PUBLIC

I, the Chairman of the Board for Branch Pilots License Renewal Committee, state that the above named individual has personally appeared before my Committee which, being duly convened with a quorum present, and, after careful examination of the evidence of qualification for licensure presented, recommends to the Board for Branch Pilots that the above named individual be **APPROVED/DISAPPROVED** for renewal of his license for the upcoming 12 month period.

DATE SIGNATURE OF CHAIRMAN

limited renewal app.doc
5/25/00

VA.R. Doc. No. R99-175; Filed May 30, 2000, 11:45 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-680-10 et seq. Virginia Energy Assistance Program (amending 22 VAC 40-680-10 and 22 VAC 40-680-20).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: June 23, 2000 - 9 a.m.

Public comments may be submitted until August 18, 2000.

(See Calendar of Events section for additional information)

Basis: Pursuant to § 63.1-25 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for the operation of all assistance programs. The Virginia Energy Assistance Program, funded by the Low Income Home Energy Assistance (LIHEA) Act, is a federal block grant with state flexibility.

Purpose: The goal of LIHEA is to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs. Federal law does not impose a resource limit.

The Energy Assistance Program is a short-term seasonal program with limited administrative funds. The current regulation denies benefits to applicants with resources exceeding levels set by the current Virginia program. The proposed regulation will eliminate the resource limit and thus reduce the need for time consuming verification of resources and ease applicant access to benefits.

Substance: The proposed change addresses the elimination of the requirement for verification of resources for energy assistance applicants and removes the resource reference from definitions.

Issues: The primary advantage for the public of implementing the new regulatory provision is the ease of access to benefits thus eliminating delays in the application approval process. There are no known disadvantages to the public.

The new regulatory provision reduces the amount of time staff at the local departments of social services will spend processing a single application.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulatory action removes the resource limit requirement when determining eligibility for benefits available through the Department of Social Services' Energy Assistance Program.

Estimated economic impact. The Virginia Energy Assistance Program is a short-term seasonal program that provides assistance to low-income families in meeting their immediate home energy needs. The current rules governing the Energy Assistance Program set maximum income and resource limits. Maximum family income must be at or below 130% of the Poverty Income Guidelines established and published annually by the Department of Health and Human Services. Resources include such things as cash, checking accounts, savings accounts, stocks, bonds, money market certificates, certificates of deposit, mutual fund shares, individual retirement accounts, and other similar resources that can be liquidated in less than 60 days. The resource limit for a household containing an elderly or disabled person is \$3,000. The resource limit for all other households is \$2,000. Benefits are currently denied to applicants with incomes or resources exceeding these levels.

The proposed regulatory action eliminates the resource limit. The Virginia Energy Assistance Program is funded by the Low Income Home Energy Assistance (LIHEA) Act, a federal block grant with state flexibility. Federal law does not require a resource limit and verification of the requirement, which was time consuming and affected only a very small portion of applicants. Removing the resource limit will increase the number of individuals who qualify for energy assistance benefits. According to the Department of Social Services, 99,927 applications were received in FY 1999 for energy assistance.¹ Of those applications, 390 (0.4%) were denied due to resources exceeding the maximum limit. Under the proposed regulation, these applications would now be approved.

In addition, removing the resource limit requirement has the potential to increase the number of applicants by opening the program to residents who are income-poor but resource-rich. Currently, there is no data available to estimate how many, if any, of these individuals may apply for energy assistance benefits.

Simplifying the review process is expected to reduce the processing time for each application by eliminating the need for verification of resources. Accordingly, DSS does not expect any impact on staff time as the shortened processing time created by the proposed change will balance any increase in applications.

The Energy Assistance Program is fully funded under a federal block grant; therefore, increasing the number of families served will not require any additional state funds. Nevertheless, since the program operates within a fixed budget, increasing the number of recipients will reduce the amount of assistance available to each family served by the

¹ This figure represents applications for both fuel assistance (94,391) and crisis assistance for energy-related emergencies (5,536).

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program. The Energy Assistance Program operates in the following manner:

- Applications are accepted by local DSS offices until a predetermined cutoff date;
- Local DSS offices gather information and verifications necessary to determine eligibility, and inputs the information into the state's computer system;
- The computer system assigns points to each application and divides the total dollar amount available by the total number of points awarded. A \$/point value is then calculated;
- Benefits are paid out in December to each family based on the number of points they were assigned.

In FY 1999, 88,323 households received fuel or crisis assistance in Virginia. The average benefit per household was \$231.56 for fuel assistance and \$326.02 for crisis assistance. The proposed change is projected to increase the number of recipient households by approximately 390 (0.4%). Therefore, due to the design of the Energy Assistance Program, which bases the amount of benefits awarded on each family's need, and the small estimated number of additional recipients (0.4%), a significant negative impact on other families served by the program is not anticipated.

Businesses and entities affected. In FY 1999, 88,323 households received fuel or crisis assistance in Virginia. The proposed change is projected to increase the number of recipient households by approximately 390 (0.4%).

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. The proposed regulatory action removes the resource limit requirement when determining eligibility for benefits available through the Department of Social Services' Energy Assistance Program. Removing the resource limit requirement is likely to increase the number of applicants; however, it is also expected to reduce the processing time for each application by eliminating the need for verification of resources. The proposed change is also projected to increase the number of recipient households by approximately 390 (0.4%). Due to the design of the Energy Assistance Program, which bases the amount of benefits awarded on each family's need, and the small estimated number of additional recipients (0.4%), a significant negative impact on other families served by the program is not anticipated.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Virginia Department of Social Services concurs with the Economic Impact Analysis dated December 2, 1999, prepared by the Virginia Department of Planning and Budget.

Summary:

The proposed amendments eliminate the requirement for verification of resources for energy assistance applicants and remove the resource reference from definitions.

22 VAC 40-680-10. Definitions.

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

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Energy burden" means the average fuel cost for the primary fuel type used by a household divided by the income of the household.

"Energy-related emergency" means a household has no heat or an imminent utility cutoff or no single source of operable or safe heating equipment.

"Fiscal year" means October 1 through September 30.

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by purchasing residential energy in common (share heat), or making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary fuel" means the fuel used to operate the primary heating system currently used to heat the majority of the house.

"Primary heating system" means the system that is currently used to heat the majority of the house.

~~*"Resources"* means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.~~

"Vulnerability factor" means an individual is a child under the age of six or meets the definition of an elderly or disabled person.

22 VAC 40-680-20. Eligibility criteria; transfer of resources.

A. The purpose of the fuel assistance component is to provide heating assistance to eligible households to offset the costs of home heating energy that are excessive in relation to household income.

B. Eligibility criteria is set out in this subsection.

1. Income limits. Maximum income limits shall be at or below 130% of the poverty guidelines. In order to be eligible for fuel assistance, a household's income must be at or below the maximum income limits.

~~2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. In addition, any individual or family applying for or receiving assistance under the fuel assistance programs may have or establish one interest-bearing savings account per assistance unit not to exceed \$5,000 at a financial institution for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university or for making a down payment on a primary residence. Any funds deposited in the account and any interest earned thereon, and any amounts withdrawn from the account for the purposes stated in this section shall be exempt from consideration in any calculation. In order to be eligible for fuel assistance, a household's countable resources must be at or below the amount specified.~~

~~3.~~ 2. Alien status. Any alien who has obtained the status of an alien lawfully admitted for temporary residence is ineligible for a period of five years from the date such status was obtained. This shall not apply to a Cuban or Haitian entrant or to an alien who is an aged, blind or disabled individual.

4. 3. Ineligible households. The households that are ineligible to receive fuel assistance are:

- a. Subsidized households whose total heating costs are included in their rent.
- b. Persons living in institutions.
- c. Persons living in temporary shelters or group homes who have no heating expense or who pay a nominal fee to live there.
- d. Persons who reside in only one room within a larger dwelling.
- e. Subsidized households who are responsible for payment of individual excess fuel usage charges even though heating expenses are included in their rent.

~~G. Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for fuel assistance.~~

~~Compensation that is adequate means goods, services or money that approximates the value of the resources.~~

~~This policy does not apply if any of the following occur:~~

- ~~1. The transfer was not done in an effort to become eligible for fuel assistance;~~
- ~~2. The resource was less than the allowable resource limit; or~~

~~3. The disposition or transfer was done without the person's full understanding.~~

VA.R. Doc. No. R99-180; Filed May 23, 2000, 11:14 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 2. AGRICULTURE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 17 of the Code of Virginia, which excludes the Commissioner of Agriculture and Consumer Services in promulgating regulations pursuant to § 3.1-398, which conform, insofar as practicable, with those promulgated under the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.).

Title of Regulation: **2 VAC 5-600-10. Regulations Pertaining to Food for Human Consumption.**

Statutory Authority: § 3.1-398 of the Code of Virginia.

Effective Date: May 31, 2000.

Summary:

The regulation ensures that the same standards are applied to foods by food establishments under the jurisdiction of the Department of Agriculture and Consumer Services that are applied by the U.S. Food and Drug Administration to food establishments. This regulatory action brings the regulations up to date and ensures their consistency with current federal regulations.

Agency Contact: Copies of the regulation may be obtained from James A. Morano, Jr., Department of Agriculture and Consumer Services, 1100 Bank Street, 5th Floor, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3520.

2 VAC 5-600-10. Adoption by reference.

A. *Regulations from Title 21, Chapter 1, Subchapter A, Code of Federal Regulations.*

The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter A of the Code of Federal Regulations (Rev. April 1, 1999) as regulations applicable in the enforcement of the Virginia Food Act by reference:

Part 73, Listing of color additives exempt from certification, Subpart A – Foods.

Part 74, Listing of color additives subject to certification, Subpart A – Foods.

Part 81, General specifications and general restrictions for provisional color additives for use in foods, drugs and cosmetics.

Part 82, Listing of certified provisionally listed colors and specifications, Subpart B - Foods, Drugs and Cosmetics.

~~A- B. Regulations from Title 21, Chapter 1, Subchapter B, Code of Federal Regulations.~~

The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter B of the Code of Federal Regulations (Rev. April 1, ~~1994~~ 1999) as regulations applicable in the enforcement of the Virginia Food Act by reference:

Part 100, General.

Part 101, Food labeling.

Part 102, Common or usual name for nonstandardized foods.

~~Part 103, Quality standards for foods with no identity standards.~~

Part 104, Nutritional quality guidelines for foods.

Part 105, Foods for special dietary use.

Part 109, Unavoidable contaminants in food for human consumption and food-packaging material.

Part 110, Current good manufacturing practice in manufacturing, packing, or holding human food.

Part 111, Current good manufacturing practice for dietary supplements.

Part 113, Thermally processed low-acid foods packaged in hermetically sealed containers.

Part 114, Acidified foods.

Part 129, Processing and bottling of bottled drinking water.

Part 133, Cheeses and related cheese products.

Part 136, Bakery products.

Part 137, Cereal flours and related products.

Part 139, Macaroni and noodle products.

Part 145, Canned fruits.

Part 146, Canned fruit juices.

Part 150, Fruit butters, jellies, preserves, and related products.

Part 152, Fruit pies.

Part 155, Canned vegetables.

Part 156, Vegetable juices.

Part 158, Frozen vegetables.

Part 160, Eggs and egg products.

Part 161, Fish and shellfish.

Part 163, Cacao products.

Part 164, Tree nut and peanut products.

Part 165, Beverages.

Part 166, Margarine.

Part 168, Sweeteners and table sirups.

Part 169, Food dressings and flavorings.

§ 170.19, Pesticide chemicals in processed foods.

Part 172, Food additives permitted for direct addition to food for human consumption.

Part 173, Secondary direct food additives permitted in food for human consumption.

Part 174, Indirect food additives: General.

Part 175, Indirect food additives: Adhesives and components of coatings.

Part 176, Indirect food additives: Paper and paperboard components.

Part 177, Indirect food additives: Polymers.

Part 178, Indirect food additives: Adjuvants, production aids, and sanitizers.

Part 179, Irradiation in the production, processing and handling of food.

Part 180, Food additives permitted in food or in contact with food on an interim basis pending additional study, Subpart B - Specific requirements for certain food additives.

Part 181, Prior-sanctioned food ingredients.

Part 182, Substances generally recognized as safe.

Part 184, Direct food substances affirmed as generally recognized as safe.

Part 186, Indirect food substances affirmed as generally recognized as safe.

Part 189, Substances prohibited from use in human food.

C. Regulations from Title 21, Chapter 1, Subchapter L, Code of Federal Regulations.

The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 21, Subchapter L of the Code of Federal Regulations (Rev. April 1, 1999) as regulations applicable in the enforcement of the Virginia Food Act by reference:

§ 1240.61, Mandatory pasteurization for all milk and milk products in final package form intended for direct human consumption.

B. D. Regulations from Title 40, Chapter 1, Subchapter E, Code of Federal Regulations.

The Board of Agriculture and Consumer Services hereby adopts the following provisions of Chapter 1 of Title 40, Subchapter E of the Code of Federal Regulations (Rev. July 1, ~~1999~~ 1999) as regulations applicable to the enforcement of the Virginia Food Act by reference:

Part 180, Tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities.

Part 185, Tolerances for pesticides in food.

<p>NOTICE: The forms used in administering 2 VAC 5-600-10, Regulations Pertaining to Food for Human Consumption, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>
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FORMS

Inspection Report, Form VDACS-06017.

Sample Collection Report.

Form FDA 481(A) - CG (rev. 10/96).

Form FDA 481(C) - CG (rev. 9/84).

Form FDA 481 (E) - CG (rev. 11/95).

Final Regulations

TEL. NO. _____
 CFN: _____

COMMONWEALTH OF VIRGINIA
 Department of Agriculture and Consumer Services
OFFICE OF FOOD SAFETY
 P.O. Box 1143
 RICHMOND, VIRGINIA 23218
INSPECTION REPORT

TO: _____ (Firm Name)
 _____ (Address)
 _____ (Date)

CL _____ REG. PU _____
 INST. IN _____ BY _____

During an inspection of _____ on _____
 the following objectionable conditions were observed:

- Rats Insects Dairy Eq. Dry Pr. Mismatch Pest Aids Fat Des. Inf. Form. App. Lvs. Egg Lvs.
- Salt Trip. Hck. Temp. Cold Emp. Pnc. Emp. Food Sol. Serv. Sup. Blde. Equip. Pump Adh. Fel.
- Name Change Add. Change New Firm Food Sys. HD. Inspec. Frz. Des.

- Inspection Type: State Contract Agreement
- Basis of Inspection: Routine Compliance Complaint

Product	FDA #	Action Taken	Lab. #	P. #	Lab. Code	Problem or Product

CFN: _____ FIRM NAME: _____

Inspection Report left with _____ Name _____ Title _____ by _____ Inspector # _____

_____ Adulterated food items listed in _____ were destroyed with my consent.

_____ Witnessed the collecting, marking, or sealing of _____

Portion of Sample was left with Vendor did not desire portion of Pictures Price Paid: \$ _____

Received by: _____

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 F of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4 VAC 20-620-10 et seq. Pertaining to Summer Flounder (amending 4 VAC 20-620-20, 4 VAC 20-620-30, 4 VAC 20-620-40, 4 VAC 20-620-50, and 4 VAC 20-620-70).**

Statutory Authority: §§ 28.2-201 and 28.2-204 of the Code of Virginia.

Effective Date: May 25, 2000.

Summary:

The amendments establish an additional quota of 90,912 pounds for the period of April 26 through June 30, 2000, for the commercial harvest and landing of summer flounder in Virginia. Provisions are added requiring that seafood buyers contact the Virginia Marine Resources Commission prior to offloading summer flounder from commercial fishing vessels and specifying that summer flounder harvested after the quota has been attained shall be confiscated.

Additionally, a minimum size of 15 inches and a closed fishing season of January 1 through May 14, 2000, is established for summer flounder taken in the tributaries of the Potomac River.

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-620-20. Definition.

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

"Land" or "landing" means to enter port with finfish, shellfish, crustaceans or other marine seafood on board any boat or vessel, to begin offloading finfish, shellfish, crustaceans or other marine seafood, or to offload finfish, shellfish, crustaceans, or other marine seafood.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond, thence upstream to the District of Columbia boundary.

4 VAC 20-620-30. Commercial harvest quotas.

A. During each calendar year, commercial landings of Summer Flounder shall be limited to the total pounds calculated pursuant to the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries

Commission Summer Flounder Fishery Management Plan, as approved by the National Marine Fisheries Service on August 6, 1992 (50 CFR Part 625); and shall be distributed as described in subsections B through H of this section:

B. The commercial harvest of Summer Flounder from Virginia tidal waters for each calendar year shall be limited to 300,000 pounds.

C. During the period of January 4 through March 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 64.3% of the total specified in subsection A of this section after deducting the amount specified in subsection B of this section.

D. During the period of April 1 through June 30 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 6.4% of the total specified in subsection A of this section after deducting the amount specified in subsection B, *except as modified by 4 VAC 20-620-40.*

E. During the period of November 1 through December 31 of each calendar year, landings of Summer Flounder harvested outside of Virginia shall be limited to an amount of pounds equal to 29.3% of the total specified in subsection A of this section after deducting the amount specified in subsection B of this section and as may be further modified by subsection F.

F. During the periods set forth in subsections C and D of this section, should landings exceed or fall short of the quota specified for that period any such excess shall be deducted from, and any such shortage shall be added to, the quota for the period set forth in subsection E of this section. During the period specified in subsection B of this section, should landings be projected to fall short of the quota specified for that period, any such shortage shall be added to the quota for the period set forth in subsection E of this section. A projection of harvest under this subsection will be made on or about November 1.

G. For each of the time periods and quotas set forth in subsections C, D, and E of this section, the Marine Resources Commission will give timely notice to the industry of the calculated poundages and any adjustments thereto. It shall be unlawful for any person to harvest or to land Summer Flounder for commercial purposes after the commercial harvest or landing quota as described in this section has been attained and announced as such. *If a person lands Summer Flounder after the harvest or landing quota has been attained and announced as such, the entire amount of Summer Flounder in that person's possession shall be confiscated.*

H. It shall be unlawful for any buyer of seafood to receive any Summer Flounder after any commercial harvest or landing quota as described in this section has been attained and announced as such.

4 VAC 20-620-40. Commercial vessel possession limitations.

A. During the period of January 4 through March 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess

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aboard any vessel in Virginia any amount of Summer Flounder in excess of 5,000 pounds except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

B. During the period of April 1 through June 30 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 2,500 pounds, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

C. *During the period of April 26, 2000, through June 30, 2000, a bycatch-only quota of 90,912 pounds shall be established from a transfer of quota allocated to the November 1, 2000, through December 31, 2000, period. During the April 26, 2000, through June 30, 2000, period, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other species on board the vessel.*

C-. D. During the period of July 1 through October 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

D-. E. During the period November 1 through December 31 of each calendar year, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 5,000 pounds, except that when it is projected and announced that 85% of the quota for this period has been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to possess aboard any vessel in Virginia any amount of Summer Flounder in excess of 10% by weight of all other landed species on board the vessel.

E-. F. For each of the time periods set forth in subsections A, B, C and D E of this section, the Marine Resources Commission will give timely notice of any changes in possession limits.

F-. G. Each possession limit described in subsections A, B, C and D E of this section shall be determined by the net weight of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The net weight of any Summer Flounder found in excess of this possession limit described in subsections A, B, C and D E of this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder, aboard any vessel, in excess of the possession limit shall be in

violation of this chapter. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter.

G-. H. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine patrol officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilt.

H-. I. *It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the commission the name of the vessel and its captain and the anticipated or approximate offloading time. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 10 p.m. to 7 a.m.*

I-. J. Any boat or vessel possessing more than the lawful limit of Summer Flounder which has entered Virginia waters for safe harbor shall not offload any Summer Flounder.

J-. K. After any commercial harvest or landing quota as described in 4 VAC 20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

4 VAC 20-620-50. Minimum size limits.

A. The minimum size for Summer Flounder harvested by commercial fishing gear shall be 14 inches, total length.

B. The minimum size of Summer Flounder harvested by recreational fishing gear, including but not limited to hook and line, rod and reel, spear and gig, shall be 15-1/2 inches, total length, *except that the minimum size of Summer Flounder harvested in the Potomac River tributaries shall be 15 inches total length.*

C. Length shall be measured in a straight line from tip of nose to tip of tail.

D. It shall be unlawful for any person to possess any Summer Flounder smaller than the designated minimum size limit.

E. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia which were legally harvested in the Potomac River.

4 VAC 20-620-70. Recreational fishing season.

A. The recreational fishing season shall be closed from January 1 through March 28, 2000, and from July 24 through August 1, 2000, except as described in subsection B of this section. It shall be unlawful for any person fishing recreationally to take, catch, or possess any Summer Flounder during the closed fishing season.

B. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia which were legally harvested in the Potomac River. The recreational fishing season for the Potomac River tributaries shall be closed from January 1 through May 14, 2000.

C. It shall be unlawful for any person fishing recreationally to take, catch, or possess any Summer Flounder during any closed recreational fishing season.

D. Nothing in this chapter shall prohibit the landing of Summer Flounder in Virginia which were legally harvested in the Potomac River.

VA.R. Doc. No. R00-188; Filed May 25, 2000, 2:35 p.m.

Title of Regulation: 4 VAC 20-1040-10 et seq. Pertaining to Crabbing Licenses (amending 4 VAC 20-1040-10, 4 VAC 20-1040-20; repealing 4 VAC 20-1040-30).

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

Effective Date: May 26, 2000.

The amendments establish a moratorium on the sale of additional crabbing licenses until May 26, 2001. Pot tagging requirements are repealed.

Agency Contact: Copies of the regulation may be obtained from Deborah R. Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-1040-10. Purpose.

The purposes purpose of this chapter are is to cap and control effort in the crab fisheries, and to improve enforcement of pot limits.

4 VAC 20-1040-20. License sales moratorium.

A. Except as provided in subsection B of this section, additional commercial licenses for crab pots, peeler pots, crab scrapes, crab traps, ordinary trot lines, patent trot lines, and crab dip nets for the 1999 2000 crabbing season shall not be sold after May 25, 1999 2000. Crabbing licenses sold for the 2000 2001 crabbing season shall be issued only to those registered commercial fishermen who held the identical valid crabbing license in 1999 2000.

B. Commercial licenses for crab pots, peeler pots, crab scrapes, crab traps, ordinary trot lines, patent trot lines, and crab dip nets may be transferred to an immediate family member of the licensee only and, in the case of death or incapacitation of the licensee , may be transferred to a registered commercial fisherman. Crabbing licenses also

may be transferred to another registered commercial fisherman only if the licensee's boat or vessel and gear used for crabbing are also transferred or sold to the registered commercial fisherman. All such transfers shall be documented on forms provided by the commission and shall be subject to the approval of the commissioner.

C. The moratorium on the sale of commercial licenses for crab pots, peeler pots, crab scrapes, crab traps, ordinary trot lines, patent trot lines, and crab dip nets shall end on May 26, 2000 2001.

4 VAC 20-1040-30. Pot tagging requirement. (Repealed.)

A. It shall be unlawful for any person to place, set, fish or attempt to place, set, or fish any crab pot or peeler pot which is not marked with a tamper-evident, serially numbered tag issued by the commission.

B. Any pot found overboard which is not marked in accordance with this section shall be confiscated by the officer.

VA.R. Doc. No. R00-189; Filed May 25, 2000, 2:33 p.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Suspension of Regulatory Process

Title of Regulation: Regulations for the Control and Abatement of Air Pollution: Special Provisions for Existing Sources, New and Modified Sources, and Hazardous Air Pollutant Sources (Rev. D97).

9 VAC 5-10-10 et seq. General Definitions (amending 9 VAC 5-10-20).

9 VAC 5-20-10 et seq. General Provisions (amending 9 VAC 5-20-180).

9 VAC 5-40-10 et seq. Existing Stationary Sources (amending 9 VAC 5-40-10, 9 VAC 5-40-20, 9 VAC 5-40-30, 9 VAC 5-40-40, and 9 VAC 5-40-50).

9 VAC 5-50-10 et seq. New and Modified Stationary Sources (amending 9 VAC 5-50-10, 9 VAC 5-50-20, 9 VAC 5-50-30, 9 VAC 5-50-40, and 9 VAC 5-50-50).

9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources (amending 9 VAC 5-60-10, 9 VAC 5-60-20, and 9 VAC 5-60-30).

Notice is hereby given in accordance with § 9-6.14:7.1 K of the Code of Virginia and the requirements of § 110(a)(1) of the federal Clean Air Act that the State Air Pollution Control Board is seeking comments on amendments to its regulations entitled: Regulations for the Control and Abatement of Air Pollution, specifically the provisions concerning special provisions for existing sources, new and modified sources, and hazardous air pollutants (9 VAC 5 Chapters 10, 20, 40, 50 and 60). Notice is also given that the board is suspending the effective date of this regulatory action (Rev. D97).

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Background and Notice of Reopening: In 16:2 VA.R. 134-161 October 11, 1999, the board published for public comment a proposal to amend its regulations concerning special provisions. In response to that request, comments were submitted that resulted in several changes being made to the original proposal, primarily to meet EPA regulations and policy. On March 30, 2000, the board adopted final amendments to its regulations concerning special provisions, with an effective date of July 1, 2000. The final regulation amendments as adopted were published in the Virginia Register in 16:17 VA.R. 2135-2160 May 8, 2000. Pursuant to § 9-6.14:7.1 K of the Code of Virginia, at least 25 persons requested an opportunity to submit oral and written comments on the changes to the proposed regulation. Because of the substantive nature of these additional changes and the requests from petitioners, the board is now reopening the proposal (Rev. D97) for public comment on those changes to the final regulation and suspending the effective date of the final regulation. The board is receiving comment only on the changes the board made to the proposed regulation to make it final. These changes are shown in brackets in the final version of the regulation published in the Virginia Register on May 8, 2000. All comments made in response to the original notice of public comment issued on October 11, 1999, will not be considered valid for purposes of this notice and will not be considered in making the decision on the final regulations.

Summary of Changes to Original Proposed Regulation: A number of substantive changes have been made to the original proposal; they are enumerated below. The changes are derived from (i) comments made by the general public during the public comment period on the original proposal, (ii) comments made by EPA during the public comment period on the original proposal and during subsequent discussions and negotiations, (iii) clarifications and other improvements noted by DEQ staff during subsequent reviews.

1. Added a definition for "affirmative defense." [9 VAC 5-10-20]
2. Added a provision to clarify that 9 VAC 5-20-180 applies to only facility and control equipment maintenance or malfunction. [9 VAC 5-20-180 A]
3. Added provisions that specify an affirmative defense does not apply to excess emissions due to malfunction or maintenance (i) for sources subject to New Source Performance Standards, NSPS (9 VAC 5-50-410); National Emission Standards for Hazardous Air Pollutants, NESHAP (9 VAC 5-60-70); Maximum Achievable Control Technology Standards, MACT (9 VAC 5-60-100); or acid rain provisions of the federal Clean Air Act; or (ii) that cause an exceedance of an ambient air quality standard or PSD ambient air quality increment. [9 VAC 5-20-180 A]
4. Modified the provision that provides legal relief if a violation has taken place due to excess emissions as a result of facility and control equipment maintenance or malfunction. The provision now entitles the owner of a facility to use an affirmative defense for relief from penalties. [9 VAC 5-20-180 G]
5. Modified the provisions pertaining to facility and control equipment maintenance or malfunction to

incorporate the limitations and the criteria for an affirmative defense. [9 VAC 5-20-180 G]

6. Modified the provisions that authorize the board to reduce the level of operation or shut down a facility if it is necessary to prevent a violation of any primary ambient air quality standard. The provisions have been expanded to include any ambient air increment identified in the Prevention of Significant Deterioration program and is no longer restricted to just primary ambient air quality standards. [9 VAC 5-20-180 I]

7. Added provisions that specify an affirmative defense does not apply to excess emissions due to startup or shut down (i) for sources subject to New Source Performance Standards, NSPS (9 VAC 5-50-410); National Emission Standards for Hazardous Air Pollutants, NESHAP (9 VAC 5-60-70); Maximum Achievable Control Technology Standards, MACT (9 VAC 5-60-100); or acid rain provisions of the federal Clean Air Act; or (ii) that cause an exceedance of an ambient air quality standard or PSD ambient air quality increment. [9 VAC 5-40-10 E; 9 VAC 5-50-10 G; 9 VAC 5-60-10 E]

8. Deleted provisions that provided a permanent exemption for excess visible emissions during periods of startup, shutdown, and malfunction. [9 VAC 5-40-20 A; 9 VAC 5-50-20 A]

9. Added a provision that entitles the owner of a facility to use an affirmative defense for relief from penalties if a violation has taken place due to excess emissions during start up or shutdown. The provision includes the limitations and the criteria for an affirmative defense. [9 VAC 5-40-20 K; 9 VAC 5-50-20 J; 9 VAC 5-60-20 F]

10. Clarified that the violation exemption provided for excess emissions during periods of startup, shutdown, and malfunction applies only during the initial emissions test or initial performance test. [9 VAC 5-40-30 C; 9 VAC 5-50-30 C; 9 VAC 5-60-30 C]

Request for Comments: Along with suspending the effective date of the regulatory action (Rev. D97), the purpose of this notice is to provide the public with the opportunity to comment on substantive changes made to the proposed regulation. All comments must be received by the department by 4:30 p.m. July 21, 2000, to be considered. It is preferred that all comments be provided in writing to the department, along with any supporting documents or exhibits; however, oral comments will be accepted at the meeting. Comments may be submitted by mail, facsimile transmission (FAX number: 804-698-4510) or by personal appearance at the meeting mentioned below; however, all written comments not provided at the meeting must be submitted to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. Facsimile copies will be accepted only if followed by receipt of the original within one week. All testimony, exhibits and documents received are a matter of public record.

Public Meeting: A public meeting will be held by the Department of Environmental Quality to accept public testimony on substantive changes made to the proposed regulation on July 20, 2000, at 10:00 a.m., at the Main Street Centre, 600

East Main Street, Lower Level, Conference Room, Richmond, Virginia

Accessibility to Persons with Disabilities: This meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Alma Jenkins at the Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 698-4070 or (804) 698-4021/TTY. Persons needing interpreter services for the deaf must notify Ms. Jenkins no later than July 7, 2000.

Agency Contact: Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4423.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Location of Proposal: The proposal may be examined at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and at the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
3019 Peters Creek Road
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
4411 Early Road
Harrisonburg, Virginia 22801
Ph: (540) 574-7800

Fredericksburg Satellite Office
Department of Environmental Quality
806 Westwood Office Park
Fredericksburg, Virginia 22401
Ph: (540) 899-4600

Northern Regional Office
Department of Environmental Quality
13901 Crown Court
Woodbridge, Virginia
Ph: (703) 583-3800

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road

Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000

VA.R. Doc. No. R97-708; Filed May 31, 2000, 11:41 a.m.



TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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

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

Effective Date: August 15, 2000.

Summary:

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

The amendments to the proposed regulation (i) clarify that the department will verify, rather than approve, proof of qualifications; (ii) update reference to the 2000 Edition of the BOCA Certification Programs; (iii) add the ASME QE1-1 Standard as an acceptable alternate for elevator inspectors; (iv) change DHCD to BHCD as approving alternate testing, examinations or education and experience for certification; (v) reduce the list of prohibited acts, which may result in BHCD sanctions from 11 to two; and (vi) require the board to respond within 60 days of receipt of a petition.

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.

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Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7150.

13 VAC 5-21-10. Definitions.

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

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

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

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

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

"Code Academy" means the Virginia Building Code Academy established pursuant to under § 36-139 of the Code of Virginia [, and educational institutions established in accordance with § 36-137 of the Code of Virginia, which are accredited by DHCD under 13 VAC 5-80-10 et seq. to conduct classes to prepare individuals pursuing occupations in the building or fire inspection professions or to upgrade individuals in technical phases of building and 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's Training and Certification Office Development.

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

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

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

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

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

13 VAC 5-21-20. Purpose.

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

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

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

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

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

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

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

~~F. Building plans examiner. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with~~

the USBC except for the plumbing, electrical and mechanical systems. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.

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

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

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

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

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

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

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

N. Combination inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion

of the core and one and two family dwelling building, plumbing, electrical, and mechanical modules of the code academy is required for obtaining the certificate.

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

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

Q. Plumbing inspector for one and two family dwellings. The certificate evidences competence concerning the content, ap

plication and intent of subject areas of the USBC relating to on-site inspection of plumbing systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two family dwelling plumbing modules of the code academy is required for obtaining the certificate.

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

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

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

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

B. Fire prevention inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC relating to on-site inspection of buildings, structures and property. Completion of the core module of the code academy and the 1031 school administered by the Virginia Department of Fire Programs is required for obtaining the certificate.

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

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

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

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

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

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

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

1. All categories of BHCD certificates except amusement device inspector [, fire prevention code official and fire prevention inspector]:

The BOCA Certification Program/ [1999 2000], First Edition, published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

[Exception, Elevator inspectors certified in accordance with the ASME QEI-1 Standard by organizations accredited by ASME International, Elevator Inspector Certification Organization Accreditation Program shall be deemed acceptable as an alternate. ASME International, Three Park Avenue, New York, NY 10016-5990, toll free number 1-800-843-2763.]

2. Amusement device inspector:

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

- [3. Fire prevention code official and fire prevention inspector:

Virginia Department of Fire Programs (DFP), James Monroe Building, 101 N. 14th St., 18th Floor,

Richmond, VA 23219-3684, telephone (804) 371-0220.]

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

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

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

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

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

Fire protection inspector	"only core module"	USBC - fire-resistant materials and construction, fire protection system and means of egress
Building maintenance inspector	Property maintenance	USBC relating to existing structure maintenance inspections
Plumbing plans examiner	Plumbing	USBC - plumbing system plans and specifications review
Plumbing inspector	Plumbing	USBC - plumbing system inspections
Electrical plans examiner	Electrical	USBC - electrical system plans and specifications review
Electrical inspector	Electrical	USBC - electrical system inspections
Mechanical plans examiner	Mechanical	USBC - mechanical system plans and specifications review
Mechanical inspector	Mechanical	USBC - mechanical system inspections
Combination inspector	BHCD certification as a building, plumbing, electrical, and mechanical inspector	USBC - structure inspections, except Use Group R-3 or R-4
Building inspector 1- & 2-family dwellings	1- & 2-family dwelling building	USBC - Use Group R-3 or R-4 structure inspections, except plumbing, electrical and mechanical
Plumbing inspector 1- & 2-family dwellings	1- & 2-family dwelling plumbing	USBC - Use Group R-3 or R-4 plumbing inspections
Electrical inspector 1- & 2-family dwellings	1- & 2-family dwelling electrical	USBC - Use Group R-3 or R-4 electrical inspections
Mechanical inspector 1- & 2-family dwellings	1- & 2-family dwelling mechanical	USBC - Use Group R-3 or R-4 mechanical inspections
Combination inspector 1- & 2-family dwellings	BHCD certification as a 1- & 2-family dwelling building, plumbing, electrical, and mechanical inspector	USBC - Use Group R-3 or R-4 structure inspections

Elevator inspector	"only core module"	USBC - elevator inspections
Amusement device inspector	Basic amusement device	VADR

[The DHCD may approve other Code Academy equivalent educational training modules.]

13 VAC 5-21-51. Certification.

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

B. All certificate holders certified by the BHCD since June 1978 are still certified unless revoked and shall be classified as active or inactive. Any certificate holder classified as inactive shall be deemed not to meet the certification requirements of the applicable USBC, VADR, or SFPC. Such inactive certificate holder may attend DHCD-designated training and become an active certificate holder.

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

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

Exception: Such certification is renewable and shall not expire one year from the date of issuance when the DHCD has not provided or offered the required Code Academy training technical module. [However, under 13 VAC 5-21-41 B, the DHCD may approve appropriate alternate training.]

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

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

A. [When the BHCD determines a certificate holder has failed to (i) maintain a minimally acceptable level of competence under § 36-137(6) of the Code of Virginia or (ii) comply with an order issued by the BHCD or TRB,] the BHCD may impose any of the following sanctions on a certificate holder:

1. A warning letter under this chapter may be issued when the BHCD determines a certificate holder committed any act prohibited by this chapter. The documentation that serves as the basis for such letter

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shall be made a part of the certification file on the certificate holder.

2. Attendance at special training under this chapter may be ordered when the BHCD determines a certificate holder is inadequately knowledgeable or trained to practice in the specific area of certification. A probation period may also be imposed by the BHCD upon completion of all such training.

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

- ~~a. Failed to maintain a minimally acceptable level of competence;~~
- ~~b. Engaged in any conduct that demonstrates incompetence or dishonesty;~~
- ~~c. Obtained or renewed a certificate by fraud or misrepresentation;~~
- ~~d. Aided or abetted a noncertified person to practice as a certificate holder;~~
- ~~e. Fraudulently or deceitfully practiced as a certificate holder;~~
- ~~f. Been grossly negligent or engaged in misconduct in the performance of any duties under the BHCD's regulations;~~
- ~~g. Failed to report an offer or bribe in an application of the provisions of the BHCD's regulations;~~
- ~~h. Failed to comply with any order issued by the BHCD, DHCD or TRB;~~
- ~~i. Made a false or misleading written statement to the BHCD, DHCD or TRB;~~
- ~~j. Violated or failed to enforce the provisions of the BHCD's regulations; or~~
- ~~k. Been convicted of a crime or an offense concerning his performance as a certificate holder.]~~

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

1. The advisory review committee shall consist of five certificate holders.
2. The advisory review committee shall [~~annually~~] select one of its members to serve as chairman.
3. A member shall not take part in a review in which that member has any personal, professional or financial interest.
4. The Director of DHCD shall designate a qualified staff person to serve as secretary to the advisory review

committee and shall provide necessary staff support. The secretary shall file a detailed record of all meetings and recommendations with the BHCD.

5. There shall be no compensation of members, except for reimbursement of travel expenses as provided for by law.

6. The advisory review committee shall meet within 10 days upon notice from the chairman.

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

D. The BHCD shall cause an examination, investigation or review of the evidence and [shall] respond [within 60 days of receipt of the petition] to the candidate or certificate holder regarding such petition.

13 VAC 5-21-71. Appeal.

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

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

VA.R. Doc. No. R98-273; Filed May 31, 2000, 10:17 a.m.

* * * * *

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

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

Effective Date: August 15, 2000.

Summary:

The amendments (i) require the fire code official to enforce the provision of the building code regarding maintenance of smoke detectors in certain dwellings; (ii) require the fire code official to enforce the provision of the Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.) regarding installation of fire extinguishers and smoke detectors in state regulated facilities (Use Groups R-2, R-3 and R-4 only); (iii) amend the provision concerning the appointment of local assistant fire

marshals to conform with state law; (iv) address a potential safety problem with an already installed fire sprinkler device that may not function properly during a fire situation; (v) delete all references regarding regulation of transportation of explosive materials and add a reference to Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.); (vi) amend the definition of fireworks to conform with the Code of Virginia; and (vii) allow the storage of motor fuels in aboveground tanks at public service stations when the installation meets the National Fire Protection Association standard.

Changes to the proposed regulation also (i) clarify which requirements are deleted and replaced by the provisions of Chapter 1 of the SFPC; (ii) add required qualifications for fire code officials; (iii) add explosives and blasting agents to the list of items not requiring a permit fee; (iv) clarify the definition of State Regulation Care Facility; (v) add the requirement for fire code official approval for combustible or flammable materials storage and for portable fire extinguishers to be periodically inspected, tested and maintained; (vi) delete the requirement for unannounced fire exit drills by State Regulated Care Facilities; and (vii) add a requirement that a fire code official may require a vehicle containing explosives be moved.

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.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7150.

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

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

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

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

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

A. Change subsection F-101.1 to read:

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

provisions of the BNFPC, the changed provisions shall govern.

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

B. Change subsection F-101.2 to read:

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

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

C. Change subsection F-101.3 to read:

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

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

D. Add subsection F-101.3.1 to read:

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

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

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

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

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

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

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

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

~~F-102.3.1. State structures: This code shall be applicable to all state-owned buildings and structures. Every agency, commission or institution of this Commonwealth shall permit, at all reasonable hours, the code official reasonable access to existing structures or a structure under construction or renovation, for the purposes of performing an informational and advisory fire safety inspection. The code official may submit, subsequent to performing such inspection, any findings and recommendations including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the code official of the corrective measures taken to eliminate the hazards reported by the code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in Section F-105.0.~~

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

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

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

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

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

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

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

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

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

~~F-105.2.2. Training: A code official that has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.~~

~~E. Add subsection F-105.2.3 to read:~~

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

~~F. Add subsection F-105.3.1 to read:~~

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

~~G. Delete subsection F-105.5.~~

~~H. Add subsection F-105.9 to read:~~

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

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

A. Change subsection F-106.4 to read:

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

B. Change subsection F-106.6 to read:

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

C. Change subsection F-106.7 to read:

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

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

A. Change subsection F-107.2 to read:

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

B. Add subsection F-107.2.4 to read:

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

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

C. Change subsection F-107.7 to read:

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

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

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

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

A. Change subsection F-108.1 to read:

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

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

B. Change subsection F-108.3 to read:

~~F-108.3. Right to entry: The code official is authorized to enter any structure or premises at any reasonable time to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.~~

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

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

~~Delete section F-109.0.~~

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

~~Delete subsection F-110.3.1. Special equipment.~~

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

~~Change subsection F-111.2 to read:~~

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

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

~~A. Change subsection F-112.1 to read:~~

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

~~B. Change subsection F-112.2 to read:~~

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

~~C. Change subsection F-112.3 to read:~~

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

~~D. Add subsection F-112.5 as follows:~~

~~F-112.5. Issuing summons for violation. When certified in accordance with § 27-34.2 of the Code of Virginia, the code official may issue a summons in lieu of a notice of violation.~~

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

~~A. Change subsection F-113.1 to read:~~

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

~~B. Change subsection F-113.2 to read:~~

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

~~C. Change subsection F-113.2.1 to read:~~

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

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

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

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

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

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

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

~~D. Change subsection F-113.2.2 to read:~~

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

~~E. Delete subsection F-113.2.6.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

previously adopted by a local government or other political subdivision.

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

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

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

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

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

G. F-102.7. Existing structures: Upon the completion of structures, responsibility for fire safety protection shall pass to the local fire code official or to the State Fire Marshal, who shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal shall also have authority to enforce this code in those jurisdictions in which the local governments do not enforce this code.

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

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

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

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

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

C. F-103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits,

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~~[certification of fitness,] unsafe notices, [unsafe conditions, maintenance,] disputes, condemnation, inspections, [existing structures, certification of compliance, approval of construction documents scope of enforcement] and all other procedural, [and] administrative [and enforcement] matters are deleted and replaced by the provisions of Chapter 1 of the SFPC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration [, procedural matters] and enforcement of the SFPC.~~

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

Note: The BNFC 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 BNFC 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 BNFC and its referenced standards are fully applicable.

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

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

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

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

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

D. F-104.3. State structures: Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire

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

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

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

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

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

[D. F-105.1.3. Qualifications: The fire code official shall have at least five years of fire-related experience as a licensed professional engineer or architect, fire inspector, contractor or superintendent of fire protection-related construction, 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 code 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.

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

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

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

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

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

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

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

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

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

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

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

C. F-106.3. *Inspections: The fire code official may make all of the required inspections or may accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by an agency officer or the individual. The code official may engage, subject to any limitations imposed by the local*

governing body, such expert opinion as deemed necessary to report upon unusual technical issues that arise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[C. Add Table F-108.2 as follows:

Table F-108.2

PERMIT REQUIREMENTS

(to be filled in by local jurisdiction)

Section	Description	Permit required	Permit fee	Inspection fee
F-402.3	Candles - assembly/ educational occupancies			
F-403.4	Open burning			
F-404.2	Remove paint with torch			

F-601.4	Assembly/ educational occupancies			
F-801.2	Airports, heliports & helistops			
F-901.2	Flammable liquids, bowling lanes			
F-1001.2	Crop ripening & color processes			
F-1101.2	Dry cleaning			
F-1201.2	Dust explosion hazard			
F-1301.2	Flammable finishes			
F-1401.2	Fumigation - insecticidal			
F-1501.2	HPM facilities			
F-1601.2	Lumber yard - woodworking plants			
F-1701.2	Matches - bulk storage			
F-1801.2	Oil/gas wells			
F-1901.2	Organic coatings			
F-2001.2	Tents/air-supported structures			
F-2102.1	Wrecking yard, junk yard, waste material-handling			
F-2103.1	Waste handling			
F-2201.2	Welding or cutting			
F-2205.2	Storage of welding cylinders			
F-2207.1	Calcium carbide			
F-2208.1	Acetylene generators			
F-2208.7	Acetylene cylinder storage			
F-2301.2	Hazardous materials			
F-2401.2	Aerosol products			
F-2501.2	Cellulose nitrate plastics			
F-2601.2	Combustible fibers			
F-2701.2	Compressed gases			
F-2801.2	Corrosives			
F-2901.2	Cryogenic liquids			
F-3001.2	Blasting/explosives			
F-3101.2	Fireworks			
F-3201.2	Vehicle repair shop			

F-3201.2	Flammable and combustible liquids - storage, handling, use, processing			
F-3201.2	Flammable and combustible liquids - tanks and equipment			
F-3301.2	Flammable solids			
F-3401.2	Highly toxic and toxic solids and liquids			
F-3501.2	Irritants, sensitizers and other health hazards			
F-3601.2	Liquefied petroleum gases			
F-3701.2	Organic peroxides			
F-3801.2	Liquid and solid oxidizers			
F-3901.2	Pesticides			
F-4001.2	Pyrophoric materials			
F-4101.2	Radioactive materials			
F-4201.2	Unstable (reactive) materials			
F-4301.2	Water-reactive materials			

[~~G.~~ D.] F-108.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. F-109.2. Coordinated inspections: The fire code official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate those inspections required by

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the USBC for new construction when involving provisions of the amended BNFFPC, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

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

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

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

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

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

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

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

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

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

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

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

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

A. F-111.1. Notice: When the fire code official discovers an alleged violation of a provision of the SFPC or other codes or ordinances under the fire code official's jurisdiction, the code official shall prepare a written notice citing the section allegedly violated, describing the condition deemed unsafe and specifying time limitations for the required abatements to be made to render the structure or premises safe and secure.

B. F-111.2. Service: The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not

found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access. Such procedure shall be deemed the equivalent of personal notice.

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

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

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

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

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

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

C. F-112.2. Membership: The BFPCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

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

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

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

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

H. F-112.5. Application for appeal: The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance [~~(Part B)~~] of the structure may appeal a decision of the code official concerning the application of the [~~USBC SFPC~~] or the code [~~official official's~~] refusal to grant modification [~~under subsection F-106.5~~] to the provisions of the [~~USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that structure SFPC~~]. The applicant shall submit a written request for appeal to the BFPCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the code official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

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

J. F-112.7. Hearing procedures: All hearings before the BFPCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

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

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reschedule the appeal within 30 calendar days of the postponement.

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

M. F-112.8.1. Resolution: The BFPCA's decision shall be by resolution signed by the chairman and retained as part of the record by the BFPCA. The following wording shall be part of the resolution: "Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 21 calendar days. Application forms are available from the Office of the TRB, 501 North Second Street, Richmond, Virginia 23219, [~~(804) 371-7170~~ (804) 371-7150]." Copies of the resolution shall be furnished to all parties.

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

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

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

13 VAC 5-51-130. BNFP Chapter F-202.0. General Definitions.

A. Add the following definitions:

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government [, 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] .

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

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

TRB: The Virginia State Building Code Technical Review Board.

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

B. Change the following definition to read:

Code official [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" [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. BNFP Chapter 3. Precautions Against Fire.]

Add section F-316.0 to read:

Section F-316.0 Material Storage.

F-316.1 Approval required: Approval shall be required for storage located in any structure or on any premises of more than 2,500 cubic feet (70 m³) gross volume of combustible empty packing cases, boxes, barrels or similar containers or rubber tires, baled cotton, rubber, cork or other similarly combustible materials.

F-316.2 Inside storage: Storage located in structures shall be orderly and not located within two feet (610 mm) of the ceiling and shall not obstruct the means of egress from the structure.

F-316.3 Outside storage: The outside storage of combustible or flammable materials shall not exceed 20 feet (6096 mm) in height and shall be compact and orderly. Such storage shall be located so as not to constitute a hazard and shall not be less than 15 feet (4572 mm) from any lot line and any other building on the site.]

13 VAC 5-51-133. BNFP [~~Section F-506.0 Water-Based Chapter 5~~] Fire Protection Systems.

[A.] Add exception to subsection F-506.1 to read:

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

[B. Add subsection F-519.6 to read:

F-519.6 Inspection, testing and maintenance: All portable fire extinguishers shall be periodically inspected, tested and

maintained in accordance with NFPA 10 listed in Chapter 44.]

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

Add subsection F-701.1.1 to read:

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

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

Add subsection F-704.3.1 to read:

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

13 VAC 5-51-150. BNFP [Chapter 30. Explosives, Ammunition and Blasting Agents,] Section F-3001.0. General.

A. Change subsection F-3001.1 to read:

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

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

Exception: This chapter shall not apply to the following:

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

[~~Note: Enforcement of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Department of Environmental Quality, Waste Management Board, is provided by the~~

~~Department of State Police together with all law-enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportation in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials.~~]

C. Change subsection F-3001.2 to read:

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

- 1. The manufacture, possession, storage, sale or other disposition of explosive materials.*
- 2. The use of explosive materials.*
- 3. The operation of a terminal for handling explosive materials.*
- 4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.*

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

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

13 VAC 5-51-170. BNFP Section F-3003.0. General Requirements [, BNFP Section F-3005.0. Transportation of Explosives, and BNFP Section F-3009.0. Blasting].

A. Add subsection F-3003.5 to read:

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

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

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B. Add subsection F-3003.5.1 to read:

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

C. Add subsection F-3003.5.2 to read:

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

D. Add subsection F-3003.6 to read:

F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

E. Add subsection F-3003.7 to read:

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

F. [~~Delete~~ Change] Section F-3005.0. *Transportation of Explosives* [- to read:

F-3005.1. Regulations. Under § 10.1-1450 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported.

F-3005.2. Enforcement. Under § 10.1-1451 of the Code of Virginia and the Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.), the Department of State Police and all other law-enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials shall enforce the provisions of Article 7 (§10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of

Virginia, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this Article 7, and any regulation promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials.

Exception: A fire code official may require an attended or unattended parked vehicle that contains explosives to be moved to an approved location.]

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

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

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

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

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

Change subsection F-3102.1 to read:

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

Fireworks: Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or

inflammable compound or substance, is intended or commonly known as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks.

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

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

A. Change subsection F-3103.1 to read:

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

B. Change subsection F-3103.2 to read:

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

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

[A.] Change subsection F-3207.5 to read:

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

[~~B. Add subsection F-3207.6 to read:~~

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

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

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

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

VA.R. Doc. No. R98-270; Filed May 31, 2000, 10:18 a.m.

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

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

Effective Date: August 15, 2000.

Summary:

The amendments from proposed to final (i) clarify that not all requirements of the referenced codes and standards that relate to certification of fitness, unsafe conditions, maintenance, inspections, existing structures, certification of compliance, approval of construction documents were intended to be deleted by the board; only the scoping of enforcement and inspections, and all other procedural, and administrative matters are to be deleted and replaced by the provisions of Chapter 1 of the USBC and add two special exceptions, "special inspections" and "compliance alternatives" for existing buildings as not being deleted; (ii) clarify the proposed regulation with direct quotes from §§ 36-97 and 36-98 of the Code of Virginia, regarding USBC superseding other regulations; (iii) delete height criteria from certain detached 150 S.F., or less, accessory structures, which are exempt from application for permit; (iv) amend ordinary repairs, which are exempt from application for permit, to include replacement of roofing and installation or replacement of siding on certain residential buildings located in low wind speed areas; installation of cabinets in all types of buildings; and replacement of floor coverings and porch flooring in certain residential buildings; (v) add an experienced property manager to the list of persons that should be on a local board of building code appeals and prohibiting members from discussing an appeal prior to any hearings; (vi) delete the proposed sections regarding dangerous and dilapidated structures; (vii) clarify in the definition of "State Regulated Care Facility (SRCF)" that the only buildings included are those buildings which require a state license to operate issued from any of the listed state agencies; (viii) amend the proposed regulation to not mandate application of "Protection Against Radon," but allow localities in areas

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of high radon potential, following official action under § 15.2-2280 et seq. of the Code of Virginia, to require compliance with the "Protection Against Radon" section of the CABO One- and Two-Family Dwelling Code, except for buildings with crawl spaces; (ix) delete the proposed two additional exceptions (certain bathrooms and closets) to a required NFPA 13, fire sprinkler systems, in new buildings used as multiple-family dwellings having more than two dwelling units (except multiple single-family dwelling units), boarding houses and similar buildings in which the occupants are primarily not transient, and dormitories with more than five persons older than 2-1/2 years of age; (x) delete the section which would permit any building or structure, which in the code official's judgment is old, to be deemed dangerous and dilapidated and, therefore, determined to be a public nuisance and required to be abated by alteration, repair, rehabilitation, demolition or removal; and (xi) delete the section that prohibited smoking in high-rise buildings having inter-connecting dwelling unit air distribution systems that are used as multiple-family dwellings having more than two dwelling units (except multiple single-family dwelling units), boarding houses and similar buildings in which the occupants are primarily not transient, and dormitories with more than five persons older than 2-1/2 years of age.

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.

Agency Contact: Copies of the regulation may be obtained from George W. Rickman, Jr., Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7150.

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

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

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

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

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

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

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

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

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

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

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

C. ~~Add subsection 101.2.1 to read:~~

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

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

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

D. ~~Delete subsection 101.4.~~

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

A. ~~Change subsection 102.2 to read:~~

~~102.2. When applicable; existing structures: Construction for which a permit application is submitted to the code official after April 15, 1997, shall comply with the provisions of this code, except when construction~~

~~documents for proposed construction were substantially complete prior to the above date and a permit application is submitted to the code official within one year after the above date. In such cases, construction shall comply with either the provisions of this code or the provisions of this code in effect immediately prior to April 15, 1997.~~

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

B. Change subsection 102.3 to read:

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

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

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

~~a. Electrical equipment connected after the last disconnecting means;~~

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

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

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

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

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

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

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

A. Change section 103.0 title to "Enforcement."

B. Change subsection 103.1 to read:

~~103.1. Responsibility for enforcement: Enforcement of the provisions of this code governing construction is the responsibility of the department of building inspection. Whenever a county or a municipality does not have such a department, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD for such enforcement. Towns with a population of less than 3,500 may elect to administer and enforce this code; however,~~

~~where the town does not elect to administer and enforce this code, the county in which the town is situated shall administer and enforce this code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce this code within their respective boundaries.~~

C. Change subsection 103.2 to read:

~~103.2. Authority to defray cost; fee levy: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals pursuant to this code. The department of building inspection shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities which maintain individual or regional training academies accredited by the DHCD shall retain such levy.~~

D. Change subsection 103.3 to read:

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

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

A. Add subsection 104.1.1 to read:

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

B. Add subsection 104.2.1 to read:

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

C. Add subsection 104.2.2 to read:

~~104.2.2. Training: A code official who has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual~~

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

D. Add subsection 104.2.3 to read:

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

E. Add subsection 104.3.1 to read:

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

F. Change subsection 104.5 to read:

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

G. Delete subsection 104.7.

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

A. Change subsection 105.6 to read:

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

B. Change subsection 105.7 to read:

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

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

Change subsection 106.2 to read:

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

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

A. Add exceptions to subsection 107.1 to read:

Exceptions:

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

2. Construction of detached utility sheds not exceeding 150 square feet (14 m²) of building area and 102 inches (2591 mm) in wall height and when accessory to any use group building except Use Group F or H.

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

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

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

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

B. Delete subsection 107.1.1.

C. Change subsection 107.3 to read:

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

D. Add subsection 107.3.1 to read:

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

~~E. Add exception to subsection 107.6 to read:~~

~~Exception: The code official is permitted to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.~~

~~F. Delete subsection 107.6.1.~~

~~G. Change subsection 107.7 to read:~~

~~107.7. Engineering details: The code official shall require to be filed adequate details of structural, mechanical, plumbing, and electrical work, which may include computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 144.1.~~

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

~~A. Change subsection 108.2 to read:~~

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

~~B. Change subsection 108.3 to read:~~

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

~~C. Change subsection 108.9 to read:~~

~~108.9. Mechanics' lien agent designation: A building permit issued for any one or two family residential dwelling unit shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and~~

~~telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the permit shall at the time of issuance state that none has been designated with the words "None Designated."~~

~~D. Add subsection 108.10 to read:~~

~~108.10. Asbestos inspection prior to permit issuance; certification for reoccupancy: The code official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.~~

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

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

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

~~A. Change subsection 109.1 to read:~~

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

~~B. Change subsection 109.3 to read:~~

~~109.3. Termination of approval: The code official is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion.~~

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

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

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

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

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

~~C. Delete subsection 112.3.1.~~

~~D. Delete subsection 112.4.~~

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

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

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

~~1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.~~

~~2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.~~

~~3. Inspection of preparatory work prior to the placement of concrete.~~

~~4. Inspection of structural members and fasteners prior to concealment.~~

~~5. Inspection of electrical, mechanical and plumbing materials and systems prior to concealment.~~

~~6. Inspection of energy conservation material prior to concealment.~~

~~The code official is permitted to designate additional inspections to be conducted during the construction of a structure and shall so notify the permit holder, person in charge of the work or other appropriate person. The~~

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

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

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

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

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

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

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

~~Change subsection 114.1 to read:~~

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

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

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

~~116.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 116.1 if the violation has not been remedied within a reasonable time. The notice shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. The notice shall be in writing and be served by either delivering a copy to the responsible party by mail to the~~

last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by reference to Section 121.1.

B. Add subsection 116.2.1 to read:

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

C. Change subsection 116.4 to read:

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

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

Delete subsection 117.2.

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

A. Change subsection 118.1 to read:

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

B. Change subsection 118.2 to read:

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

C. Change subsection 118.3 to read:

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

continuance of, the occupancy of an existing structure except under conditions provided for in this code.

D. Change subsection 118.4 to read:

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

1. The edition of the code under which the permit is issued.
2. The use group and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided, whether the sprinkler system is required.
5. Any special stipulations and conditions of the building permit.

E. Add subsection 118.5 to read:

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

F. Add subsection 118.6 to read:

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

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

Change subsection 119.1 to read:

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

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

A. Change subsection 120.1 to read:

120.1. Imminent danger: When, during construction, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when,

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

~~B. Delete subsection 120.5.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~E. Delete subsection 121.2.6.~~

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

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

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

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

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

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

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

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

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

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

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

PART I.
GENERAL.

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

A. 101.1. Title: These regulations shall be known as the Virginia Uniform Statewide Building Code (USBC), hereinafter referred to as "this code" or "USBC." The term "chapter" means a chapter in the USBC. Chapter 1, Administration, of the USBC is comprised of Parts I (13 VAC 5-61-11), II (13 VAC 5-61-15 et seq.), and III (13 VAC 5-61-121 et seq.) of this code.

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

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

[D. 101.4. Exemptions: The following are exempt from this code:

1. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio, telecommunications and television transmission. The exempt publicly regulated utility service's and such other's equipment shall be under their exclusive control and located on property by established rights; however, the structures, including their service equipment, housing or supporting such exempt equipment shall be subject to the USBC. The installation of such exempt equipment shall not create an unsafe condition prohibited by the USBC.

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

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

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

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

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

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

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

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

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

Exceptions to subdivision D7: (1) 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.

(2) 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 Board of Health under Chapter 2 (§ 35.1-11 et seq.) of Title 35.1 of the Code of Virginia.

E. 101.5. Appeals: Appeals arising from application of the USBC shall be in accordance with the provisions of Part II, Section 122.0 Appeals (13 VAC 5-61-11) for construction or

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the provisions of Part III, Section 133.0 Appeals (13 VAC 5-61-171) for maintenance as applicable.]

PART II. CONSTRUCTION.

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

[A.] 102.1. Purpose: The purpose of this part of the USBC is to ensure safety to life and property from all hazards incident to structure design, construction, occupancy, repair, removal or demolition. Structures shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility.

[B. 102.1.1. Other codes:] As provided in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia), the USBC [~~supersedes~~ shall supersede] the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies [~~, relating to any construction, reconstruction, alterations, conversion, repair or use of structures and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, alteration or repair of a structure .~~ "Building regulations" means 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].

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

A. 103.1. General: The provisions of [~~this part~~ Parts I and II] of the USBC shall apply to the construction of all structures. Subsequent changes of occupancy, reconstruction, renovation, repair or demolition of existing structures shall comply with [Parts I and II of] the USBC.

B. 103.2. When applicable: Any structure for which a building permit has been issued or on which construction has commenced or for which working drawings have been prepared in the year prior to the effective date of the USBC, shall remain subject to the building regulations in effect at the time of such issuance or commencement of construction. In such cases, proposed construction may comply with either this edition of the USBC or the previous edition of the USBC. This provision shall also apply to subsequent amendments to the USBC based on the effective dates of such amendments.

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

1. ~~Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio, telecommunications and television transmission. The~~

~~exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the structures, including their service equipment, housing such public service agencies shall be subject to the USBC.~~

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

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

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

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

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

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

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

- ~~a. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm;~~
- ~~b. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;~~
- ~~c. Business or office uses relating to the farm operations;~~
- ~~d. Use of farm machinery or equipment, or maintenance or storage of vehicles, machinery or equipment on the farm;~~
- ~~e. Storage or use of supplies and materials used on the farm; or~~

~~f. Implementation of best management practices associated with farm operations.~~

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

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

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

13 VAC 5-61-25. Section 104.0 [~~Incorporation by reference~~ Use of model codes and standards].

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

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

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

B. 104.1.1. Deletion: Delete BNBC Chapter 1.

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

[Exceptions:

1. Special inspections are allowed to be required as provided for in Chapters 2 through 34 of the BNBC.

2. BNBC Section 3408.0. Compliance Alternatives, shall be allowed to be used by an owner as provided in this code.]

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

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

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

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

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

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

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

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

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

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

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

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

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

D. 106.3. *Qualifications:* The building code official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The building code official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The [~~local governing~~

~~body~~ locality] may establish additional qualification requirements.

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

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

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

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

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

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

Exception: If continuously employed or under contract to such department since before March 1, 1988; however, such exempt persons shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-10 et seq.).

J. 106.5. *Continuing education:* Any person employed by, or under contract to, a local building department for enforcement of the USBC shall attend periodic training courses as designated by the DHCD and such other training as designated by the [~~local governing body~~ locality].

K. 106.7. *Control of conflict of interest:* The minimum standards of conduct for code officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-41. Section 107.0 Duties and powers of the code official.

A. 107.1. *General:* The building code official shall enforce the provisions of the USBC as provided herein, and as

interpreted by the State Building Code Technical Review Board (TRB).

B. 107.2. Modifications: Upon application by the owner or the owner's agent, the code official [~~shall be permitted to~~ may] grant modification to any of the provisions of the USBC, provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the USBC. Future amendments to such codes and standards do not automatically become part of the USBC; however, the code official should consider such amendments in deciding whether a modification request should be granted.

C. 107.2.1. Supporting data: The code official [~~is authorized to~~ may] require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The code official [~~is permitted to~~ may] require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

D. 107.2.2. Records: The application for modification and the final decision of the code official shall be in writing and shall be recorded with the certificate of occupancy in the permanent records of the local building department.

E. 107.3. Delegation of duties and powers: The code official is permitted to delegate duties and powers subject to any limitations imposed by the [~~local governing body~~ locality] and shall be responsible for assuring that delegated duties and powers are carried out in accordance with the USBC.

F. 107.4. Department records: The code official shall keep official records of applications received, permits and certifications issued, fees collected, reports of inspections, and notices, modifications and orders issued. Such records shall be retained in the official records or shall [~~be permitted to~~] be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

13 VAC 5-61-45. Section 108.0 Fees.

A. 108.1. Fees and fee levy: Fees [~~shall be permitted to~~ may] be levied by the [~~local governing body~~ locality] in order to defray the cost of enforcement and appeals pursuant to the USBC. The local building department shall collect a 1.0% levy of fees charged for building permits issued under this code and transmit it quarterly to the DHCD to support training programs of the Virginia Building Code Academy. Localities, which maintain a DHCD accredited training academy, shall retain such levy.

B. 108.2. Fee schedule: The [~~local governing body~~ locality] shall establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

C. 108.3. When payable: A permit shall not be issued until the fees prescribed by the [~~local governing body~~ locality] have been paid to the authorized agency, nor shall an amendment to a permit be approved until any required

additional fee has been paid. The [~~local governing body~~ locality] may authorize delayed payment of fees.

D. 108.4. Refunds: In the case of a revocation of a permit or abandonment or discontinuance of a building project, the [~~local governing body~~ locality] shall provide fee refunds for the portion of the work that was not completed, when requested in writing by the permit holders.

13 VAC 5-61-51. Section 109.0 Application for permit.

A. 109.1. When required: Written application for permit shall be made to the code official and an approved permit issued by the code official before any of the following actions may be commenced:

1. Constructing, enlarging, altering, or demolishing a structure.
2. Changing the use of a structure either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation or sanitary provisions.
3. Installing or altering any equipment which is regulated by the USBC.
4. Removing or disturbing any asbestos or lead containing materials during demolition, alteration, renovation of or additions to structures.
5. Moving a lot line which affects an existing [~~structure~~ structure's continued compliance with the building regulations under which it was built].

Exceptions:

1. Installation of wiring and equipment which operates at less than 50 volts, except when the installation is located in a noncombustible plenum or penetrates a fire-resistance rated assembly.
2. Detached [~~utility sheds~~ accessory structures] not exceeding 150 square feet (14 m²) of building area [~~and 102 inches (2591 mm) in wall height~~], except when accessory to Use Group F or H structures.
3. Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.
4. Work which the code official has authorized pending receipt of an application.
5. Ordinary repairs which include, but are not be limited to, the following:
 - a. Replacement of mechanical or plumbing equipment and appliances, except those fueled by gas [or oil], within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.
 - b. Replacement of roof coverings [~~not exceeding 100 square feet (9.3 m²)~~] and installation or replacement of siding on Use Group R-4 structures, where such

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structures are located in localities where the basic wind speed is 80 miles per hour (128 km/hr) or less, determined in accordance with Figure 301.2d, Basic Wind Speed Map in the 1995 CABO One- & Two-Family Dwelling Code].

c. Installation of cabinets [~~in residential occupancies and replacement of floor coverings and porch flooring~~] in all occupancies.

[d. Replacement of floor coverings and porch flooring within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.]

e. Painting any portion of a structure, repair of plaster, interior tile and other wall coverings in all occupancies.

f. Replacement of windows and doors and electrical switches, outlets, light fixtures and ceiling fans, within the dwelling unit in occupancies of Use Group R-2 which are four stories or less in height and in occupancies of Use Groups R-3 and R-4.

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

C. 109.2. Permit applicant: Application for a permit shall be made by the owner or lessee of the structure or agent of either, or by the licensed architect, professional engineer, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a contractor or subcontractor (or any of their respective agents), the code official shall verify that the applicant is either licensed and certified to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The code official shall accept and process applications for permit through the mail. The code official shall not require the permit applicant to appear in person.

Note: Information on the types of construction exempted from the requirement for a architect's or professional engineer's seal and signature is included in the "Related Laws Package" available from DHCD.

D. 109.2.1. One- and two-family dwelling option: The permit applicant shall have the option to select the amended one- and two-family dwelling code listed in Chapter 35 as an acceptable alternative standard to the BNBC for design and construction of detached one- or two-family dwellings [and one family townhouses] not more than three stories in height, and the accessory structures as indicated in such one- and two-family dwelling code.

E. 109.2.2. Mechanics' lien agent designation: At the request of the applicant, [~~an application for~~] a permit for a one- or two-family residential dwelling unit shall contain, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the [~~application for~~] permit shall state "None Designated."

F. 109.3. Form of application: The application for permit shall be submitted on forms supplied by the code official.

G. 109.4. Description of work: The application for permit shall contain a general description of the proposed work, its location and such additional information as required by the code official.

H. 109.5. Construction documents: The application for permit shall be accompanied by not less than two sets of construction documents.

Exceptions:

1. The code official may waive the requirement for filing construction documents when the work involved is of a minor nature.

2. Duplicate construction documents shall not be required where identical structures will be constructed in a particular development, provided the accompanying site plan is approved and the approved construction documents, in compliance with the USBC, are on file in the local building department [and provided the building site has one approved set as required in Section 109.5.4].

3. The code official shall accept construction documents for one- and two-family dwellings [~~with~~ which are intended to be built in] reverse [of the] floor plans [submitted], provided the accompanying site plan is approved.

I. 109.5.1. Site plan: When required by the code official, the application for permit shall also be accompanied by a site plan showing to scale the size and location of all the proposed new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades. The code official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site. In the case of alterations, renovations, repairs and installation of equipment, the code official shall be permitted to waive submission of the site plan or any parts thereof.

J. 109.5.2. Engineering details: The code official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall include the signature [and seal] of the professional engineer or architect responsible for the design. For buildings more than two stories in height, the code official may require that plans indicate where floor penetrations will be made for pipes, wires, conduits, and other

components of the electrical, mechanical and plumbing systems when required. The construction documents shall show the materials and methods for protecting such openings, in order to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

K. 109.5.3. Construction document review: The code official shall cause to be examined all construction documents, site plans and applications for permits within a reasonable time after filing. If the application, site plan or the construction documents do not conform to the requirements of the USBC, the code official shall reject such application in writing, stating the reasons for rejection. Any construction document review comments requiring additional information, engineering details, or stating reasons for rejection of construction documents, shall be made in writing to the permit applicant.

L. 109.5.3.1. Expedited construction document review: The code official may accept reports from an approved person or agency that the construction documents have been examined and conform to the requirements of the USBC and may establish requirements for the person or agency submitting such reports. In addition, where such reports have been submitted, the code official may expedite the issuance of the permit.

M. 109.5.4. Approved construction documents: The code official shall stamp "Approved" or provide an endorsement in writing on both sets of construction documents when approved. One set of such approved construction documents shall be retained by the code official. The other set shall be kept at the building site, open to inspection by the code official at all reasonable times.

N. 109.5.4.1. Approval of partial construction documents: The code official may issue a permit for the construction of foundations or any other part of a structure before the construction documents for the entire structure have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a structure shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire structure will be granted.

O. 109.5.4.2. Construction document approval limited: The code official's approval of construction documents shall be limited only to those items within the scope of the USBC.

P. 109.6. Existing structures continued use: Following an inspection and provided there are no violations of Part III (13 VAC 5-61-121 et seq.) of this chapter and the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.) and the structure's use has not changed, such structure shall not be prevented from continued use and the code official shall issue a certificate of occupancy upon written request from the owner or his agent.

Q. 109.6.1. Change in [~~use~~ occupancy]: The owner or his agent shall, in writing, apply to and obtain from the code official a new certificate of occupancy prior to a change of occupancy of a structure. When the current USBC requires a

greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new occupancy, the owner or his agent shall, in writing, apply and obtain a permit from the code official. When it is impractical to achieve compliance with the USBC, the code official shall issue, upon application, modifications as provided in [Section 107.2 of] the USBC.

R. 109.6.2. Reconstruction, alteration or repair: Reconstruction, alteration or repair shall not adversely affect the performance of, or cause the structure to become unsafe and shall not be used as justification for requiring any other part of the structure to be brought into compliance with the current USBC. Work shall be done in such a way so as not to lower existing levels of health and safety. The installation of material and equipment that is neither required nor prohibited need only comply with the USBC requirements that regulate a safe installation. Material and equipment may be replaced with material and equipment of a similar kind or with greater capacity in the same location. Used material and equipment may be used as approved by the code official.

S. 109.7. Functional design approval: Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The code official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the [~~local governing body~~ locality] may require reports to the code official by other departments as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the [~~local governing body~~ locality].

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package" which is available from DHCD.

T. 109.8. Amendments to application: Amendments to the application, construction documents or other records accompanying the application for permit shall be filed [~~at any time~~] before completion of the work for which the permit is sought or issued. Such amendments shall be considered part of the original application and shall be filed as such.

U. 109.9. Time limitation of application: An application for a permit shall be considered to have been abandoned six months after notification by the code official that the application is defective, unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the code official shall grant one or more extensions of time.

13 VAC 5-61-55. Section [~~404.0~~ 110.0] Permits.

A. 110.1. Issuance of permits: For the purpose of establishing USBC compliance, the code official shall cause to be examined all applications for permit, construction documents and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws and ordinances, the code official shall reject such application in writing, stating the reasons therefor. If the code official is

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satisfied that the proposed work conforms to the requirements of the USBC, and all [applicable pertinent] laws and ordinances, a permit shall be issued as soon as practicable. The code official may authorize work to commence prior to the issuance of the permit. Any special requirements relating to inspections shall be determined by the code official prior to the issuance of the building permit, and the permit applicant so informed. [In addition to other information required by the USBC, building permits for one- or two-family residential dwelling units shall at the time of issuance contain such information as required in Section 109.2.2.]

B. 110.1.1. *Separate and combined permits:* The code official may require separate or combined permits for different areas of construction such as building construction, plumbing, electrical, and mechanical work. Permits for two or more structures on the same lot may be combined. Separate permits may be required for special construction considered appropriate by the [local governing body locality].

C. 110.1.2. *Annual permits:* The code official may issue an annual permit for alterations to an existing structure. The annual permit holder shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the code official and shall be submitted to the local building department if requested by the code official.

D. 110.1.3. *Asbestos inspection prior to permit issuance; certification for reoccupancy:* The code official shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the code official receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS; 40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR [~~1926.58~~ 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 off facility components where the length or area could not be measured previously. An abatement area shall not be reoccupied until the code official receives certification from the owner that the response actions will be completed and final clearances will be measured. The final clearance levels for reoccupancy of the abatement area shall be 0.01 or fewer asbestos fibers per cubic centimeter if determined by Phase Contrast Microscopy analysis (PCM) or 70 or fewer structures per square millimeter if determined by Transmission Electron Microscopy analysis (TEM).

E. 110.2. *Signature on permit:* The signature of the code official or authorized representative shall be attached to every permit.

F. 110.3. *Posting of permit:* A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

G. 110.4. *Previous permits:* No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended.

H. 110.5. *Revocation of permit:* The code official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement, misrepresentation of fact or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

I. 110.6. *Suspension of permit:* Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the code official that work has not been suspended or abandoned. Upon written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

J. 110.7. *Compliance with code:* The approved permit shall be a license to proceed with the work in accordance with the USBC, the application for permit and any approved amendments thereto. The approved permit shall not be construed as authority to omit or amend any of the provisions of the USBC, except when modification is granted in accordance with this chapter.

13 VAC 5-61-61. Section 111.0 Professional engineering and architectural services.

A. 111.1. *General:* Where required by law or where determined necessary by the code official, all construction documents required for a building permit application shall be prepared by a registered design professional licensed in this Commonwealth. The code official shall establish a procedure to ensure that construction documents are prepared by a registered design professional licensed in this Commonwealth

where required by law. In the cases where construction documents are not required to be prepared by a registered design professional licensed in this Commonwealth, the construction documents shall bear the name, address and occupation of the author.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in the "Related Laws Package" available from DHCD.

B. 111.2. Special inspections: Special inspections shall be made in accordance with Section 1705.0.

C. 111.2.1. Permit requirement: This special inspection requirement shall be determined prior to the issuance of the permit and shall be a requisite for the permit issuance as described in this chapter.

D. 111.2.2. [~~Attendant~~] Fees and costs: All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

13 VAC 5-61-65. Section 112.0 Approval of materials and equipment.

A. 112.1. Performance: Where practical, under § 36-99 of the Code of Virginia, provisions of the USBC have been stated in terms of required level of performance, to facilitate the prompt acceptance of new building materials and methods. The provisions of the USBC are not intended to prohibit the use of any material or method of construction not specifically prescribed by the USBC, provided any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of the USBC, and that the material, method or work offered is, for the purpose intended, [~~substantially~~ at least] the equivalent of that prescribed by the USBC in quality, strength, effectiveness, fire-resistance, durability and safety.

B. 112.2. Basis and approval of materials: The building code official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the code official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the code official shall approve items listed by nationally recognized independent testing laboratories or may consider the recommendations of architects and engineers licensed in this Commonwealth.

C. 112.3. Used materials and equipment: Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the code official.

D. 112.4. Approved materials and equipment: All materials, equipment, devices and assemblies approved for use by the code official shall be constructed and installed in accordance with the conditions of such approval.

13 VAC 5-61-71. Section 113.0 Execution of work.

A. 113.1. Performance: All construction work shall be performed and completed to secure the results intended by the USBC.

B. 113.2. Responsibility: It shall be the duty of every person who performs work regulated by the USBC, including but not limited to the construction, installation or repair of a structure or equipment, to comply with the USBC.

13 VAC 5-61-75. Section 114.0 Inspections.

A. 114.1. Right of entry: The code official and technical assistants may inspect structures for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The code official and technical assistants shall carry proper credentials of office when inspecting structures in the performance of their duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, when enforcing the USBC, that any structure may be inspected at any time before completion. It also permits a local governing body to provide for the reinspection of existing structures (see Part III (13 VAC 5-61-121 et seq.) of this chapter).

B. 114.2. Waived inspections: At the discretion of the inspecting authority, inspection may be waived, when the construction cost is less than \$2,500.

C. 114.3. Preliminary inspection: Before issuing a permit, the building code official may examine all structures and sites for which an application for a permit has been filed.

D. 114.4. Minimum inspections: The permit holder shall assure that the following minimum inspections have been conducted and approved by the building code official when applicable to the construction or permit:

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

[7. Final inspection.]

E. 114.5. Additional inspections: The building code official may designate additional inspections and tests to be conducted during the construction of a structure and shall so notify the permit holder. The code official shall be notified by the permit holder when construction reaches a stage of completion, which requires an inspection. The permit holder

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requesting an inspection shall provide the code official with any ladder, scaffolding or test equipment necessary to conduct [or witness] the requested inspection.

F. 114.6. Special inspections: Special inspections required by the USBC shall be limited to only those required by Section 1705.0.

G. 114.7. In-plant inspections: When required by the provisions of the USBC, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The code official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the code official to determine conformance with the USBC.

H. 114.7.1. Factory inspection: An identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made, shall be accepted instead of a written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

I. 114.8. Coordination with other agencies: The building code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities. The building code official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to issuance of a certificate of occupancy.

J. 114.9. Reports of inspections: The building code official shall either approve the work in writing or give written notice of defective work to the permit holder. Such defects shall be corrected and reinspected before any work proceeds that would conceal such defects. A record of all reports of inspections, tests, examinations, discrepancies and approvals with the USBC, shall be maintained by the code official and shall be communicated promptly in writing to the permit holder.

K. 114.9.1. Approved inspection agencies: The building code official may accept reports of inspections and tests from approved individuals or approved inspection agencies, which satisfy qualifications and reliability requirements. Under circumstances where the building code official is unable to make the inspection or test within 48 hours of a request or an agreed upon date, the building code official shall accept [~~such~~] reports [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.

L. [~~444.9.~~ 114.10.] Final inspection: Upon completion of the structure, and before issuance of the certificate of occupancy, a final inspection shall be made to ensure that any defective work or discrepancies have been corrected and all work conforms with the USBC [, including modifications granted,] and is approved.

13 VAC 5-61-81. Section 115.0 Temporary structures.

A. 115.1. General: The building code official may approve and issue a permit for temporary construction. Such permit shall be limited as to time, but such temporary construction shall not be permitted for more than one year. Upon the permit holder's written request, the code official may grant one or more extensions of time, not to exceed one year per extension.

B. 115.2. Termination of approval: The building code official may terminate such approval and order the demolition or removal of any such temporary construction.

13 VAC 5-61-85. Section 116.0 Moved structures.

A. 116.1. General: Any structure moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation:

1. No change has been made in the use of the structure.
2. The structure complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The structure did not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

B. 116.2. Certificate of occupancy: [~~Any A~~] moved structure shall not be used until a certificate of occupancy is issued for the new location.

13 VAC 5-61-91. Section 117.0 Demolition of structures.

A. 117.1. General: Demolition permits shall not be issued until the code official receives certification from the owner or the owner's agent that the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building or structure stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

B. 117.2. Hazard prevention: When a structure is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Chapter 33 of this code.

13 VAC 5-61-95. Section 118.0 Certificate of occupancy.

A. 118.1. General: A certificate of occupancy, indicating completion of the work for which a permit was issued, in accordance with this code and any pertinent laws and

ordinances, shall be obtained prior to any occupancy of a structure except as provided for in this section. Final inspection approval or approvals may serve as the certificate of occupancy for any addition or alteration to a structure for which a certificate of occupancy has already been issued.

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

C. 118.3. *Existing structures:* Upon written request from the owner or as otherwise determined necessary by the code official, a certificate of occupancy shall be issued for an existing structure as provided for in the USBC.

D. 118.4. *Contents of certificate:* When a structure is entitled thereto, the code official shall issue a certificate of occupancy within five days after written application. Upon completion and approval of the final inspection, the certificate of occupancy shall be issued. The certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The use group and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided, whether the sprinkler system is required.
5. Any special stipulations and conditions of the building permit.

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

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

G. 118.7. *Suspension or revocation of certificate of occupancy:* The code official may suspend or revoke the certificate of occupancy or the temporary certificate of occupancy for failure to correct repeated violations in disregard for the provisions of the USBC.

13 VAC 5-61-101. Section 119.0 Stop work order.

A. 119.1. *Notice to owner:* When the code official finds that work on any structure is being executed contrary to the provisions of the USBC or any pertinent laws and ordinances or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

B. 119.2. *Application of order limited:* The stop work order shall apply only to the work that was being performed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

13 VAC 5-61-105. Section 120.0 Unsafe structures.

A. 120.1. *Right of condemnation before completion:* Any structure under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed either a public nuisance or an unsafe structure. Any such unsafe structure shall be made safe through compliance with the USBC or shall be taken down and removed, as the code official may deem necessary, according to authority granted by the local governing body.

B. 120.1.1. *Inspection of unsafe structures; records:* The code official shall examine every structure under construction reported as unsafe, and shall prepare a report to be filed in the records of the local building department. In addition to a description of unsafe conditions found, the report shall include the use of the structure, and nature and extent of damages, if any, caused by a collapse or failure.

C. 120.1.2. *Notice of unsafe structure:* If a structure under construction is found to be unsafe the code official shall [~~serve~~ issue] a written notice of unsafe structure on the owner and the permit holders, describing the unsafe condition and specifying the required repairs or improvements to be made to render the structure safe, or requiring the unsafe structure or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare immediately [upon receipt] to the code official the acceptance or rejection of the terms of the notice.

[Note: Authority to condemn unsafe structures on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, is permitted to be exercised after official action by the locality under § 36-105 of the Code of Virginia (see Part III (13 VAC 5-61-121 et seq.) of this chapter).]

D. 120.1.3. *Posting of unsafe structure notice:* If the persons named in the notice of unsafe structure, under construction, cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such persons and a copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

E. 120.1.4. *Disregard of notice:* Upon refusal or neglect of the persons served with a notice of unsafe structure to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the local governing body shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

F. 120.1.5. *Vacating structure:* When during construction, in the opinion of the code official, there is actual and

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immediate danger of failure or collapse of a structure, or any part thereof, which would endanger life, or when any structure or part of a structure has fallen and life is endangered by occupancy of the structure, the code official may order the occupants to vacate the structure forthwith. The code official shall cause a notice to be posted at each entrance to such structure reading as follows: "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Code Official." No person shall thereafter enter such structure except for one of the following purposes: (i) to make the required repairs; (ii) to take the structure down and remove it; or (iii) to make inspections authorized by the code official.

G. 120.1.6. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a structure under construction or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants; the code official shall cause the necessary work to be done to the extent permitted by the local governing body to render such structure or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

~~[H. 120.2. Right of condemnation after completion: Authority to condemn unsafe structures on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, is permitted to be exercised after official action by the local governing body under § 36-106 of the Code of Virginia (see Part III (13-VAC 5-61-121 et seq.) of this chapter).~~

~~4. H.] 120.3. Abatement or removal: Whenever the owner, of a structure under construction that has been deemed to be a public nuisance or unsafe, under Section 120.1 [or Section 120.2], fails to comply with the requirements of the notice to abate, the code official may cause the structure to be razed or removed, according to authority granted to the building code official by the [local governing body locality].~~

Note: A [local governing body locality] may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the [local governing body locality] may abate, raze, or remove such public nuisance, and the [local governing body locality] may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-111. Section 121.0 Violations.

A. 121.1. Unlawful acts: It shall be unlawful [~~for any person, firm or corporation~~] to construct, alter, remove, demolish or occupy any structure or equipment regulated by the USBC, or cause [or allow] same to be done, in conflict with or in violation of any of the provisions of the USBC.

B. 121.2. Notice of violation: The code official shall [~~serve~~ issue] a notice of violation to the responsible party as determined by Section 121.1 if (i) the defective work has not been remedied within a reasonable time following an

inspection report or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice shall reference the USBC section that serves as the basis for such notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be [~~served~~ 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 [~~at the entrance door or access way~~] if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by [~~reference to~~ referencing] the appeals section.

C. 121.2.1. Copies of notice: A copy of the notice shall be delivered to the owner and the permit holders under which the alleged violation falls, when not the cited responsible party, as applicable.

D. 121.2.2. Limitation of notice: When an alleged violation relating to construction is discovered more than two years after either (i) the certificate of occupancy is issued or the date of initial occupancy, whichever is later, or (ii) the [approved] final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from legal counsel to the [local governing body locality] that action may be taken to compel correction of the violation. The code official shall document alleged violations of the applicable edition of the USBC once compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia.

E. 121.3. [~~Prosecution of~~ Actions for] violation: If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the [local governing body locality] to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the provisions of the USBC [or the code official may issue or obtain a summons or warrant where the locality so authorizes]. Compliance with a notice of violation notwithstanding, the code official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.

F. 121.3.1. Civil penalties: Under § 36-106 of the Code of Virginia, any locality may adopt an ordinance which establishes a uniform schedule of civil penalties for violations of specified provisions of the USBC which are not abated or remedied promptly after receipt of notice of violation from the code official. [Designation of a particular code violation for a civil penalty shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a misdemeanor.]

G. 121.4. Violation penalties: Penalties, upon conviction, for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia.

H. 121.5. Abatement of violation: Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

13 VAC 5-61-115. Section 122.0 Appeals.

A. 122.1. Local Board of Building Code Appeals (BBCA): Each [~~local governing body~~ locality] shall have a BBCA to hear appeals as authorized herein; or it shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the DHCD, to act on appeals. The BBCA [~~shall be permitted to~~ may] also hear appeals under Part III (13 VAC 5-61-121 et seq.) of this chapter, if the [~~local governing body~~ locality] has elected to enforce such part, or the [~~local governing body~~ locality] may have a separate BBCA provided that each BBCA complies with this section. An appeal case decided by a BBCA or a separate BBCA shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).

B. 122.2. Membership of BBCA: The BBCA shall consist of at least five members appointed by [~~the local governing body and having terms~~ 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 [~~local governing body~~ 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. 122.2.1. Chairman: The BBCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

D. 122.2.2. Secretary: The [~~local governing body~~ locality or the chief executive officer of the locality] shall appoint a secretary to the BBCA to maintain a detailed record of all proceedings.

E. 122.3. Qualifications of BBCA members: BBCA members shall be selected by the [~~local governing body~~ 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 and one member a licensed architect or professional engineer [and one member an experienced property manager]. Employees or officials of the [~~local governing body~~ locality] shall not serve as members of the BBCA.

F. 122.4. Disqualification of member: [A No] member shall [~~not~~] hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.1-639 et seq. of the Code of Virginia). [Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.]

G. 122.5. Application for appeal: The owner of [~~a the~~] structure, the owner's agent or any other person involved in the design, construction or maintenance of the structure pursuant to Part III of this chapter may appeal the code official's decision concerning application of the USBC or refusal to grant modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration, repair or maintenance (pursuant to Part III) of that structure. The applicant shall submit a written request for appeal [, indicating specific requirements,] to the BBCA within 90 (21 calendar days for maintenance Part III) calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the BBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

H. 122.6. Notice of meeting: The BBCA shall meet within 30 calendar days after the date of receipt of the application for appeal [or a longer period of time if agreed to by all parties to the 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~~ all parties to the appeal].

I. 122.7. Hearing procedures: All hearings before the BBCA shall be open to the public. The appellant, the appellant's representative, the [~~local governing body's~~ locality's] representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

J. 122.7.1. Postponement: When a quorum of the BBCA is not present to hear an appeal, [~~either the appellant or the appellant's representative~~ any party to the appeal] shall have the right to request a postponement of the hearing. The BBCA shall reschedule the appeal within 30 calendar days of the postponement [, or a longer period of time if agreed to by all parties to the appeal].

K. 122.8. Decision: The BBCA shall have the power to uphold, reverse or modify the decision of the code official by a concurring vote of a majority of those present. Decisions of the BBCA shall be final if no appeal is made therefrom and [~~the appellant and the code official shall act accordingly~~ all parties shall be bound by the decision].

L. 122.8.1. Resolution: The decision of the BBCA shall be by resolution signed by the chairman and retained as part of the record by the BBCA. The following wording shall be part of the resolution:

"Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board by submitting an application to such Board within 21 calendar days.

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Application forms are available from the Office of the State Building Code Technical Review Board, 501 North Second Street, Richmond, Virginia 23219, [~~(804) 371-7489~~ (804) 371-7150]."

Copies of the resolution shall be furnished to all parties.

M. 122.9. Appeal to the TRB: After final determination by the BBCA, any person who was a party to the BBCA appeal may appeal to the TRB. Appeals from the decision of the code official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BBCA's resolution or code official's decision.

N. 122.9.1. Information to be submitted: Copies of the code official's decision and the resolution of the BBCA shall be submitted with the application for appeal to the TRB. Upon request by the Office of the TRB, the BBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of state-owned buildings, the involved state agency shall submit a copy of the code official's decision and other relevant information.

O. 122.9.2. Decision of TRB: Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and [~~the appellant and the code official shall act accordingly~~ all parties shall be bound by the decision].

PART III.

MAINTENANCE OF EXISTING STRUCTURES.

13 VAC 5-61-121. Section 123.0 Scope.

A. 123.1. General: The provisions of this part [~~of this chapter~~] of the USBC prescribe building maintenance regulations to be complied with in the maintenance and repair of existing structures and equipment. Such provisions are only enforceable following official action by the [~~local governing body~~ locality]. The official action shall (i) require compliance with "any or all maintenance provisions of this part of this chapter of the USBC " and (ii) assign enforcement responsibility to the local agency or agencies of its choice. The terms "local enforcing agency" and "building maintenance code official" are intended to apply to the agency or agencies to which responsibility for enforcement of this part has been assigned. The terms "building code official" or "local building department" apply only to the local building code official or local building department.

B. 123.2. Purpose: The purpose of this part of this chapter is to ensure public safety, health and welfare through proper building maintenance, repair, use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance and repair shall be deemed to include the maintenance, repair, testing and inspection of equipment as defined by the Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia).

13 VAC 5-61-125. Section 124.0 Applicability.

A. 124.1. Effect on other codes: This part of Chapter 1 of the USBC shall apply to all existing structures as defined in the Uniform Statewide Building Code Law (§ 36-97 et seq. of the Code of Virginia). This part of Chapter 1 of the USBC supersedes all building maintenance codes and regulations of the counties, municipalities, political subdivisions and state agencies that have been or may be enacted or adopted. However, this will not prevent adoption in accordance with Title 15.2 of the Code of Virginia or other special or general legislation, other requirements by a [~~local governing body~~ locality] which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a structure.

B. 124.2. Pre-USBC structures: Following official action by the [~~local governing body~~ locality], existing structures or portions thereof constructed, altered or occupancy converted prior to September 1, 1973, shall be maintained in compliance with the provisions of this part of this chapter. No provisions of this part of this chapter shall require alterations to structures or equipment unless an unsafe or unhealthy condition exists.

C. 124.2.1. Post-USBC structures: Following official action by the [~~local governing body~~ locality], existing structures or portions thereof and equipment, subject to the USBC when constructed, altered or occupancy converted shall be maintained and repaired in compliance with this part of this chapter and the USBC edition in effect when constructed, altered or converted.

D. 124.3. Limitation of application: No provision of this part of this chapter and the standards referenced therein may be used to require alterations to the design or equipment or any portion of a structure that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC.

E. 124.4. Exemptions: Exemptions from application of this part of this chapter of the USBC shall be in accordance with the exemptions from application of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC.

Exceptions: Industrialized buildings and manufactured homes.

13 VAC 5-61-131. Section 125.0 [~~Incorporation by reference~~ Use of model codes and standards].

A. 125.1. Adoption: The following document is adopted and incorporated by reference to be an enforceable part of the USBC:

The BOCA National Property Maintenance Code/1996, Fifth Edition, hereinafter referred to as "BNPMC," published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

B. 125.1.1. Deletion: Delete BNPMC Chapter 1.

C. 125.2. Administrative and enforcement amendments: All requirements of the BNPMC and the standards referenced

therein that relate to [~~administrative and enforcement and all other procedural~~ fees, permits, unsafe notices, disputes, condemnation, scope of enforcement and inspections, and all other procedural and administrative] matters are deleted and replaced by [~~this part of this chapter~~ the provisions of Chapter 1 (Parts I and III)] of the USBC. The provisions of this part of this chapter shall be used by enforcement personnel. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration [, procedural matters] and enforcement of this part of the USBC.

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

D. 125.3. Other amendments: The USBC amendments (Part IV (13 VAC 5-61-200 et seq.) of this code) noted in BNBC, Chapter 34, Existing Structures, shall be made to the BNPMC and its referenced standards for use as part of this part. The USBC contains provisions adopted by the BHCD, some of which change or amend provisions of the BNPMC and its referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNPMC and its referenced standards, the provisions changed by the BHCD shall govern.

13 VAC 5-61-135. Section 126.0 Enforcement.

A. 126.1. General: Following official action by the [~~local governing body~~ locality], enforcement of the provisions of the USBC governing maintenance is the responsibility of the local enforcing agency.

B. 126.2. Interagency coordination: When enforcement of any portion of this part of this chapter is assigned to an agency other than the local building department, that local enforcing agency shall coordinate its reports of inspection with the local building department.

C. 126.3. Permits: Alterations, repairs, installations, construction or demolition shall be subject to the building permit, certificate of occupancy and other provisions of Part II of this chapter of the USBC.

D. 126.4. Fees: Section 36-105 of the Code of Virginia provides that fees are permitted to be levied by the [~~local governing body~~ locality] in order to defray the cost of enforcement and appeals.

13 VAC 5-61-141. Section 127.0 Local enforcing agency.

A. 127.1. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the "building maintenance code official" or "code official."

B. 127.1.1. Appointment: The building maintenance code official shall be appointed in a manner selected by the [~~local governing body~~ locality]. After appointment, the building maintenance code official shall not be removed from office except for cause after having been afforded a full opportunity

to be heard on specific and relevant charges by and before the appointing authority.

C. 127.1.2. Notification: The [~~local governing body~~ appointing authority of the locality] shall notify the DHCD within 30 days of the appointment or release of the building maintenance code official.

D. 127.1.2. Qualifications: The building maintenance code official shall have at least five years of experience as a licensed professional engineer, building inspector, fire inspector, housing inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The code official shall have general knowledge with respect to the design and construction of buildings, the basic principles of fire prevention, plumbing, electrical and mechanical systems, building safety, and other accepted requirements for the health, safety and general welfare of the occupants and the public. The [~~local governing body~~ locality] may establish additional qualification requirements.

E. 127.1.3. Certification: The building maintenance code official shall be certified in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within one year from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

F. 127.1.4. Noncertified: After appointment, a non-BHCD certified building maintenance code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy, or its equivalent in a DHCD accredited academy.

G. 127.2. Technical assistants: The building maintenance code official shall, subject to any limitations imposed by the [~~local governing body~~ locality], appoint [~~such number of~~] building maintenance technical assistants [~~as are necessary~~ and other employees] for the administration and enforcement of the USBC.

H. 127.2.1. Qualifications: A building maintenance technical assistant shall have at least three years in general building construction, building, fire or housing inspections, and general knowledge of plumbing, electrical and mechanical systems. Any combination of education and experience, which would confer equivalent knowledge and ability, shall be deemed to satisfy this requirement. The [~~local governing body~~ locality] may establish additional qualification requirements.

I. 127.2.2. Certification: Any person employed by, or under contract to, a local enforcing agency for determining compliance with the USBC shall be certified in the appropriate subject areas, in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years from the date of employment, unless appointed prior to April 1, 1995, with continued appointment.

J. 127.3. Continuing education: Building maintenance code officials and technical assistants enforcing the USBC shall attend periodic training courses as designated by the

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DHCD and such other training as designated by the [~~local governing body~~ locality].

K. 127.4. Control of conflict of interest: The minimum standards of conduct for officials and employees of the local enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq. of the Code of Virginia).

13 VAC 5-61-145. Section 128.0 Duties and powers of the code official.

A. 128.1. General: The building maintenance code official shall enforce the provisions of Part III of this chapter of the USBC as provided herein and as interpreted by the TRB.

B. 128.1.2. Right of inspection: The building maintenance code official may inspect existing structures and equipment to enforce this part of this chapter as authorized by § 36-105 of the Code of Virginia. The building maintenance code official and assistants shall carry proper credentials of office when inspecting structures and equipment in the performance of duties under the USBC.

C. 128.1.2.1. Records: The code official shall approve the maintenance or use in writing or give written notice of defective maintenance or use to the owner and the person responsible for maintenance or use of a structure. Such defects shall be corrected within a reasonable time and reinspected. Records of all reports of inspections, tests, examinations, discrepancies, notices, approvals, modifications and orders issued shall be communicated promptly in writing to the owner and the person responsible for maintenance or use of a structure.

D. 128.2. Modifications: The code official may grant modification to any provision of this part upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare, and safety are assured.

E. 128.2.1. Supporting data: The code official may also require and consider a statement from an architect, professional engineer or other competent person as to the equivalency of the proposed modification.

F. 128.2.2. Records: The application for modification and the final decision of the code official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

G. 128.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the [~~local governing body~~ locality], but shall be responsible that any such powers and duties are carried out in accordance with the USBC.

H. 128.4. Enforcing agency records: The code official shall keep records of; reports of inspections, tests, examinations, discrepancies, notices, approvals, fees collected, modifications and orders issued and such other matters as directed by the [~~local governing body~~ locality]. Such records shall be retained in the official records or shall be disposed of in accordance with General Schedule Number Six available from the Library of Virginia.

I. 128.5. Coordination with other agencies. The building maintenance code official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections. The building maintenance code official shall coordinate all reports of inspections for compliance with Part III of the USBC, with inspections of fire and health officials delegated such authority.

13 VAC 5-61-151. Section 129.0 Unsafe structures.

A. 129.1. General: This section shall apply to existing structures and equipment that fail to comply with this part of the USBC through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, or which constitute a hazard or public nuisance, or are otherwise dangerous to human life, health or safety, or the public welfare. All such structures declared by the code official to be a public nuisance or unfit for human habitation shall either: (i) be made safe through compliance with this code, or (ii) be vacated and secured against public entry, or (iii) be taken down and removed as determined by the building maintenance code official. [~~Such~~ All] work shall comply with the requirements of Part II (13 VAC 5-61-15 et seq.) of this chapter of the USBC. A vacant structure, unsecured or open [~~at door or window~~], shall be deemed a fire hazard and unsafe within the meaning of this section.

B. 129.1.1. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in an existing structure which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the building maintenance code official is permitted to order the minimum changes needed to remedy the hazardous condition. [~~Such~~ All] work shall comply with the requirements of Part II of this chapter of the USBC.

C. 129.1.2. Retrofitting: This part [~~of this chapter~~] of the USBC does not generally provide for retrofitting of an existing structure. However, conditions may exist in older structures, because of faulty design or equipment, which constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC (Part II). Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the building maintenance code official.

D. 129.2. Inspection of unsafe structures: The code official shall examine any existing structure reported as unsafe, and shall prepare a report to be filed in the records of the local enforcing agency and a copy [~~serve~~ issued] to the owner. [~~In addition to a description of unsafe conditions found,~~] The report shall include the use of the structure, [a description of unsafe conditions found] and [the] nature and extent of [~~damages, if any caused by a collapse or failure~~ the conditions].

E. 129.3. Notice of unsafe structures: If an existing structure is found to be unsafe, the code official shall ~~serve~~ issue] a notice [~~on~~ to] the owner, the owner's agent or person in control of the unsafe existing structure. The notice shall specify the required repairs or improvements to be made to the structure, or require the unsafe structure, or portion of the structure to be taken down and removed within a stipulated time. [~~Such All~~] work shall comply with the requirements of Part II of this chapter of the USBC. Such notice shall require the [~~owner~~ person thus notified] to declare [immediately upon receipt] to the code official [~~without delay~~] acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe structure should also be given to the tenants of the unsafe structure.

F. 129.4. Posting of unsafe structure notice: If the person named in the notice of unsafe structure and the owner cannot be found, the notice shall be sent by registered or certified mail to the last known address of such persons. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

G. 129.5. Disregard of notice: If the person [~~served with~~ issued] a notice of unsafe structure [~~and~~ or] the owner refuses or fails to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant structure, including one vacated through revocation of the certificate of occupancy, the code official may cause the structure to be closed through any available means, according to authority granted by the [~~local governing body~~ locality] .

H. 129.6. Authority to vacate structure: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of an existing structure or any part thereof which would endanger life; or when any structure or part thereof has fallen and life is endangered by occupancy of the structure; or when any other hazardous condition poses an immediate and serious threat to life; or when a structure is declared a public nuisance, or unfit for human habitation, the code official may order the occupants to vacate the structure. The code official shall post a notice at each entrance to such structure that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such structure except upon authorization by the code official for one of the following purposes: (i) to make the required repairs, (ii) to take the structure down and remove it, or (iii) to make inspections.

I. 129.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of an existing structure or any part thereof which would endanger life, or when a violation of this part of this chapter of the USBC results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the [~~local governing body~~ locality] to make such structure or part thereof temporarily safe, whether or not legal action to compel

compliance has been instituted. [~~Such All~~] work shall comply with the requirements of Part II [~~of this chapter~~] of the USBC.

J. 129.8. Abatement or removal: Whenever the owner, of a structure that has been deemed to be a public nuisance under Section 129.1, fails to comply with the requirements of the notice to abate, the code official may cause the structure to be razed or removed, according to authority granted by the [~~local governing body~~ locality] . [~~Such All~~] work shall comply with the requirements of Part II [~~of this chapter~~] of the USBC. A [~~local governing body~~ locality] may, after official action under § 15.2-900, 15.2-906 or 15.2-1115 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the [~~local governing body~~ locality] may abate, raze, or remove such public nuisance, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

13 VAC 5-61-155. Section 130.0 Demolition.

130.1. Procedures: Whenever a structure is to be demolished the work shall be carried out in compliance with the requirements of Part II (13 VAC 5-61-15 et seq.) [~~of this chapter~~] of the USBC.

~~[13 VAC 5-61-161. Section 131.0 Dangerous and dilapidated structures.~~

~~A. 131.1. General: The code official shall order the owner of any premises upon which is located any dangerous and dilapidated structure to repair and rehabilitate the structure in accordance with this code or to demolish and to remove such structure.~~

~~B. 131.2. Dangerous buildings as public nuisances: All dangerous or dilapidated structures as defined by this code are hereby determined to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified in this code.~~

~~C. 131.3. Failure to comply: If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be collected in a manner allowed by law.]~~

13 VAC 5-61-165. Section 132.0 Violations.

A. 132.1. Unlawful acts: It shall be unlawful for any person, firm or corporation to use or not maintain any structure or equipment regulated by this part of this chapter of the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of this part of this chapter of the USBC.

B. 132.2. Notice of violation: The code official shall serve a notice of violation to the responsible party as determined by Section 132.1 if (i) the defective maintenance or use has not been remedied within a reasonable time following the report

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or notice issued under Section 128.0 or (ii) any other directive or order of the code official has not been complied with within a reasonable time. The notice of violation shall reference the code section that serves as the basis for the notice and direct the discontinuance and abatement of the alleged violation. The notice shall be in writing and be served by either delivering a copy to the responsible party and the owner by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or access way if the person in charge of the premises cannot be found. The notice of violation shall state the right of appeal by reference to the appeals section.

C. 132.3. Prosecution of violation: If the responsible party has not complied with the notice of violation, the code official shall request, in writing, the legal counsel of the [~~local governing body~~ locality] to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation or to require the removal or termination of the use of the structure in violation of the provisions of the USBC. [In addition, the code official may issue or obtain a summons or warrant where the locality so allows.]

D. 132.3.1. Civil penalties: Civil penalties shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of this chapter for civil penalties.

E. 132.4. Violation penalties: Penalties upon conviction of violating the USBC shall be as [~~required~~ set forth] in § 36-106 of the Code of Virginia.

F. 132.5. Abatement of violation: Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation.

G. 132.6. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy for [~~repeated~~] failure to correct [~~repeated~~] violations [~~in disregard for~~ of] the provisions [of Part III] of the USBC.

13 VAC 5-61-171. Section 133.0 Appeals.

133.1. General: Appeals arising from application of this part [~~of this chapter~~] of the USBC shall be in accordance with the provisions of Part II (13 VAC 5-61-15 et seq.) of [~~this chapter~~ the USBC] for appeals.

Exception: The applicant shall submit a written request for appeal to the BBCA within 21 calendar days from the receipt of the decision to be appealed.

PART IV. TECHNICAL AMENDMENTS.

13 VAC 5-61-200. BNBC Section 202.0 General definitions.

A. Change the following definitions to read:

Building: A combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property; ~~however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family~~

~~and farm employees shall be exempt from this code, but such buildings lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. For application of this code, each portion of a building which is completely separated from other portions by fire walls complying with Section 707.0 shall be considered as a separate building.

Jurisdiction: The governing body of any city, county or town [or other political subdivision or state agency] in this Commonwealth [authorized to enforce the USBC under state law]. See local governing body.

Owner: The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

Structure: An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. ~~Farm structures not used for residential purposes shall be exempt from the provisions of this code, but such structures lying within a flood plain or in a mudslide-prone area shall be subject to flood proofing regulations or mudslide regulations, as applicable.~~ The word "structure" shall be construed as though followed by the words "or part or parts thereof" and "or equipment" unless the context clearly requires a different meaning.

B. Add the following definitions to read:

Breezeway: See Section 1002.0.

Building regulations: Any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Code official:

Building code official: The officer or other designated authority charged with the administration and enforcement of the USBC or a duly authorized representative.

Building maintenance code official: The officer or other designated authority charged with the administration and enforcement of the maintenance provisions of the

USBC for existing structures or a duly authorized representative.

Construction: The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn): See Section 1202.0.

DHCD: The Virginia Department of Housing and Community Development.

Equipment: Plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

~~**Farm structure:** A structure located on a farm utilized for either the storage, handling or production of agricultural, horticultural or floricultural products or the sheltering, raising or processing of farm animals or farm animal products, which products or animals are normally intended for sale to domestic or foreign markets. The term shall include structures used for the maintenance, storage or use of farm equipment.~~

Industrialized building: A combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes shall not be considered industrialized buildings for the purpose of this code.

Local building department: The agency or agencies of any local governing body charged with the administration, supervision or enforcement of ~~this code~~ *the provisions of Part II (13 VAC 5-61-15 et seq.) of Chapter 1 of the USBC, including but not limited to approval of plans, inspection of buildings structures or issuance of permits, licenses, certificates, or similar documents. For application of this code the USBC, the term "department of building inspection" shall mean the local building department.*

Local enforcing agency: *The local agency or agencies charged by the local governing body with the administration, supervision or enforcement of the provisions of Part III (13 VAC 5-61-121 et seq.) of Chapter 1 of the USBC. The local governing body is permitted to assign "local enforcing agency" responsibility to the "local building department."*

Local governing body [or locality]: *The governing body of any city, county or town [or other political subdivision or state agency] in this Commonwealth [authorized to enforce the USBC under state law]. See jurisdiction.*

Manufactured home: A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a

permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Skirting: *A weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.*

State-regulated care facility (SRCF): *A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice (Use groups R-2, R-3 and R-4 only) [and a state license is required by any such agencies to operate].*

Sound transmission class (STC) rating: See Section 1202.0.

Technical assistant: *Any person employed by, or under contract to, a local building department or local enforcing agency for enforcing the USBC, including but not limited to inspectors and plans reviewers.*

TRB: The Virginia State Building Code Technical Review Board.

C. Delete the ~~definition~~ *following definitions:*

"Agricultural building."

"Approved rules."

"Structure, existing."

13 VAC 5-61-220. BNBC Section 310.0 Residential use groups.

A. Change subsection 310.1 to read:

310.1. General: All structures in which sleeping accommodations are provided, excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3 or R-4. The term "Use Group R" shall include Use Groups R-1, R-2, and R-3. Family day homes licensed or certified by the Virginia Department of Social Services shall be permitted to accommodate the numbers of children permitted under the licensing restrictions and shall be classified as a residential use group.

B. Change subsection 310.6 to read:

310.6. Use Group R-4 structures: This use group shall include all detached one- or two-family dwellings and one-family townhouses not more than three stories in height, and the accessory structures as indicated in the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code. All such structures shall be designed in accordance with the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code or in accordance with the requirements of this code applicable to Use Group R-3.

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Exceptions:

~~1. Structures classified as Use Group R-4 shall comply with applicable requirements of Section 3107.0 of this code.~~

~~2. Structures classified as Use Group R-4 shall comply with the requirements of Section 1214.4 of this code, when applicable.~~

C. Add subsection 310.6.1 to read:

310.6.1. Amendments to the CABO Code: The following changes shall be made to the CABO One- and Two-Family Dwelling Code listed in Chapter 35 of this code:

1. Delete the note in CABO subsection 114.1.

2. Change CABO subsection 115.1 to read:

115.1. General: Swimming pools, spas and hot tubs shall comply with the provisions in Appendix D.

3. Change CABO subsection 119.1 to read:

119.1. General: The provisions for energy conservation contained in Appendix E shall be part of this code.

4. ~~[Add exception to Amend]~~ CABO subsection 301.2 ~~[to read as follows]:~~

~~[a. Add exception to CABO subsection 301.2 to read:]~~

Exception: Heating facilities shall be required in accordance with Section 303.6. The winter design temperature for heating facilities required or provided shall be established by the jurisdiction in accordance with this section.

~~[b. Change Note 5 in Table 301.2b to read:~~

~~5. 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 (Figure 301.2h), such locality shall fill in this part of the table with "yes."~~

~~Exemption: Buildings or portions thereof with crawl space foundations which are ventilated to the exterior, shall not be required to provide radon-resistant construction.]~~

5. Add CABO subsection 301.7 to read:

301.7. Airport noise attenuation standards: Following official action by the local governing body under § 15.2-2295 of the Code of Virginia, all structures to be located in areas affected by above average noise levels from aircraft due to their proximity to flight operations at nearby airports as determined by the governing body having jurisdiction shall have acoustical treatment measures in accordance with the provisions of Section 3107.0 of the BNBC.

6. Add CABO subsection 301.8 to read:

301.8. Floodproofing: All structures to be located in areas prone to flooding as determined by the local governing body shall be floodproofed in accordance with the provisions of Section 3107.0 of the BNBC.

~~5-~~ 7. Change CABO subsection 303.6 to read:

303.6. Required heating: Every dwelling unit or portion thereof which is to be rented, leased or let on terms either expressed or implied to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperatures at 65°F (18°C) during the period from October 4 15 to May 15 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-~~ 8. Add CABO subsection 303.7 to read:

303.7. Insect screens: Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device.

~~7-~~ 9. Add CABO subsection 306.5 to read:

306.5. Approval: Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health.

~~[10. Change CABO subsection 310.2 to read:~~

~~310.2. Emergency egress required: Every sleeping room shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening, including an operable sash without the use of a key or tool. Where windows are provided as a means of egress or rescue, they shall have a sill height of not more than 44 inches (1118 mm) above the floor.]~~

~~8-~~ ~~[10.]~~ Change CABO subsection 310.4 to read:

310.4. Type of lock or latch: All egress doors shall be readily openable from the inside without the use of a key unless the key cannot be removed from the lock when the door is locked from the inside.

~~9-~~ ~~[11.]~~ Change CABO subsection 314.2 to read:

314.2. Treads and risers: The maximum riser height shall be 8 ~~[eight 8-1/4]~~ inches ([210 ~~203~~] mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's

leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2.0% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

~~40.~~ [~~43.~~ 12.] Change CABO subsection 314.4 to read:

314.4. Winders: Winders are permitted, provided that the width of the tread at a point not more than 12 inches (305 mm) from the side where the treads are narrower is not less than nine inches (229 mm) and the minimum width of any tread is not less than six inches (153 mm). The continuous handrail required by Section 314.1 shall be located on the side where the tread is narrower.

~~44.~~ [~~44.~~ 13.] Change CABO subsection 314.6 to read:

314.6. Circular stairways: Circular stairways shall have a minimum tread depth and a maximum riser height in accordance with Section 314.2 and the smaller radius shall not be less than twice the width of the stairway. The minimum tread depth of nine inches (229 mm) shall be measured from the narrower end.

~~42.~~ [~~45.~~ 14.] Change subsection 315.2 to read:

315.2. Handrail grip size: The handgrip portion of the handrails shall not be more than 2-5/8 inches (66.7 mm) in cross-sectional dimension, or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners.

~~43.~~ [~~46.~~ 15.] Delete CABO subsection 316.1.1.

~~44.~~ Delete CABO Section 324 Protection Against Radon.

~~45.~~ [~~47.~~ 16.] Change subsection 401.4 to read:

401.4. Soil tests: Localities having 20% and greater moderate and high shrink/swell potential of the jurisdictional land area shall implement an expansive soil test policy. Localities having less than 20% moderate and high shrink/swell potential of the jurisdictional land area may adopt a soil test policy. The policy shall establish minimum criteria to determine the circumstances which require testing for expansive soils and the minimum testing requirements. The policy shall be established in a manner selected by the local government having jurisdiction. All localities shall obtain and retain as a reference guide a copy of the applicable National Cooperative Soil Survey produced cooperatively by the Natural Resources Conservation Service and the Virginia Polytechnic Institute and State University, where this survey is available. Figures 401.4a and 401.4b shall be used to determine the percentage of jurisdictional land area which has moderate or high shrink/swell potential.

Exception: For additions to one- and two-family dwellings or slab-on-grade accessory structures and decks where there is no indication of a shrink-swell condition for the area.

[~~48.~~ 17.] Add CABO subsection 703.9 to read:

703.9. Exterior insulation and finish systems (EIFS): Exterior insulation and finish systems (EIFS) shall comply with BNBC Section 1405.8.

[~~49.~~ 18.] Add CABO subsection 3903.1.1 to read:

3903.1.1. Electrical service equipment: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:

1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.
2. The grounding electrode system shall be installed and terminated.
3. Grounding and grounded conductors shall be terminated in the service equipment.
4. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
5. Service equipment covers shall be installed.
6. The building roof covering shall be installed.

13 VAC 5-61-225. BNBC Section 312.0 Utility and miscellaneous use group.

Change subsection 312.1 to read:

312.1. General: Buildings and structures of an accessory character and miscellaneous structures not classified in any specific use group shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Use Group U shall include fences over six feet (1829 mm) high, tanks, cooling towers, retaining walls and buildings such as private garages, carports, sheds and agricultural buildings.

13 VAC 5-61-245. BNBC Chapter 7 Fire-resistant Materials and Construction.

[~~A.~~ Add subsection 707.11 to read:

~~707.11. Marking of fire walls: Fire walls shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.~~

~~B.~~ Add subsection 709.8 to read:

~~709.8. Marking of fire separation assemblies: Vertical fire separation assemblies shall be so designated by~~

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~~signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.~~

~~C. Add subsection 711.8 to read:~~

~~711.8. Marking of fire partitions: Fire partitions shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.~~

~~D. Add subsection 712.6 to read:~~

~~712.6. Marking of smoke barriers: Smoke barriers shall be so designated by signage having letters no smaller than one inch (25.4 mm) in height indicating the fire-resistance rating at horizontal intervals of no more than eight feet (2438 mm). Such signage is permitted to be located above the ceiling level and shall be located at all ceiling access doors in continuous ceilings.~~

~~Add subsection 701.4. to read:~~

~~701.4. Fire-resistance assembly marking: Concealed fire walls, vertical fire separation assemblies, 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 contain the wording "FIRE RATED ASSEMBLY" and be provided at horizontal intervals of no more than eight feet (2438 mm).]~~

~~[13 VAC 5-61-255. BNBC Section 906.0 Fire sprinkler system.~~

~~Add exception to subsection 906.2.1 to read:~~

~~3. In occupancies in Use Group R-2, sprinklers shall not be required in:~~

~~a. Bathrooms not exceeding 55 square feet (5.12 m²) in area. In new buildings, these bathrooms must have noncombustible bathtubs, bathtub enclosures, and shower enclosures to meet this exception.~~

~~b. Closets where the least dimension does not exceed three feet (914 mm) and which do not contain mechanical or electrical equipment, such as washers, dryers, hot water heaters, furnaces, or heat pumps.]~~

~~13 VAC 5-61-290. BNBC Section 104.0 1014.0 Stairways.~~

~~A. Add exception to subsection 1014.11 to read:~~

~~7. Stairways connected to exit access breezeways complying with Section 1011.6 are not required to be enclosed.~~

~~B. Add exception to subsection 1014.12.2 to read:~~

~~4. When the open exterior side or sides of the stairs are at an angle of or greater than 180 degrees from the exterior wall of the building, protection shall not be required for the exterior wall.~~

~~13 VAC 5-61-310. BNBC Section 1103.0 Applicability.~~

~~A. Add exception to subsection 1103.1 to read:~~

~~6. Pulpit, choir, baptismal and similar areas in Use Group A-4 structures are not required to be accessible.~~

~~B. Add subsection 1103.1.1 to read:~~

~~1103.1.1. Identification of accessible parking spaces: In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.~~

~~13 VAC 5-61-315. BNBC Section 1104.0 Accessible route.~~

~~Change exception # 2 to subsection 1104.2 to read:~~

~~2. In other than the offices of health care providers (Use Group B), passenger transportation facilities and airports (Use Group A-3), and Use Group M occupancies with five or more tenant spaces, buildings less than three stories in height or less than 3,000 square feet (279 m²) per floor are not required to have an accessible route to floors above or below the accessible entrance level.~~

~~13 VAC 5-61-317. BNBC Section 1110.0 Existing facilities.~~

~~Add exception to subsection 1110.2 to read:~~

~~2. Occupancies in Use Group R-2 containing four or more dwelling units and occupancies in Use Group R-3 where there are four or more dwelling units in a single structure.~~

~~13 VAC 5-61-340. BNBC Section 1214.0 Sound transmission control in residential buildings.~~

~~A. Add exception to subsection 1214.1 to read:~~

~~Exception: Section 1214.4 applies to the construction of the exterior envelope of residential structures and shall be enforced only after action by the local governing body of any county, city or town pursuant to under § 45.1-494.03 15.2-2295 of the Code of Virginia.~~

~~B. Add subsection 1214.4 to read:~~

1214.4. Airport noise attenuation standards: Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table 1214.4. As an alternative to compliance with Table 1214.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by a registered design professional.

C. Add Table 1214.4 to read:

TABLE 1214.4.
AIRPORT NOISE ATTENUATION STANDARDS.

Ldn	STC of exterior walls and roof/ceiling assemblies	STC of doors and windows
65-69	39	25
70-74	44	33
75 or greater	49	38

13 VAC 5-61-345. BNBC Section 1405.0 Veneers.

Change subsection 1405.8 to read:

1405.8. Exterior insulation and finish systems (EIFS): Special inspections shall be required for EIFS applications in accordance with Section 1705.1. Exceptions 2 and 3 shall not apply.

Exceptions:

1. Special inspections shall not be required for EIFS applications installed over a water-resistive barrier with a means of draining moisture to the exterior in accordance with Section 1403.3.

2. Special inspections shall not be required for EIFS applications installed over masonry or concrete walls.

13 VAC 5-61-360. BNBC Section 1705.0 Special inspections.

A. Change subsection 1705.1 to read:

1705.1. General: The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

B. Change subsection 1705.13 to read:

1705.13. Exterior insulation and finish systems (EIFS): Special inspections shall be based upon the information provided in the manufacturer's installation instructions and the construction documents. The manufacturer's installation instructions shall include criteria for the conditions of the substrate; foam plastic material and application; mesh application; base coat application, including thickness, ambient conditions and cure; sealant requirements; finish coat application; details for joints and flashing at windows, doors; joints in the system, eaves,

corners, penetrations, and any other criteria necessary for the proper installation of the EIF system.

13 VAC 5-61-390. BNBC Section 2701.0 General.

Add subsection 2701.1.1 to read:

2701.1.1. Amendments to NFPA 70: The following change shall be made to NFPA 70 listed in Chapter 35 of this code:

Change subsection 336-5 (a) (1) to read:

(1). In any dwelling or structure exceeding four floors above grade.

13 VAC 5-61-395. BNBC Section 2705.0 Temporary use.

Add subsection 2705.1.1 to read:

2705.1.1. One- and two-family dwellings: The code official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:

1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.

2. The grounding electrode system shall be installed and terminated.

3. Grounding and grounded conductors shall be terminated in the service equipment.

4. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.

5. Service equipment covers shall be installed.

6. The building roof covering shall be installed.

13 VAC 5-61-400. BNBC Section 2801.0 General.

A. Add exception to subsection 2801.1 to read:

Exception: This code shall not govern the installation, alteration and repair of water heaters, boilers and pressure vessels to the extent which they are regulated by the Virginia Boiler and Pressure Vessel Regulations (16 VAC 25-50-10 et seq.). However, the code official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

B. Add subsection 2801.1.1 to read:

2801.1.1. Heating facilities: Heating facilities shall be provided in structures as follows:

1. Every dwelling unit or portion thereof which is to be rented, leased or let on terms, either expressed or implied, to furnish heat to the occupants thereof shall be provided with heating facilities capable of maintaining the room temperature at 65°F (18°C) during the period from October 4 15 to May 4 1 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point

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three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the outside design temperature required for the locality by this code.

2. Every enclosed occupied work space in nonresidential structures shall be provided with heating facilities capable of producing sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The required room temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.

Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from these requirements.

C. Add subsection 2801.2.1 to read:

2801.2.1. *Fuel gas equipment and systems: All fuel gas equipment and systems shall be constructed, installed and maintained in accordance with the fuel gas code listed in Chapter 35.*

13 VAC 5-61-410. BNBC Section 2901.1 General.

A. Change subsection 2901.1 to read:

2901.1. Scope: The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage disposal in buildings, shall comply with the requirements of this chapter and the plumbing code listed in Chapter 35.

Water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health. Plumbing fixtures shall be connected to an approved water supply source and to an approved sanitary sewer or private sewage disposal system. Approval of pumping and electrical equipment shall be the responsibility of the code official.

B. Add subsection 2901.1.1 to read:

2901.1.1. *Amendments to the plumbing code: The following changes shall be made to the plumbing code listed in Chapter 35:*

Add exception to subsection 404.2 to read:

4. *Separate facilities shall not be required in mercantile occupancies in which the structure or tenant space is 5,000 square feet (466.6 m²) or less.*

Change subsection 404.5 to read:

404.5. *Customer facilities: Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces utilized as restaurants, nightclubs, places of assembly and mercantile occupancies. Customer toilet facilities shall be located not more than one story above or below the space required to be provided with customer toilet facilities and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). In*

covered mall buildings, required facilities shall be based on total square footage, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum travel distance to the central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space.

Exception: Customer facilities are not required in structures or tenant spaces with a customer occupant load of less than 150 and which do not serve food or beverages to be consumed within the structure or tenant space.

13 VAC 5-61-415. BNBC Chapter 30 Elevators and Conveying Systems.

Add subsection 3007.8 to read:

3007.8. *Elevator car to accommodate ambulance stretcher: In buildings four stories in height or more, at least one elevator shall be provided for fire department emergency access to all floors. Such elevator car shall be of such a size and arrangement to accommodate a 24-inch by 76.5-inch (610-mm by 1943-mm) ambulance stretcher in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall be placed inside on both sides of the hoistway door frame.*

13 VAC 5-61-430. BNBC Section 3401.0 General.

A. ~~Change subsection Delete subsections 3401.2 to read, 3401.3 and 3401.4.~~

~~3401.2. Maintenance and repairs: The owner shall be responsible for the maintenance and repair of structures in accordance with the maintenance requirements of this code and the property maintenance code listed in Chapter 35 of this code. Equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, to the extent which were provided when constructed, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations. The provisions in the property maintenance code listed in Chapter 35 of this code for unsafe structures (Sections PM-108.0, PM-109.0 and PM-110.0) shall be considered part of the provisions of this code for the maintenance of existing structures.~~

B. Add subsection ~~3401.2.4~~ 3401.1.1 to read:

~~3401.2.4.~~ 3401.1.1. *Amendments to the property maintenance code: Under Part III (13 VAC 5-61-121 et seq.) [of Chapter 1] of the USBC, the following changes shall be made to the property maintenance code (BNPMC) listed in Chapter 35 of this code:*

1. ~~Change subsection PM-101.1 to read:~~

~~PM-101.1 Title and use: These regulations shall be known as the Property Maintenance Code hereinafter referred to as "this code." Any provisions of this code which are in conflict with, or exceed the scope of, the~~

Virginia Uniform Statewide Building Code shall be invalid.

1. ~~BNPMC Chapter 1 was deleted in Part III [of Chapter 4] of the USBC.~~

[~~2. Add the following definition to Section PM-202.0 General Definitions to read:~~

~~Dangerous and dilapidated structure:— A building or structure which has any of the following defects or conditions:~~

~~1. Whenever any structure or part thereof, which in the code official's judgement is old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such structure or part thereof; or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure or parts thereof.~~

~~2. Whenever the code official determines that the cost of such repairs would exceed 100% of the true cash value of such structure, such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this definition that such structure is a public nuisance which shall be ordered razed without option on the part of the owner to repair in accordance with the procedures set forth in this code.~~

~~3. Whenever any portion has been damaged by wind, flood or by any other cause in such manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of this code.~~

~~4. Whenever any portion, member or appurtenance is likely to fall or become detached or dislodged, or to collapse, and thereby injure persons or damage property.~~

~~5. Whenever any portion has settled to such an extent that the walls or other structural portions have materially less resistance to wind than is required in the case of new construction by this code.~~

~~6. Whenever the building or structure or any part because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purposes of supporting such building or portion thereof, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.~~

~~7. Whenever for any reason whatsoever that the building or structure or any portion is manifestly unsafe for the purpose for which it is used.~~

~~8. Whenever the building or structure has been damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein or as to afford a harbor for disorderly persons.~~

~~9. Whenever a building or structure used or intended to be used for dwelling purposes because of dilapidation, decay, damage or faulty construction or arrangement or otherwise is unsanitary or unfit for human habitation, or is in a condition that is likely to cause sickness or disease, or is likely to work injury to the health, safety or general welfare of those living within.~~

~~10. Whenever any building becomes vacant, dilapidated and open at the doors or windows thereof, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.~~

~~11. Whenever a building or structure designed or zoned for use as a residence has remained vacant and boarded up for a period in excess of six continuous months and has been found to be unfit for human habitation after inspection by the code official.~~

~~12. Whenever the code official is able to establish that as to a particular dilapidated vacant structure there has existed a pattern where such structure has frequently remained open at the doors or windows leaving the interior of the building accessible to entrance by trespassers.]~~

[2. ~~3.~~] Add the date "April 1" to the first bracketed DATE area and "December 1" to the second bracketed DATE area in *BNPMC* subsection [~~PM-304.14 PM-304.15~~].

[3. ~~4.~~] Add the date "October 4 15" to the first bracketed DATE area and "May 4 1" to the second bracketed DATE area in *BNPMC* subsection *PM-602.2.1*.

[4. ~~5.~~] Add the date "October 1" to the first bracketed DATE area and "May 15" to the second bracketed DATE area in *BNPMC* subsection *PM-602.3*.

[5. ~~6.~~] Add *BNPMC* subsection *PM-606.3* to read:

PM-606.3. Inspection standard: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8 of this code the BNPMC. The code official may also provide for such inspection by an approved agency or through agreement with other local certified elevator inspectors. An approved agency includes any individual, partnership or corporation who has met the certification requirements established by Virginia Certification Standards (13 VAC 5-21-10 et seq.).

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13 VAC 5-61-440. BNBC Section 3402.0 General requirements.

A. Change subsection 3402.1 to read:

3402.1. *Application: The requirements of this section shall be mandatory for existing structures.*

B. Change subsection 3402.2 to read:

3402.2. Replacement glass: Any replacement glass installed in buildings constructed prior to the initial effective date of this code shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation.

~~B~~- C. Change subsection 3402.3 to read:

3402.3. Smoke detectors in colleges and universities: College and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. All public and private college and university dormitories shall have installed and use due diligence in maintaining in good working order such detectors regardless of when the building was constructed.

The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~C~~- D. Change subsection 3402.4 to read:

3402.4. Smoke detectors in certain juvenile care facilities: Battery-powered or AC-powered smoke detectors shall be installed and maintained in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles which are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation and maintenance of the smoke detector devices.

~~D~~- E. Change subsection 3402.5 to read:

3402.5. Smoke detectors for the deaf and hearing impaired: Smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;

2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or

3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

~~E~~- F. Change subsection 3402.6 to read:

3402.6. Smoke detectors in adult care residences, adult day care centers and nursing homes and facilities: Battery-powered or AC-powered smoke detector devices shall be installed in all adult care residences and adult day care centers licensed by the Virginia Department of Social Services, regardless of when the building was constructed. The location and installation of the smoke detectors shall be determined by the provisions of this code in effect on October 1, 1990.

The licensee shall obtain a certificate of compliance from the building official of the locality in which the residence or center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

The licensee shall maintain the smoke detector devices in good working order.

Fire alarm or fire detector systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing homes and nursing facilities licensed by the Virginia Department of Health by August 1, 1994, and shall be maintained in good working order.

G. Add subsection 3402.6.1 to read:

3402.6.1. *Smoke detectors in buildings containing dwelling units: AC-powered smoke detectors with battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke detector located in buildings containing one or more dwelling units or rooming houses offering to rent overnight sleeping accommodations, when it is determined by the code official that the responsible party of such building or dwelling unit [~~is unwilling or unable~~ fails] to maintain battery-powered smoke detectors in working condition.*

~~F~~- H. Change subsection 3402.7 to read:

3402.7. Fire suppression systems in nursing homes and facilities: Fire suppression systems as required by the

edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed, and shall be maintained in good working order. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

~~G~~. I. Delete subsection 3402.9.

~~H~~. J. Add subsection 3402.10 to read:

3402.10. Fire suppression systems in hospitals: Fire suppression systems shall be installed in all hospitals licensed by the Virginia Department of Health as required by the edition of this code in effect on October 1, 1995, regardless of when such facilities were constructed, and shall be maintained in good working order.

~~I~~. K. Add subsection 3402.11 to read:

3402.11. Identification of handicapped parking spaces by above grade signs: All parking spaces reserved for the use of handicapped persons shall be identified by above grade signs, regardless of whether identification of such spaces by above grade signs was required when any particular space was reserved for the use of handicapped persons. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. Any parking space not identified by an above grade sign shall not be a parking space reserved for the handicapped within the meaning of this section.

All above grade handicapped parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. Such signs shall be designed and constructed in accordance with the provisions of Chapter 11 of this code. *All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.*

~~J~~. L. Add subsection 3402.12 to read:

3402.12. Smoke detectors in hotels and motels: Smoke detectors shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, by the dates indicated, regardless of when constructed, and shall be maintained in good working order.

~~K~~. M. Add subsection 3402.13 to read:

3402.13. Sprinkler systems in hotels and motels: By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed, and shall be maintained in good working order.

~~L~~. N. Add subsection 3402.14 to read:

3402.14. Fire suppression systems in dormitories: An automatic fire suppression system shall be provided throughout all buildings having a Use Group R-2 fire area which are more than 75 feet (22,860 mm) or six stories above the lowest level of exit discharge and which are used, in whole or in part, as a dormitory to house students by any public or private institution of higher education, regardless of when such buildings were constructed, in accordance with the requirements of this code and Section 906.2.1. The automatic fire suppression system shall be installed by September 1, 1999. The chief administrative office of the college or university shall obtain a certificate of compliance from the code official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

Exceptions:

1. Buildings equipped with an automatic fire suppression system in accordance with Section 906.2.1 or the 1983 or later editions of NFPA 13.
2. Where the requirements of this section are modified by Section 3402.14.1.
3. Any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~O~~. Add subsection 3402.14.1 to read:

3402.14.1. Modifications to requirements of Section 3402.14: The application of the requirements of Section 3402.14 shall be modified in accordance with this section.

1. Building systems, equipment or components other than the fire suppression system shall not be required to be added or upgraded except as necessary for the installation of the fire suppression system and shall only be required to be added or upgraded where the installation of the fire suppression system creates an unsafe condition.
2. Residential sprinklers shall be used in all sleeping rooms. Other sprinklers shall be quick response or residential unless deemed unsuitable for a space. Standard response sprinklers shall be used in elevator hoist ways and machine rooms.
3. Sprinklers shall not be required in wardrobes in sleeping rooms which are considered part of the building construction or in closets in sleeping rooms, when such wardrobes or closets (i) do not exceed 24 square feet (2.23 m²) in area, (ii) have the smallest dimension less than 36 inches (914 mm), and (iii) comply with the following:
 - a. A single station smoke detector monitored by the building fire alarm system is installed in the room containing the wardrobe or closet which will activate the general alarm for the building if the single station

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smoke detector is not cleared within five minutes after activation;

b. The minimum number of sprinklers required for calculating the hydraulic demand of the system for the room shall be increased by two and the two additional sprinklers shall be corridor sprinklers where the wardrobe or closet is used to divide the room. Rooms divided by a wardrobe or closet shall be considered one room for the purpose of this requirement; and

c. The ceiling of the wardrobe, closet or room shall have a fire resistance rating of not less than hour.

4. Not more than one sprinkler shall be required in bathrooms within sleeping rooms or suites having a floor area between 55 square feet (5.12 m²) and 120 square feet (11.16 m²) provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.

5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system provided the water supply requirements of NFPA 13 listed in Chapter 35 [of the BNBC] are met.

6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.

7. Where a standby power system is required, a source of power in accordance with Section 701-11 (d) or 701-11 (e) of NFPA 70 listed in Chapter 35 [of the BNBC] shall be permitted.

P. Add subsection 3402.15 to read:

3402.15. Fire extinguishers and smoke detectors in state-regulated care facilities: [~~On~~ In] each [~~floor~~ kitchen] there shall be installed and maintained at least one approved type ABC portable fire extinguisher [~~having at least with~~] a [2A minimum] rating [of 2A10BC]. The facility shall provide and maintain at least one approved [battery operated,] properly installed smoke detector [as a minimum] (i) [~~in~~ outside] each [~~bedroom hallway~~ sleeping area in the vicinity of bedrooms and bedroom hallways], [and] (ii) [~~at the top of each interior stairway,~~ (iii) in each area designated for smoking and (iv) in or immediately adjacent to each room with a furnace or other heat source. Smoke detectors shall be tested each month and a record of the tests shall be maintained for two years on each additional floor].

[~~Q. Add subsection 3402.16 to read:~~

~~3402.16. Smoking prohibited: Smoking shall be prohibited in all Use Group R-2 buildings having occupied floors located more than 75 feet (22860 mm) above the lowest level of fire department vehicle access and having inter-connecting dwelling unit air distribution systems.]~~

13 VAC 5-61-447. BNBC Section 3405.0 Change of occupancy.

Add subsection 3405.1.1 to read:

3405.1.1. Application: The owner or his agent shall, in writing, apply to and obtain from the building code official a new certificate of occupancy prior to changing the occupancy of a structure. When the current USBC requires a greater degree of structural strength, fire protection, means of egress, ventilation or sanitary provision for the new use, the owner or his agent shall, in writing, apply and obtain a permit from the building code official. When it is impractical to achieve compliance with the USBC, the building code official shall, upon application, issue modifications as provided in [Section 107.2 of] Part II of [~~Chapter 4~~ the USBC].

13 VAC 5-61-450. BNBC Section 3408.0 Compliance alternatives.

A. Change subsection 3408.2 to read:

3408.2. Applicability: The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Groups H or I.

B. Change subsection 3408.2.5 to read:

3408.2.5. Accessibility requirements: All portions of buildings altered shall conform to the accessibility provisions of Section 1110.2.

13 VAC 5-61-460. BNBC Chapter 35 Referenced Standards.

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

Standard reference number	Title	Referenced in code section number
IFGC-97	International Fuel Gas Code	2801.3

VA.R. Doc. No. R98-274; Filed May 31, 2000, 10:19 a.m.

REGISTRAR'S NOTICE: The Board of Housing and Community Development has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which excludes regulations pertaining to grants of state or federal funds or property.

Title of Regulation: 13 VAC 5-100-10 et seq. Virginia Energy Assistance Program Weatherization Component.

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

Effective Date: May 31, 2000.

Summary:

This regulatory action allows the Director of the Department of Housing and Community Development to

administer 15% of the Low Income Home Energy Assistance Program (LIHEAP) Block Grant and any contingency funds awarded and carry over funds to furnish home weatherization and associated services to low-income households within the Commonwealth in accordance with applicable federal law and regulations. This action is intended to improve or enhance the energy efficiency of dwelling units occupied by eligible households, improve the energy related health and safety problems, and attempt to lessen dependency on the energy assistance program.

Agency Contact: Copies of the regulation may be obtained from Floris Weston, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219-1321, telephone (804) 371-7112.

CHAPTER 100.
VIRGINIA ENERGY ASSISTANCE PROGRAM
WEATHERIZATION COMPONENT.

13 VAC 5-100-10. Definitions.

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

“Capital-intensive furnace or cooling efficiency modifications” means those major heating and cooling modifications which require a substantial amount of funds, including replacement and major repairs, but excluding such items as tune-ups, minor repairs, and filters.

“Department” means the Department of Housing and Community Development.

“DOE” means the U. S. Department of Energy.

“Dwelling unit” means a house, including a stationary mobile home, an apartment, a condominium, a group of rooms, or a single room occupied as separate living quarters. Separate living quarters are living quarters in which the occupants do not live and eat with any other persons in the structure and that have either direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

“Household” means all persons living in the dwelling unit.

“Poverty guidelines” means the poverty income guidelines as established and published annually by the federal Department of Health and Human Services.

“Weatherization improvements” means determining, completing, reporting and inspecting measures that are intended to enable or improve residential energy efficiency and improve health and safety, and include, but are not limited to: (i) nonemergency heating system repairs, modifications or installations to include the fuel supply, the combustion exhaust system and the distribution systems; (ii) nonemergency cooling efficiency modifications; (iii) air sealing to include, but not limited to, sealing bypasses, chimney, plumbing and electrical chases; replacing missing or broken

glass, missing windows, missing doors; sealing unused flues and fireplaces, holes, ceilings and floors; sealing or dampering dryer vents, kitchen exhaust fans, window air conditioners, utility penetrations; and providing a ground cover in crawlspaces; (iv) attic, floor, mobile home bellyboard and sidewall insulation; (v) insulating, repairing and sealing ducts and heating pipes; (vi) insulating, repairing and replacing domestic water heaters; (vii) water flow reducers; (viii) setback thermostats; (ix) energy related health and safety and indoor air quality measures such as carbon monoxide detectors, smoke detectors and passive or mechanical ventilation; and (x) compact fluorescent bulbs.

13 VAC 5-100-20. Purpose; eligibility criteria; benefits.

A. The purpose of the weatherization assistance component is to improve or enhance the energy efficiency of the dwelling unit occupied by eligible households, improve the energy related health and safety problems, and attempt to lessen dependency on the energy assistance program. The weatherization assistance component does not provide emergency assistance for energy or health and safety related problems.

B. Eligibility criteria is set out in this subsection.

1. Maximum income limits shall be at or below 130% of the poverty guidelines. In order to be eligible for weatherization assistance, a family's income must be at or below the maximum income limits.

2. A dwelling unit may be weatherized only after written permission of the owner is received.

C. Services will be provided through the department's weatherization network.

D. The maximum average per dwelling unit benefit will be as provided for by the DOE regulations (10 CFR 440.18). A different average may be used for units with capital-intensive furnace or cooling efficiency modifications as provided for by DOE regulations. The forms of assistance or weatherization improvements shall include, but not be limited to, heating system inspections, diagnostics, repairs, replacements, installations and modifications to include the fuel supply, the combustion exhaust and the distribution systems; cooling efficiency modifications; energy efficiency improvements to include air sealing, duct repair and insulation, attic insulation and venting, sidewall insulation, mobile home bellyboard repair and insulation, domestic water heater insulation, floor insulation, repair and replacement of broken and missing glass, windows and doors, setback thermostats and water flow reducers.

VA.R. Doc. No. R00-35; Filed May 31, 2000, 10:16 a.m.

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TITLE 15. JUDICIAL

VIRGINIA STATE BAR

REGISTRAR'S NOTICE: The Virginia State Bar is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 15 VAC 5-80-10 et seq. **Regulations under the Virginia Consumer Real Estate Settlement Protection Act.**

Statutory Authority: § 6.1-2.25 of the Code of Virginia.

Effective Date: May 24, 2000.

Summary:

These regulations are promulgated by the Virginia State Bar pursuant to the Consumer Real Estate Settlement Protection Act (CRESPA), which governs lawyers, title agents, title companies, real estate brokers and financial institutions in their capacity as real estate settlement agents. The regulations require settlement agents to register with the Virginia State Bar and pay a fee. They also require periodic reregistration and create a duty to inform the Virginia State Bar of changes in registration data. The registration may be suspended or revoked for failure to comply with CRESPA or the regulations. The regulations establish additional requirements for attorney settlement agents and provide for a penalty of up to \$5,000 for violations by attorney settlement agents.

Agency Contact: Copies of the regulation may be obtained from the Virginia State Bar website at www.vsb.org, or from Mary Yancey Spencer, Deputy Executive Director, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219-2800, telephone (804) 775-0575.

CHAPTER 80.

REGULATIONS UNDER THE VIRGINIA CONSUMER REAL ESTATE SETTLEMENT PROTECTION ACT.

15 VAC 5-80-10. Authority; applicability; scope.

These regulations are issued by the Virginia State Bar pursuant to and under the authority of the Virginia Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia) as enacted by the 1997 session of the General Assembly of Virginia. The Act does not apply to licensed attorneys who provide escrow, closing or settlement services solely for public bodies as defined in § 11-37 of the Code of Virginia; thus, such attorneys are exempt from the registration, certification and separate fiduciary trust account requirements set forth in these regulations.

CRESPA, and therefore these regulations, applies to transactions involving the purchase of or lending on the security of real estate located in Virginia containing not more than four residential units. In addition, a lay settlement agent may provide escrow, settlement and closing services for transactions involving any real property located in Virginia,

provided the agent is registered under and in compliance with CRESPA. See the Real Estate Settlement Agent Registration Act (§ 6.1-2.30 et seq. of the Code of Virginia). Lawyer settlement agents are not required to register under CRESPA unless the transaction involves the purchase of or lending on the security of real estate located in Virginia containing not more than four residential dwelling units.

15 VAC 5-80-20. Definitions.

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

"Attorney" means a person licensed as an attorney under Chapter 39 (§ 54.1-3900 et seq.) of Title 54.1 of the Code of Virginia and who is an active member of the Virginia State Bar in good standing under the Rules of the Virginia Supreme Court.

"Bar" means the Virginia State Bar.

"Board" means the Virginia Real Estate Board.

"CRESPA" means the Virginia Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia). Unless otherwise defined herein, all terms in these regulations shall have the meanings set forth in CRESPA.

"Disciplinary board" means the Virginia State Bar Disciplinary Board.

"Financial institution" has the meaning set forth in § 6.1-2.1 of the Code of Virginia.

"First dollar coverage" means an insurance policy which obligates the company issuing the policy to pay covered claims in their entirety, up to the policy limits, regardless of the presence of a deductible amount to which the company may be entitled as a reimbursement from the insured.

"SCC" means the Virginia State Corporation Commission.

"These regulations" means 15 VAC 5-80-10 et seq., Regulations under the Virginia Consumer Real Estate Settlement Protection Act.

15 VAC 5-80-30. Registration; reregistration; required fee.

Every licensed attorney, title insurance company, title insurance agent or real estate broker, as well as every financial institution authorized to do business in Virginia under any of the provisions of Title 6.1 of the Code of Virginia, or under federal law, and every subsidiary or affiliate of any such financial institution, now providing or offering, or intending to provide or offer, escrow, closing or settlement services as a settlement agent with respect to real estate transactions in Virginia shall register with the Bar on or before September 29, 1997, using the registration form available from the Bar for that purpose. Settlement agents beginning to provide or offer such services after July 1, 1997, shall register with the Bar prior to doing so. The registration requirement in this paragraph shall not apply to attorney settlement agents unless they provide or offer to provide escrow, settlement and closing services for real estate subject to CRESPA, i.e., real estate containing not more than four residential dwelling units.

Thus, for example, attorneys who handle only commercial real estate transactions are not subject to these regulations.

Every settlement agent shall thereafter reregister after notice on a schedule established by the Bar, providing updated registration information. Every settlement agent shall have a continuing duty to advise the Bar of any change in name, address or other pertinent registration data that occurs between registrations.

The fee for each registration and reregistration shall be \$35 for an individual settlement agent and \$100 for a settlement agent which is a corporation or other legal entity authorized to register in that capacity. The Bar reserves the right to adjust the fee as necessary within the statutory limit of \$100. The prescribed fee shall accompany each registration or reregistration in the form of a check made payable to the Treasurer of Virginia.

Registration is subject to revocation or suspension if the Bar or other appropriate licensing authority finds the settlement agent out of compliance with CRESPA or regulations issued thereunder.

15 VAC 5-80-40. Unauthorized practice of law guidelines; investigation of complaints.

The Bar will issue guidelines under CRESPA and in consultation with the SCC and the board to assist settlement agents in avoiding and preventing the unauthorized practice of law in connection with the furnishing of escrow, closing or settlement services. In conformity with CRESPA, the rules of the Virginia Supreme Court and the Bar's UPL opinions, these guidelines will delineate activities which can and cannot be carried out by registered nonattorney settlement agents in conducting settlements. The guidelines will be revised from time to time as necessary.

A copy of the guidelines will be provided by the Bar to each registered settlement agent at the time of initial registration and at each reregistration. The guidelines will also be published by the Bar in the Virginia Lawyer Register and furnished to the SCC, the board, and all other state and federal agencies that regulate financial institutions, as well as to members of the general public upon request. The guidelines may be photocopied as necessary.

The Bar will continue to receive and investigate unauthorized practice of law complaints in the real estate settlement area, as well as in other fields, under its unauthorized practice of law rules and procedures.

If the Bar receives complaints against nonattorney settlement agents that do not allege the unauthorized practice of law, it will refer the complaints to the appropriate licensing authority that has jurisdiction over the subject of the complaint. If the complaint involves noncompliance with 15 VAC 5-80-30, the Bar will conduct an informal investigation. If the Bar believes a violation has occurred, it will notify the settlement agent in writing. If the apparent violation is not rectified within 30 days, the Bar will refer the matter to the appropriate licensing authority for further enforcement action.

15 VAC 5-80-50. Attorney settlement agent compliance.

A. Attorney settlement agent certification. Each attorney settlement agent shall, at the time of initial registration and each subsequent reregistration, certify on the form available from the Bar for that purpose, that the attorney settlement agent has in full force and effect the following insurance and bond coverages, and that such coverages will be maintained in full force and effect throughout the time the attorney settlement agent acts, offers or intends to act in that capacity:

1. A lawyer's professional liability insurance policy issued by a company authorized to write such insurance in Virginia providing first dollar coverage and limits of at least \$250,000 per claim covering the licensed attorney acting, offering or intending to act as a settlement agent. The policy may also cover other attorneys practicing in the same firm or legal entity.

2. A blanket fidelity bond or employee dishonesty insurance policy issued by a company authorized to write such bonds or insurance in Virginia providing limits of at least \$100,000 covering all other employees of the attorney settlement agent or the legal entity in which the attorney settlement agent practices.

3. A surety bond issued by a company authorized to write such bonds in Virginia, on a form approved by the Virginia State Bar, providing limits of at least \$100,000 covering the licensed attorney acting, offering or intending to act as a settlement agent. A copy of the approved bond form is available from the Bar. The bond may also cover other attorney settlement agents practicing in the same firm or legal entity. The original surety bond must be attached to the attorney settlement agent's certification form and furnished to the Bar; a surety bond on which a law firm is named as principal may be furnished by the firm or any one attorney settlement agent in the firm, with other such attorney settlement agents in the same firm attaching a copy to their forms.

The Bar reserves the right to require other evidence of the above insurance and bond coverages beyond the attorney's certification and surety bond, at its discretion.

An attorney settlement agent who has no employees other than the attorney settlement agent or other licensed owner(s), partner(s), shareholder(s), or member(s) of the legal entity in which the attorney settlement agent practices may apply to the Bar for a waiver of the coverage required in subdivision A 2 of this section, using the waiver request form available from the Bar. Such waiver requests will be acted on by the Executive Committee of the Bar, whose decision shall constitute final action by the agency.

B. Separate fiduciary trust account. Each attorney settlement agent shall maintain one or more separate and distinct fiduciary trust account(s) used only for the purpose of handling funds received in connection with escrow, closing or settlement services. Funds received in connection with real estate transactions not covered by CRESPA may also be deposited in and disbursed from such account(s). All funds received by an attorney settlement agent in connection with

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escrow, closing or settlement services shall be deposited in and disbursed from the separate fiduciary account(s) in conformity with both the Bar's disciplinary rules and CRESPA. These separate fiduciary trust accounts shall be maintained in the same manner and subject to the same rules as those promulgated by the Bar for other lawyer trust accounts, as well as in conformity with CRESPA. One separate fiduciary trust account may be maintained and used by all attorney settlement agents practicing in the same firm or legal entity.

C. *Settlement statements.* All settlement statements for escrow, closing and settlement services governed by CRESPA and these regulations shall be in writing and identify, by name and business address, the settlement agent.

D. *Complaints against attorney settlement agents.* The Bar shall receive complaints and investigate alleged violations of CRESPA or these regulations by attorney settlement agents.

If, after investigation, the Bar has reasonable cause to believe that one or more violations have occurred, the following procedures shall apply:

1. The attorney settlement agent shall be notified in writing of the violation(s).
2. The attorney settlement agent shall have 30 days from the date of such notification to rectify the violation(s) and/or to request a hearing.
3. If any violation is not rectified within 30 days and/or the Bar believes the violation presents or presented a risk to consumers protected under CRESPA, the Bar may request a hearing and issue an order requiring the attorney settlement agent to appear at the hearing.
4. The hearing shall be held before the Bar's disciplinary board within 60 days of the request by the attorney settlement agent or issuance of the Bar's order to appear.
5. If, after the hearing, the attorney settlement agent is found to have violated CRESPA or these regulations, the attorney settlement agent may be subject to the following penalties, at the disciplinary board's discretion:
 - a. A penalty not exceeding \$5,000 for each violation;
 - b. Revocation or suspension of the attorney settlement agent's registration; and
 - c. Any other sanction available to the disciplinary board in attorney disciplinary proceedings under the rules of the Virginia Supreme Court, including, but not limited to, revocation or suspension of the attorney settlement agent's license to practice law.

NOTICE: The forms used in administering 15 VAC 5-80-10 et seq., Regulations under the Virginia Consumer Real Estate Settlement Protection Act, are listed below and are published following the listing.

FORMS

Settlement Agent Official Registration Form for a Corporation or Other Legal Entity (eff. 4/97).

Settlement Agent Official Registration Form for an Individual Attorney, Broker or Title Agent (eff. 1/98).

Settlement Agent Official Re-Registration Form for an Individual Attorney, Broker or Title Agent (eff. 2/98).

Virginia Attorney Real Estate Settlement Agent Financial Responsibility Certification (eff. 2/98).

Bond for Attorney Settlement Agents (eff. 5/97).

Settlement Agent Official Renewal Form for Corporation or Other Entity.

SETTLEMENT AGENT OFFICIAL REGISTRATION FORM
FOR A CORPORATION OR OTHER LEGAL ENTITY



VIRGINIA STATE BAR

REGISTRATION FEE - \$100.00

Please make check payable to the "Treasurer of Virginia."

Choose the capacity in which you are providing real estate settlement services:	<input type="checkbox"/> Licensed Title Insurance Company	<input type="checkbox"/> Licensed Title Insurance Agent (Corporation or other legal entity only)	<input type="checkbox"/> Financial Institution (or affiliate or subsidiary thereof)
Applicable Virginia or Federal Licensing/Regulatory Authority _____			
License or other Identification Number _____			

Full Name of Corporation or other Legal Entity: _____

Name of Officer or Manager of Legal Entity: _____

Business Address: _____
(Required) (Street Address)

(City, State, and Nine-digit zip code)

Telephone Number: (____) _____ Facsimile Number: (____) _____

Date on which entity was licensed or otherwise authorized to do business in Virginia: ____/____/____

Is the entity's license or authorization to do business in Virginia in good standing? yes _____ no _____

Taxpayer ID Number (optional): _____-_____-_____

I certify that the information provided above is true and accurate, that I will keep the Bar advised of any changes in the information provided, and that I understand completion of this official registration form may not complete the legal entity's public protection requirements as a settlement agent under the Virginia Consumer Real Estate Settlement Protection Act and regulations under the act which may be issued by its licensing or regulatory authority.

Typed Name of Corporation or other Legal Entity

Typed Name of Officer or Manager

Signature of Officer or Manager

THE INFORMATION SOUGHT IS FOR THE PURPOSE OF MAINTAINING ACCURATE VSB RECORDS NEEDED TO CARRY OUT THE DUTIES SPECIFIED IN TITLE 6.1, CHAPTER 1.3, CODE OF VIRGINIA. THE INFORMATION PROVIDED WILL BE AVAILABLE FOR INSPECTION BY THE PUBLIC UNDER THE FREEDOM OF INFORMATION ACT.

Please complete and return with your registration fee to: Virginia State Bar, Eighth & Main Building, Suite 1500, 707 East Main Street, Richmond, VA 23219-2803.

Questions: Please telephone the Virginia State Bar Membership Department at (804) 775-0530.

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SETTLEMENT AGENT OFFICIAL REGISTRATION FORM
FOR AN INDIVIDUAL ATTORNEY, BROKER or TITLE AGENT

VIRGINIA STATE BAR



REGISTRATION FEE - \$35.00

Please make check payable to the "Treasurer of Virginia."

Choose the capacity in which you are providing real estate settlement services:	<input type="checkbox"/> Licensed Attorney (Individual Only)	<input type="checkbox"/> Licensed Real Estate Broker (Individual Only)	<input type="checkbox"/> Licensed Title Insurance Agent (Individual only)
Applicable Virginia Licensing/Regulatory Authority _____			
Bar Identification or License Number _____			

Full Name: Mr. _____
Miss _____
Mrs. _____
Ms. _____

LAST NAME FIRST NAME MIDDLE NAME

(1) Business Address: _____
(Required) (Firm Name) _____
(Street Address) _____
(City, State, and Nine-digit zip code) _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

(2) Residence Address: _____
(Optional) (Street Address) _____
(City, State, and Nine-digit zip code) _____

Telephone Number: (____) _____

Please indicate address preference for mailing purposes:

(1) Business _____ or (2) Residence _____

Date on which you were licensed in Virginia: ____/____/____

Is your license in Virginia in good standing? yes _____ no _____

SSN (optional): _____ - _____ - _____ Date of Birth: ____/____/____

I certify that the information provided above is true and accurate, that I will keep the Bar advised of any changes in the information provided, and that I understand completion of this official registration form does not complete my public protection requirements as a settlement agent under the Virginia Consumer Real Estate Settlement Protection Act and regulations under the act which may be issued by my licensing or regulatory authority.

Signature: _____

THE INFORMATION SOUGHT IS FOR THE PURPOSE OF MAINTAINING ACCURATE VSB RECORDS NEEDED TO CARRY OUT THE DUTIES SPECIFIED IN TITLE 6.1, CHAPTER 1.3, CODE OF VIRGINIA. THE INFORMATION PROVIDED WILL BE AVAILABLE FOR INSPECTION BY THE PUBLIC UNDER THE FREEDOM OF INFORMATION ACT.

Please complete and return with your registration fee to: Virginia State Bar, Eighth & Main Building, Suite 1500, 707 East Main Street, Richmond, VA 23219-2803.

Questions: Please telephone the Virginia State Bar Membership Department at (804) 775-0530.

1/14/98

DUE BY	VIRGINIA STATE BAR	Questions: (804)775-0530
SETTLEMENT AGENT OFFICIAL RE-REGISTRATION FORM FOR AN INDIVIDUAL ATTORNEY, BROKER or TITLE AGENT		

The following information is on record:

CRESPA ID#:
Present Status:

Bond Issuer:
Bond Number:
License Date:
Tax ID# (optional):
SSN (optional):

Virginia License is in good standing

Please print necessary changes here:

Name: _____
Address: _____

City, State: _____
Zip+4: _____
Phone:() _____
Fax:() _____

Additionally, update my VSB membership record to reflect these changes.

Status: _____
Bond Issuer: _____
Bond Number: _____
License Date: _____
Tax ID# (optional): _____
SSN (optional): _____

Virginia License is in good standing _____

I no longer handle real estate closings and will not be re-registering under CRESPA.

I certify that the information provided above is true and accurate and I will keep the Bar advised of any changes in the information provided. I understand completion of this official renewal form **does not** complete my public protection requirements as a settlement agent under the Virginia Consumer Real Estate Settlement Protection Act and regulations under the act which may be issued by my licensing or regulatory authority.

Signature: _____ Date: _____

THE INFORMATION SOUGHT IS FOR THE PURPOSE OF MAINTAINING ACCURATE VSB RECORDS NEEDED TO CARRY OUT THE DUTIES SPECIFIED IN TITLE 6.1, CHAPTER 1.3, CODE OF VIRGINIA. THE INFORMATION PROVIDED WILL BE AVAILABLE FOR INSPECTION BY THE PUBLIC UNDER THE FREEDOM OF INFORMATION ACT.

Please review the above information and make necessary changes in the right column. **Sign and date your renewal form and, if you are an attorney, sign and date the financial responsibility certification on the back of this form.** Return with payment to the Virginia State Bar, Eighth & Main Building, 707 East Main Street, Suite 1500, Richmond, VA 23219-2803.

\$35.00 RENEWAL FEE

Please make check payable to the "Treasurer of Virginia."

2/23/98

VIRGINIA STATE BAR

Virginia Attorney Real Estate Settlement Agent
Financial Responsibility Certification



As required by the provisions of the Virginia Consumer Real Estate Settlement Protection Act (Title 6.1, Chapter 1.3, Code of Virginia) and the Virginia State Bar's Regulations issued thereunder, I hereby certify that I have in full force and effect all of the following insurance and bond coverages, as well as a separate fiduciary trust account, in conjunction with my registration as a real estate settlement agent:

1. A lawyers' professional liability insurance policy issued by a company authorized to write such insurance in Virginia providing first dollar coverage and limits of at least \$250,000 per claim covering me in my capacity as a settlement agent.
 2. A surety bond issued by a company authorized to write such bonds in Virginia, on a form approved by the Virginia State Bar, providing limits of at least \$100,000 covering me in my capacity as a settlement agent. The original surety bond is attached as required by the Bar's Regulations or has previously been furnished to the bar at the time of my initial registration. (If a law firm is named as principal in the bond, a copy may be attached, provided the original is furnished to the Bar by the firm or another registered settlement agent in the same firm.)
 3. A separate and distinct fiduciary trust account used solely for the purpose of handling funds received in connection with real estate escrow, closing and settlement services provided by me and any other registered settlement agents practicing in my firm or other legal entity. (If such account is newly established, bar members are reminded of the need to provide enrollment information for the interest on Lawyers Trust Account program to the Legal Services Corporation of Virginia, unless they chose to opt out of that program.)
- 4a. A blanket fidelity bond or employee dishonesty insurance policy issued by a company authorized to write such bonds or insurance in Virginia providing limits of at least \$100,000 covering all other employees of mine or the legal entity in which I practice.

or

- 4b. I am hereby requesting or have previously been granted an exemption from this requirement, because I have no employees other than myself or other licensed owner(s), partner(s), shareholder(s), or member(s) of the legal entity in which I practice.

I further certify that all such coverages and such separate fiduciary trust account will be maintained in full force and effect throughout the time I act, offer or intend to act as a real estate settlement agent. I understand that these requirements are subject to further verification by the Bar at its discretion, and I agree to provide satisfactory evidence of such coverages and such separate fiduciary trust account upon request.

Typed or Printed Name of Settlement Agent

Date

Signature

Bar Identification Number

2/23/98

IN WITNESS WHEREOF, the said Principal has hereunto set his hand and seal and the said Surety has caused these presents to be signed by its duly authorized officer or Attorney-in-Fact and its corporate seal affixed on the day and year first written above.

Bond No. _____

BOND FOR ATTORNEY SETTLEMENT AGENTS
Principal as Law Firm

(SEAL) _____
(PRINCIPAL)

(PURSUANT TO SECTION 6.1-2.21 OF THE CODE OF VIRGINIA)

By: _____

(SEAL)

KNOW ALL MEN BY THESE PRESENTS, That _____ of _____

(SEAL) _____
(SURETY)

(SEAL)

as Principal, and _____ of _____ a corporation organized and existing under the laws of the State of _____ and authorized to do business in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the COMMONWEALTH OF VIRGINIA, as Obligee, or to any aggrieved person who may be injured by attorneys of the Principal as hereinafter provided in the penal sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for the payment of which, well and truly to be made, we and each of us, bind ourselves, our heirs, successors, and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED this _____ day of _____, 19____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, certain attorneys of the Principal are required to register with the Virginia State Bar as settlement agents pursuant to Chapter 1.3 of Title 6.1 of the Code of Virginia and are thereby required to maintain a surety bond.

NOW THEREFORE, the condition of this obligation is such that if such attorneys of the Principal shall be registered with the Virginia State Bar to act as settlement agents and if such attorneys of the Principal shall act in such capacity in full compliance with the provisions of the laws of the Commonwealth of Virginia and rules, regulations, and orders prescribed by the Virginia State Bar pertaining to Settlement Agents, then this obligation shall be null and void; otherwise to remain in full force and effect;

CONDITIONED FURTHER, that the Commonwealth of Virginia may maintain an action against this bond for its use and benefit or for the use and benefit of any aggrieved person, or any aggrieved person may maintain an action in its own name against this bond to recover damages as a result of such attorneys of the Principal breaching any of the above-mentioned laws, regulations, or orders; provided, however, that regardless of the number of years this bond remains in effect in no event shall the aggregate liability of the Surety to all claimants for all claims under this bond exceed the penal sum of this bond.

The Surety may be released from liability for future breaches of the condition of this bond upon giving (60) days written notice to the Principal and the Virginia State Bar, Commonwealth of Virginia, of its desire to be released.

5/29/97

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DUE BY	VIRGINIA STATE BAR SETTLEMENT AGENT OFFICIAL RENEWAL FORM FOR CORPORATION OR OTHER ENTITY	Questions: (804)775-0530
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The following information is on record:

<p>CRESPA ID#: Present Status:</p> <p>License or ID#: License Date: Tax ID# (optional):</p> <p>Virginia license is in good standing</p>

Please make necessary changes here:

<p>Corporate Name: Officer Name: Address:</p> <p>City, State: Zip+4: Phone:() Fax:()</p> <p><input type="checkbox"/> We will no longer handle real estate closings.</p> <p>Status: _____ License or ID#: _____ License Date: _____ Tax ID# (optional): _____</p> <p>Virginia license is in good standing _____</p>
--

I certify that the information provided above is true and accurate and I will keep the Bar advised of any changes in the information provided. I understand completion of this official renewal form does not complete my public protection requirements as a settlement agent under the Virginia Consumer Real Estate Settlement Protection Act and regulations under the act which may be issued by my licensing or regulatory authority.

Signature: _____ Date: _____

THE INFORMATION SOUGHT IS FOR THE PURPOSE OF MAINTAINING ACCURATE VSB RECORDS NEEDED TO CARRY OUT THE DUTIES SPECIFIED IN TITLE 6.1, CHAPTER 1.3, CODE OF VIRGINIA. THE INFORMATION PROVIDED WILL BE AVAILABLE FOR INSPECTION BY THE PUBLIC UNDER THE FREEDOM OF INFORMATION ACT.

Please review the above information and make necessary changes in the right column. Sign and date your renewal form. **List any changes of members handling real estate closings on the back of this form.** Return with payment to the Virginia State Bar, Eighth & Main Building, 707 East Main Street, Suite 1500, Richmond, VA 23219-2803.

\$100.00 RENEWAL FEE
Please make check payable to the "Treasurer of Virginia."

FORMER MEMBERS

Horizontal lines for listing former members.

NEW MEMBERS

Horizontal lines for listing new members.

VA.R. Doc. No. R00-184; Filed May 24, 2000, 1:05 p.m.



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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF OPTOMETRY

REGISTRAR'S NOTICE: The Board of Optometry is claiming an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Board of Optometry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 105-30-10 et seq. Regulations for the Certification of Optometrists to Use Therapeutic Pharmaceutical Agents (amending 18 VAC 105-30-70).

Statutory Authority: § 54.1-3223 of the Code of Virginia.

Effective Date: July 19, 2000.

Summary:

The amendment corrects the reference to the current edition of "Drug Facts and Comparisons Updated Monthly." There is no longer a section entitled "Topical Preparations," subsection "Ophthalmic Products"; those drugs which are approved for use by optometrists with therapeutic pharmaceutical agent certification are those listed in Chapter 12 of "Drug Facts and Comparisons Updated Monthly."

Agency Contact: Copies of the regulation may be obtained from Elizabeth A. Carter, Ph.D., Board of Optometry, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910.

18 VAC 105-30-70. Therapeutic pharmaceutical agents.

A. A certified optometrist may procure for administration, administer and prescribe the following topically applied pharmaceutical agents (Schedule VI) or any therapeutically appropriate combination thereof. For clarification and reference, the list of approved topical preparations shall be those listed under ~~"Topical Preparations,"~~ subsection ~~"Ophthalmic Products"~~ in Chapter 12 of the current edition of Drug Facts and Comparisons Updated Monthly as it is updated, *with the exception of injectible ophthalmic agents and otic preparations.* (A copy of the current approved list will be provided upon request from the Board of Optometry.)

1. Anti-allergy;
2. Anti-glaucoma;
3. Anti-infective;
4. Anti-inflammatory;
5. Cycloplegic and Mydriatic; and
6. Decongestant.

B. A certified optometrist may procure for administration, administer, or prescribe the following oral pharmaceutical

agents: narcotic and nonnarcotic analgesics limited to Schedule III and VI. For clarification and reference, Schedule III analgesics shall be those oral analgesic preparations containing codeine or hydrocodone in combination with nonnarcotic analgesics. Further, the following list of Schedule VI oral analgesic preparations are approved:

Schedule VI oral analgesics:

Nonsteroidal anti-inflammatory drugs:

- ibuprofen
- ketoralac
- nabumetone
- naproxen sodium
- etodolac
- ketoprofen
- diclofenac sodium or diclofenac potassium
- fenoprofen or fenoprofen calcium

Centrally acting analgesics:

tramadol hydrochloride

C. Over-the-counter topical and oral medications appropriate to the treatment of the eye may be procured for administration, administered, prescribed or dispensed.

D. A certified optometrist may prescribe and dispense contact lenses for therapeutic purposes.

E. A TPA-certified optometrist may inject epinephrine intramuscularly for anaphylactic shock.

VA.R. Doc. No. R00-190; Filed May 30, 2000, 10:59 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Title of Regulation: 20 VAC 5-311-10 et seq. Interim Rules Governing Electric and Natural Gas Retail Access Pilot Programs (PUE980812).

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

Effective Date: May 26, 2000.

Summary:

The State Corporation Commission has established interim rules to govern issues common to natural gas and electricity restructuring retail access pilot programs, Case No. PUE980812, Ex Parte: In the matter of establishing interim rules for retail access pilot programs. In its December 3, 1998, Order Establishing Procedural Schedule in this case, the commission directed proposed interim rules to address certification, codes of conduct, and standards of conduct governing relationships among

entities participating in such pilot programs. The commission ordered its staff to select and lead a task force, comprised of a broad cross-representation of interested market participants, to propose such interim rules and to issue a report and the recommended rules by March 9, 1999. Following comments and an evidentiary hearing, the Chief Hearing Examiner issued her report on August 6, 1999.

On February 10, 2000, the State Corporation Commission issued an Order Inviting Comments on Retail Access Pilot Program Rules along with a revised set of rules. Following additional comments and discussions with interested parties, the State Corporation Commission Staff submitted a Motion for the Filing of Proposed Revised Interim Retail Access Pilot Program Rules. The staff's proposed rules were accepted for filing and parties were again given an opportunity to comment. Numerous parties submitted comments but there were no requests for further hearings. The staff incorporated several further suggestions to clarify a number of the rules.

The rules consist of six sections in a new chapter, Chapter 311 (20 VAC 5-311-10 et seq.) of Title 20 of the Virginia Administrative Code. The rules include sections addressing (i) definitions; (ii) competitive service providers; (iii) local distribution companies; (iv) aggregators; (v) minimum requirements for licensure of competitive service providers and aggregators; and (vi) general provisions. Additionally, the proposed interim rules allow parties to request waivers from the State Corporation Commission.

Agency Contact: Copies of the interim pilot rules are available on the commission's website at <http://www.state.va.us/scc/> or may be obtained from the Commission's Division of Economics and Finance, P.O. Box 1197, Richmond, VA 23218-1197.

AT RICHMOND, MAY 26, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE980812

Ex Parte: In the matter of establishing interim rules for retail access pilot programs

FINAL ORDER

On March 20, 1998, the State Corporation Commission ("Commission") entered an Order establishing an investigation requiring various parties to perform activities and provide information to assist the Commission in moving forward in the evolving world of electric utility restructuring.² Among other things, this Order required Virginia Electric and

² This Order and other related documents may be found in *Commonwealth of Virginia ex. rel. State Corporation Commission, Ex Parte: In the matter of requiring reports and actions related to independent system operators, regional power exchanges and retail access pilot programs*, Case No. PUE980138.

Power Company ("Virginia Power") and American Electric Power – Virginia ("AEP-VA") each to begin work toward implementing at least one retail access pilot program. On November 2, 1998, Virginia Power and AEP-VA filed pilot programs in Case No. PUE980138.³

Pilot programs also have been established within Columbia Gas of Virginia, Inc.'s ("CGVA") and Washington Gas Light Company's ("WGL") service territories.⁴ Upon approving the pilot program for CGVA, the Commission determined that a task force should be convened to develop a generic code of conduct applicable to natural gas retail unbundling programs. The Commission Staff subsequently filed a motion expressing a similar need for a code of conduct to govern retail access pilot programs for electric utilities and stating that there would be advantages in developing codes of conduct for the electric and natural gas utilities concurrently.

On December 3, 1998, the Commission established this docket to consider the adoption of interim rules to govern issues common to both natural gas and electricity retail access pilot programs including certification, codes of conduct, and standards of conduct governing relationships among entities participating in such programs. The Order Establishing Procedural Schedule directed the Commission Staff to select and lead a task force to consider and propose such rules by March 9, 1999, and established dates for the filing of comments and an evidentiary hearing in this matter.

On March 9, 1999, the Task Force filed its report in this matter and, after comments and rebuttal comments were filed, an evidentiary hearing was conducted by Chief Hearing Examiner Deborah V. Ellenberg. On August 6, 1999, the Chief Hearing Examiner issued her Report recommending that the Commission, by and large, adopt the Task Force's proposed rules with certain limited modifications and

³ Separate dockets have been created for consideration of these programs. The docket for consideration of Virginia Power's Pilot Program is *Commonwealth of Virginia At the relation of the State Corporation Commission, Ex parte: In the matter of considering an electricity retail access pilot program – Virginia Electric and Power Company*, Case No. PUE980813. A Final Order in this case was issued April 28, 2000, Document Control No. 000440141. The docket for consideration of AEP-VA's pilot program is *Commonwealth of Virginia At the relation of the State Corporation Commission, Ex Parte: In the matter of considering an electricity retail access pilot program – American Electric Power – Virginia*, Case No. PUE980814. This case is awaiting a final Commission decision.

⁴ Order Approving Commonwealth Choice Program, Phase I, *Application of Commonwealth Gas Services, Inc. For general increase in natural gas rates and approval of performance-based regulation methodology pursuant to Va. Code § 56-235.6*, Case No. PUE970455, 1997 S.C.C. Ann. Rep. 417, modified, Final Order, *Application of Columbia Gas of Virginia, Inc. (Formerly Commonwealth Gas Services, Inc.) For general increase in natural gas rates and approval of performance-based rate regulation methodology pursuant to § 56-235.6 of the Code of Virginia*, issued February 19, 1999, in Case No. PUE970455, Document Control No. 990220274 and Order Granting Application, *Application of Columbia Gas of Virginia, Inc., Application to Extend Customer Choice*, issued August 24, 1999, in Case No. PUE990245, Document Control No. 990830025; Final Order, *Application of Washington Gas Light Company For approval of a Pilot Delivery Service Program*, Case No. PUE971024, 1998 S.C.C. Ann. Rep. 390, modified, Order Granting Approval for an Amendment to Pilot Delivery Service Program, *Application of Washington Gas Light Company For an amendment to Pilot Service Program*, Case No. PUE980631, 1998 S.C.C. Ann. Rep. 429, and Order Granting Motion for Further Amendment to Pilot Delivery Service Program, *Application of Washington Gas Light Company For a further amendment to Pilot Delivery Service Program*, Case No. PUE980895, 1998 S.C.C. Ann. Rep. 434.

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clarifications.⁵ Comments to the Chief Hearing Examiner's Report were filed on or before August 27, 1999.

On February 10, 2000, the Commission issued an Order Inviting Comments on Retail Access Pilot Program Rules. With this Order the Commission published a revised set of rules designed to address specific substantive issues and to add detail to many of the rules recommended by the Chief Hearing Examiner, including the addition of a "definitions" section and a section specifically setting forth rules applicable to aggregators. Comments to these revised rules were filed on or before February 24, 2000.

Meanwhile, the Staff held various informal discussions with parties regarding their concerns with the February 10, 2000, proposed rules. On April 12, 2000, the Staff filed a Motion for the Filing of Proposed Revised Interim Retail Access Pilot Program Rules. These rules, dated March 29, 2000, were based upon the Commission's February 10, 2000, rules but included changes designed to address parties' concerns with the February 10 rules. The Staff's proposed rules were accepted for filing, and parties were once again given an opportunity to comment on the proposed retail access pilot program rules.

On or about April 27, 2000, comments were filed by the following parties: AARP Virginia State Legislative Committee; WGL; Virginia Citizens Consumer Council ("VCCC"); Division of Consumer Counsel, Office of the Attorney General; Virginia Power; the Virginia Electric Cooperatives⁶; the Potomac Edison Company, d/b/a/ Allegheny Power ("Allegheny Power"); Old Mill Power Company; CGVA; Washington Gas Energy Services ("WGES"); Roanoke Gas Company; Diversified Energy Company; and AEP-VA. No party requested oral argument.

NOW UPON CONSIDERATION, we find that we should adopt the attached rules applicable to retail access pilot programs in the electric and natural gas industries effective as of the date of this Order. A complete set of these rules is Attachment A to this Order. We appreciate the comments of all the parties in this proceeding and have carefully considered them in crafting this final version of the pilot program rules.

We recognize that these rules are limited to pilot programs of limited scope and duration and may require alteration in the future to accommodate full scale retail choice and competition. For example, these rules require a local distribution company ("LDC") and its affiliated competitive service provider ("ACSP") to implement only internal controls to ensure that the LDC and its employees engaged in

selected operations do not provide information to an ACSP which would give the ACSP an undue advantage over a nonaffiliated competitive service provider ("CSP"). A rule requiring separate facilities might be cost-prohibitive and burdensome for the limited duration of pilot programs. When full retail choice is implemented for all Virginians, however, it may be necessary to revisit this provision and require LDCs and ACSPs to have completely separate facilities and offices to ensure that there is no communication that would provide the ACSP an undue market advantage. As full competition develops over the next several years, this and other rules may need to be revised to ensure a level playing field for participants in the full scale retail choice market.

These rules apply to all retail access pilot programs the Commission has approved or will approve in the future, and these rules will be effective until the end of these pilot programs or as prescribed by further Commission order. As noted above, we will review and revise these rules as needed for the start and continuation of full retail choice.

While it is not necessary to review each rule in detail, we will discuss several of the rules that have been the subject of confusion or repeated debate and comment. These rules relate to: the applicability of the rules to affiliated CSPs; the pricing of affiliate transactions; internal controls governing interaction between LDCs and ACSPs; the information that must be contained in solicitation materials and customer contracts; the ten-day period during which customers may cancel their competitive supply contracts; the contract renewal provisions; the allocation of partial payments by customers; and the use of CSP security deposits by an LDC. First, however, we offer the following general comments applicable to the entire set of rules.

We have revised some of the rules to delete language referring to the Commission's ability to take corrective action as necessary against a company. The Commission's power to take such actions is embodied in current law. This language was removed in the interest of brevity and does not imply that the Commission cannot or will not take such action.

In some sections of the rules, an LDC or CSP is required to take certain action within a specified time limit. Since these are pilot rules, however, we have modified the time requirements to state that many actions will "normally" be taken within the prescribed period. For example, Rule 30 A 6⁷ requires that, in the event an LDC is notified by a CSP that the CSP will terminate a customer's service, the LDC shall, "normally" within two business days, respond to the CSP with an acknowledgement. We direct LDCs and CSPs to keep records throughout the duration of the pilot programs reflecting the actual lengths of time required to accomplish these actions. It is imperative that these records be maintained so that we can be informed of how much time to provide for such actions upon the start of full scale retail choice.

⁵ Report of Deborah V. Ellenberg, Chief Hearing Examiner, filed August 6, 1999, Document Control Number 990810232(hereinafter "Chief Hearing Examiner's Report").

⁶ The Virginia Electric Cooperatives is a group consisting of A&N Electric Cooperative; BARC Electric Cooperative; Community Electric Cooperative; Craig-Botetourt Electric Cooperative; Mecklenburg Electric Cooperative; Northern Neck Electric Cooperative, Inc.; Northern Virginia Electric Cooperative; Powell Valley Electric Cooperative; Prince George Electric Cooperative; Rappahannock Electric Cooperative; Shenandoah Valley Electric Cooperative and Southside Electric Cooperative, Inc.; Old Dominion Electric Cooperative; and the Virginia, Maryland & Delaware Association of Electric Cooperatives.

⁷ For ease of reference, the designation "20 VAC 5-311-" will be dropped. The reader should presume this is the title and chapter for all the rules discussed in this Order unless specifically stated otherwise. For example, where the Order refers to "Rule 30 A 6," it should be understood that this refers to 20 VAC 5-311-30 A 6.

These rules also specify certain reporting requirements for an LDC whose ACSP is participating in that LDC's pilot program. Some parties expressed concern that such reports would be duplicative of information the Commission already receives annually.⁸ Because the pilot programs are laboratories for choice and competition, we believe that requiring such information every six months during the pilot programs is not overly burdensome and will provide the Staff and others with the information necessary to evaluate the effectiveness of these rules and retail choice in general. In its filings the LDC is free to refer to previously filed information and need not supply duplicate copies of data that have not changed since they were previously filed.

Finally, we note that information required to be filed pursuant to these rules, including but not limited to the above-mentioned reports and applications for licensure, are matters of public record unless otherwise directed by the Commission. Any member of the public may obtain and review such information by visiting the Clerk's Office.

With these general considerations in mind, we now turn to specific issues raised by the comments.

Applicability of the rules to affiliated CSPs

Comments to the previously proposed rules have expressed uncertainty regarding who is subject to the rules governing ACSPs.⁹ Therefore, we offer the following. If a CSP is an affiliate of a distribution company that has no service territory in Virginia, then the CSP is not considered an ACSP for purposes of these rules and need not make any filings regarding affiliate transactions or otherwise comply with the rules specifically applicable to ACSPs. The definition of "Local Distribution Company" is "an entity regulated by the State Corporation Commission" Similarly, an "[a]ffiliated competitive service provider" is defined as "a separate legal entity that controls, is controlled by, or is under common control of, a local distribution company or its parent."¹⁰ Thus, the rules do not require that a CSP affiliated with a distribution company that has no service territory in Virginia comply with the rules designed to regulate ACSPs.

Further, not all rules apply to all ACSPs. Specifically, Rules 20 B 6 and 30 A 9 do not apply to LDCs and ACSPs where the ACSP is not participating in the pilot program of its affiliated LDC.

Affiliate costs

One of the main issues involving ACSPs was the regulation of affiliate transactions as specified in Rule 30 A 10. This rule provides that an LDC shall be compensated at the greater of fully distributed cost or market price for all non-tariffed

services, facilities, and products provided to an ACSP and that an LDC shall pay the lower of fully distributed cost or market price for all non-tariffed services, facilities, and products received from the ACSP.

We received comments expressing concern with this rule.¹¹ However, it is not new. It reflects our established policy that was detailed in our August 7, 1997, Order in Application of GTE South, Case No. PUC950019,¹² which has been upheld by the Virginia Supreme Court.¹³ Additionally, the policy recommendation of the National Association of Regulatory Utility Commissioners supports this approach.¹⁴

AEP-VA asserts that this policy might discourage ACSPs from participating in pilot programs because such affiliates that are affiliates of a registered holding company must price affiliate arrangements according to certain federal regulations.¹⁵ It is, however, not unusual for affiliates of registered holding companies to price transactions on bases similar to that required in Virginia. We do not believe the rule will discourage participation in pilot programs.

Internal controls

Rule 50 A 7 requires that an ACSP, as part of its license application, provide a description of internal controls it has designed to ensure that the ACSP and its employees engaged in selected operations do not provide information to an affiliated LDC (or to entities that provide similar functions for or on behalf of that LDC or any affiliated transmission provider) as would give the ACSP an undue advantage over a nonaffiliated CSP. In our final version of the rules, we have amended Rules 20 B 6 and 30 A 9 to mirror Rule 50 A 7. Rule 20 B 6 explicitly requires ACSPs to implement the controls the ACSP must provide as part of its application and now reflects the deadline by which any revised listing and description of internal controls must be filed. Rule 30 A 9 has been similarly amended.

As was true with the affiliate cost rules, there were also comments expressing concern with the rules governing the internal controls between LDCs and ACSPs.¹⁶ For example,

⁸ See, e.g., Comments of Washington Gas Light Company on Proposed Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440081, at 6-7; Comments of Columbia Gas of Virginia, Inc., in Response to the Staff's Proposed Revised Interim Retail Access Pilot Rules, filed April 27, 2000, Document Control No. 000440117, at 3-5.

⁹ Comments of Allegheny Power on Proposed Regulations in Response to April 13, 2000, Order, filed April 28, 2000, Document Control No. 000440136, at 4.

¹⁰ Rule 10 B.

¹¹ See, e.g., Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 5-7; Comments of Columbia Gas of Virginia, Inc., in Response to the Staff's Proposed Revised Interim Retail Access Pilot Rules, filed April 27, 2000, Document Control No. 000440117, at 3-5; Joint Comments of Roanoke Gas Company and Diversified Energy Company to Order Inviting Comments on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440082, at 2-3.

¹² Order, *Application of GTE South Incorporated For revisions to its local exchange, access and intraLATA long distance rates*, Case No. PUC950019, 1997 S.C.C. Ann. Rep. 216, 218.

¹³ *GTE South, Inc. v. AT&T Communications of Virginia, Inc.*, No. 991964, 2000 WL 257121 at *3 (Sup. Ct. Va. March 3, 2000).

¹⁴ *Attachment to Resolution Regarding Cost Allocation Guidelines for the Energy Industry, "Guidelines for Cost Allocations and Affiliate Transactions,"* NARUC Summer Committee Meetings, Resolutions, § D (July 18-21, 1999) <http://www.naruc.org/Resolutions/summer99.htm>.

¹⁵ See Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 6.

¹⁶ See, e.g., Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 7-9; Comments of Virginia Electric and Power Company on Retail Access Pilot

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AEP-VA asserts that these rules would deny ACSPs the economies of scope and scale provided by using the LDC's service company for accounting, billing, and other services not directly related to the provision of electricity or natural gas.¹⁷ However, we believe that such economies of scope and scale may still be enjoyed by CSPs and LDCs even while complying with these rules.

Solicitation, marketing, and contract information provided to customers

Rules 20 A 1 and 20 A 2 have been revised in several ways. Rule 20 A 1 now includes language requiring that solicitations, advertising, and marketing materials contain a clear and conspicuous notice of a toll-free telephone number to call to obtain additional information before signing a contract or making a purchasing decision. The information that must be provided is listed in Rule 20 A 2.

Whether or not the customer has requested such information previously, a CSP must send such information to the customer, in writing or electronically, by the time the written contract is provided to the customer.¹⁸ Rule 20 A 2 also requires that the information provided to the customer include a notice of the customer's right to cancel the contract, including specifications regarding the size of type and contents of such a notice. This notice provision is similar to § 59.1-21.4 of the Code of Virginia, which sets forth a consumer's right to cancel a purchase made through home solicitation.

Rule 20 A 4 published in our February 10, 2000, Order, has been deleted. The provisions originally contained in Rule 20 A 4 have largely been incorporated within Rule 20 A 3 b. Thus, our rules still require the customer to receive a written contract that is either hand delivered, mailed, or electronically transmitted. Rule 20 A 3 c now explicitly states that such contracts shall be considered void *ab initio* if enrollment is cancelled by the customer according to the procedures set forth in the rules.

These changes have been made to address concerns raised by the VCCC that the rules should expressly require that sellers notify customers of their right to cancel their contracts without penalty, of the time when this right expires, and of the procedures for exercising this right.¹⁹ We also are not unmindful of the VCCC's concern that customers may be entering into these transactions without first reading their

contracts.²⁰ Our rules currently permit the customer to agree to purchase electricity from a CSP and to receive a contract subsequent to that agreement. This procedure places the burden upon the customer to act affirmatively to rescind the contract if, after receiving and reading it, the customer does not wish to accept the contract's provisions. We are hesitant to adopt this strategy but will do so for the pilot programs in an attempt to determine whether this is the proper middle ground between consumer protection and allowing CSPs needed flexibility to operate in the new competitive market. As stated earlier, we may revise such rules with the start of full scale retail choice.

We also note that we have amended Rules 20 A 3 c and 30 B 4 to allow a customer to notify either the LDC or the CSP to cancel a contract. The entity notified of the cancellation request has normally one business day to notify the other entity of the customer's request to halt the enrollment process.

Rescission period

The pilot program rules require that, after a customer agrees to enroll with a CSP, the CSP must send an enrollment request to the LDC. According to Rule 30 B 4, the LDC, normally within one business day after receiving the enrollment request, shall mail a notice to the customer advising the customer of the request, the approximate date that service from the CSP will commence, and the procedure for canceling the enrollment. A customer is allotted ten calendar days to cancel the contract and halt the enrollment process with the CSP. The ten-day period is calculated based upon the date the customer receives the notice of enrollment request from the LDC, which notice is deemed to have been received by the customer three calendar days after the date of mailing.

We believe that a ten-day cancellation period is fair to customers who have never purchased electricity in the open market before and who will need time to review their contracts adequately.²¹ We understand the concern of WGES about the potential effect of such a lengthy cancellation period in volatile energy markets.²² We will monitor the use of the ten-day cancellation period throughout the pilot programs to determine if this period should be amended with the start of full scale retail access.

Contract length and renewal

Rule 20 A 11 allows a CSP to include provisions in its service contracts providing for automatic renewal during and beyond the duration of the pilot program to which that contract is applicable. Once the pilot program ends, the contract may continue, but it is subject to termination by either party upon thirty days' written notice to the other party. It is appropriate

Program Rules, filed April 27, 2000, Document Control No. 000440123, at 3-6; Comments of Washington Gas Energy Services on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440120, at 13-14.

¹⁷ Comments of AEP-VA Responding to the Commission's Order of April 13, 2000, filed April 27, 2000, Document Control No. 000440122, at 8-9.

¹⁸ Note that the customer may already have agreed to be served by a CSP before receiving a written document embodying the contract terms and the information required to be provided by Rule 20 A 2. In such a case, the written contract and additional information would provide a customer with the information necessary to decide whether to rescind the contract.

¹⁹ Comments on Proposed Revised Interim Retail Access Pilot Program Rules, Virginia Citizens Consumer Council, filed April 27, 2000, Document Control No. 000440084, at 3.

²⁰ *Id.* at 2-3.

²¹ Rule 20 A 3 b requires a CSP to send, contemporaneously, the enrollment request to the LDC and the written contract to the customer. Thus, the customer should have the contract in hand upon receipt of notification of the enrollment request from the LDC.

²² Comments of Washington Gas Energy Services on Proposed Revised Interim Retail Access Pilot Program Rules, filed April 27, 2000, Document Control No. 000440120, at 5-6.

for the contract to be subject to cancellation on short notice when the pilot program ends so that neither customers nor CSPs are bound by contracts for long periods after the end of the pilot period.

Partial payment allocation

Rule 60 E now states that a customer payment received in partial payment of a single consolidated bill shall be applied as designated by the customer. Absent customer designation, the payment will be applied to LDC arrearages, then to CSP arrearages, then to current LDC charges, then to current CSP charges. This method strikes a compromise position between allowing the LDC to be paid in full for both arrearages and current charges, before any CSP arrearages, and requiring all partial payments to be shared on a pro rata basis.²³

Several parties expressed a desire earlier in these proceedings to have the LDC collect its full arrearages and current charges before the CSP received any payment from a customer.²⁴ This proposal was based at least in part on the assumption that, if a customer defaults with a CSP, that customer would simply revert to default service from the LDC, which could not refuse to provide service to that customer. Thus, the LDC would be forced to take on a customer with a poor credit history. We find this argument invalid for these pilot programs because, if a customer returns to the LDC's generation service, the LDC may collect a security deposit from that customer to protect against the possibility that the generation portion of that customer's bill may become uncollectible by the LDC.²⁵ The collection of such security deposits must be made in accordance with the current rule governing all utility security deposits, 20 VAC 5-10-20, which states that the purpose of such deposits is to protect against uncollectible accounts and that the maximum amount of any deposit shall not exceed the equivalent of the customer's estimated liability for two months' usage. The security deposit should provide the LDC with adequate financial coverage.

In revising this rule, we have considered new provisions of the tax laws, effective January 1, 2001, which specify how the tax portion of a customer's utility bills will be collected if a customer refuses to pay such taxes.²⁶ We find it consistent with this legislation to allow customers to direct payment allocation preferences not only for taxes but also for other amounts owed in the pilot programs.

²³ The Chief Hearing Examiner's Report recommended that partial payments from customers be allocated first to LDC charges that would result in disconnection and the balance, if any, to other LDC and CSP charges. See pp. 60-62. The Staff Comments Regarding Task Force Report, filed April 9, 1999, Document Control No. 990410286, argued for a provision requiring the LDC to apply partial payments on a prorated basis for monthly services provided by the CSP and the LDC. See p. 43.

²⁴ See, e.g., tr. at 196-97, 210, 225-27.

²⁵ Note that, for the pilot programs, Rule 30 B 6 requires the generation portion of any customer deposits the LDC currently holds to be promptly refunded when that customer elects to receive generation services from the competitive marketplace.

²⁶ See 2000 Va. Acts ch. 614 (to be codified at § 58.1-2901); 2000 Va. Acts ch. 691 (to be codified at § 58.1-2905).

These statutes also state that, when a customer fails to pay the bill issued by the utility, including taxes, the utility shall follow normal collection procedures and, upon collection of any part of the money owed, shall apportion the net amount collected between the charge for utility service and taxes. These statutes mandate a pro rata sharing of any payment collected where the customer previously has failed to pay a utility bill. Similarly, we see no reason not to prorate a partial payment of a customer's bill in the pilot programs. However, because the attached rule specifying the method for distributing partial payments was not strongly opposed by any party, we will elect to use this method for the pilot programs. Once again, we may revisit this issue with the start of full scale retail choice.

Security Deposits from CSPs

Rule 30 A 12 makes provisions for an LDC, at its discretion, to require reasonable financial security from a CSP to safeguard the LDC and its customers from financial losses or costs incurred due to the nonperformance of the CSP. The rule previously stated that the security deposit would be used to offset the cost of replacement energy supplied by the LDC in the event of a CSP's nonperformance. This rule has now been broadened to allow the amount of the financial security to be commensurate with the level of risk assumed by the LDC. The rule also allows the security deposit to be used to offset any losses or additional costs incurred due to the CSP's nonperformance, including the LDC's cost to supply replacement energy.

This revised language enhances the internal consistency of the rule by allowing the LDC to utilize the financial security to offset any of the costs it incurs in the event of CSP nonperformance, not just to offset the cost of replacement energy. We believe this rule strikes the best balance between keeping financial security deposits within reasonable limits and allowing an LDC to be made whole in the event of CSP nonperformance.

Accordingly, IT IS ORDERED THAT:

(1) We hereby adopt the Interim Rules Governing Electric and Natural Gas Retail Access Pilot Programs, appended hereto as Attachment A.

(2) As specified in Rule 60 B, the natural gas retail access pilot programs previously approved by the State Corporation Commission and in operation prior to the adoption of these rules, as well as any competitive service provider or aggregator participating in such programs, shall be required to comply with these rules within 120 days from the date of this order or from the date of denial of a waiver request filed under Rule 60 A, whichever is later.

(3) As discussed herein, LDCs and CSPs shall keep records reflecting the actual time in which they perform actions in all instances where the rules specify that an action shall occur "normally" within a certain number of days. All LDCs and CSPs shall file reports detailing which of these actions they have performed, the number of times each action has been performed within the number of days allotted by these rules, and the number of times each action has been performed within a time frame different than the time specified in the rules. For the latter category of actions, LDCs and

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CSPs also shall file the actual length of time they took to perform each action. The first such report shall be due on April 30, 2001, and shall include data regarding all actions occurring on or before March 31, 2001. Thereafter, each LDC and CSP shall file quarterly updates of this data until the pilot programs in which the LDC or CSP is participating have ended. This reporting requirement shall be in addition to any other reporting requirements already specified for individual pilot programs, and these reports shall be filed under the case number of the individual pilot programs in which the LDC or CSP is participating.

(4) There being nothing further to be done herein, this case is dismissed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John B. Williamson, III, Chairman and CEO, Diversified Energy Company, 519 Kimball Avenue, N.E., P.O. Box 13007, Roanoke, Virginia 24030-3007; Frann G. Francis, Esquire, Apartment & Office Building Association, 1050 17th Street, N.W., Suite 300, Washington, D.C. 20036; Kenworth E. Lion, Jr., Esquire, Lion Law Offices, 8018 Atlee Road, Mechanicsville, Virginia 23111; Marleen L. Brooks, Esquire, Allegheny Power, 10435 Downsville Pike, Hagerstown, Maryland 21740-1766; John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Jeffrey M. Gleason, Esquire, and Oliver A. Pollard, III, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902; Guy T. Tripp, III, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Christopher C. O'Hara, Esquire, Frederick H. Ritts, Esquire, and Peter J. Mattheis, Esquire, Burchette & Ritts, P.C., West Tower, 1025 Thomas Jefferson Street, N.W., 8th Floor, Washington, D.C. 20007; Karen L. Bell, Esquire, and Pamela Johnson, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Michael L. Sarahan, Esquire, City of Richmond, 900 East Broad Street, Suite 300, Richmond, Virginia 23219; Donald R. Hayes, Senior Attorney, Washington Gas Light Company, 1100 H Street, N.W., Washington, D.C. 20080; Louis R. Monacell, Esquire, Christian & Barton, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Anthony Gambardella, Esquire, and Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; Eric M. Page, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Thomas B. Nicholson, Esquire, Williams, Mullen, Christian & Dobbins, P.C., P.O. Box 1320, Richmond, Virginia 23210; John A. Pirko, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Glen Allen, Virginia 23060; James S. Copenhagen, Esquire, and Mark C. Darrell, Esquire, Columbia Gas of Virginia, Inc., P.O. Box 35674, Richmond, Virginia 23235-0674; Joelle K. Ogg, Esquire, John & Hengerer, 1200 17th Street, N.W., Suite 600, Washington, D.C. 20036-3013; Carter Glass, IV, Esquire, Mays & Valentine, L.L.P., P.O. Box 1122, Richmond, Virginia 23218-1122; Gordon J. Smith, Esquire, National Energy Marketers, 1200 17th Street, N.W., Suite 600, Washington, D.C. 20036-3006; James R. Kibler, Jr., Esquire, CNG Retail Services Corporation, P.O. Box 796, Richmond, Virginia 23218;

Donald A. Fickenschler, Esquire, Virginia Natural Gas, Inc., 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23502-3488; Craig G. Goodman, President, National Energy Marketers Association, 3333 K Street, N.W., Suite 425, Washington, D.C. 20007; Randall S. Rich, Esquire, Mark C. Hebert, Esquire, and Betsy R. Carr, Esquire, Bracewell & Patterson, LLP, 2000 K Street, N.W., Suite 500, Washington, D.C. 20006-1872; Mary Elizabeth Tighe, Vice President, Statoil Energy, Inc., 2800 Eisenhower Avenue, Alexandria, Virginia 22314; Steve Montovano, Senior Director, Enron Corp., 400 Metro Place North, Dublin, Ohio 43017-3375; Kodwo Ghartey-Tagoe, Esquire, McGuire, Woods, Battle & Boothe, L.L.P., 1 James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Richard D. Gary, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; James R. Bacha, Esquire, AEP Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215; John H. Sniffin, Chairman, Virginia Retail Merchants Association, 1001 East Broad Street, Suite 315, Richmond, Virginia 23219; Sarah Bloom Raskin, Esquire, Columbia Energy Services Corporation, 13880 Dulles Corner Lane, Herndon, Virginia 20171-4600; James P. Guy, II, Esquire, LeClair Ryan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Lawrence Friedeman, Columbia Energy Services Corporation, 134 West South Boundary, Perrysburg, Ohio 43551; Vernon H. Brinkley, President, A&N Electric Cooperative, P.O. Box 1128, Parksley, Virginia 23421; Gerald H. Groseclose, Manager, Craig-Botetourt Electric Cooperative, P.O. Box 265, New Castle, Virginia 24127; Charles Rice, Jr., President/CEO, Northern Neck Electric Cooperative, P.O. Box 288, Warsaw, Virginia 22572-0288; Randall W. Meyers, Manager/CEO, Powell Valley Electric Cooperative, P.O. Box 308, Jonesville, Virginia 24263; Cecil E. Viverette, Jr., President, Rappahannock Electric Cooperative, P.O. Box 7388, Fredericksburg, Virginia 22404; Richard L. Weaver, General Manager, BARC Electric Cooperative, P.O. Box 264, Millboro, Virginia 24460-0264; James M. Reynolds, General Manager, Community Electric Cooperative, P.O. Box 267, Windsor, Virginia 23487; John Bowman, Executive Vice President/Manager, Mecklenburg Electric Cooperative, P.O. Box 2451, Chase City, Virginia 23924-2451; Stanley C. Feuerberg, President, Northern Virginia Electric Cooperative, P.O. Box 2710, Manassas, Virginia 20108-0875; M. Dale Bradshaw, CEO, Prince George Electric Cooperative, P.O. Box 168, Waverly, Virginia 23890; C. Douglas Wine, President, Shenandoah Valley Electric Cooperative, P.O. Box 236, Mt. Crawford, Virginia 22841-0236; M. Larry Longshore, President, Southside Electric Cooperative, P.O. Box 7, Crewe, Virginia 23930-0007; D. Richard Beam, Manager, Old Dominion Electric Cooperative, 4201 Dominion Boulevard, Glen Allen, Virginia 23060; Edward L. Petrini, Esquire, Christian & Barton, 909 East Main Street, Suite 1200, Richmond, Virginia 23219-3095; Harry A. Warren, Jr., President, Washington Gas Energy Services, 950 Herndon Parkway, Suite 280, Herndon, Virginia 20170; J. Mack Wathen, Director, Delmarva Power & Light Company, P.O. Box 231, Wilmington, Delaware 19899-0231; Timothy B. Hyland, Esquire, Leffler, Hyland & Thompson, 11320 Random Hills Road, Suite 540, Fairfax, Virginia 22030-7499; Gary A. Jeffries, Esquire, CNG Retail Services Corporation, One Chatham Center, Suite 700, Pittsburgh, Pennsylvania 15219;

Dale Moore, Roanoke Gas Company, P.O. Box 13007, Roanoke, Virginia 24030; Charles P. Wilson, 4545 Stuartford Road, Richmond, Virginia 23225; Jean Ann Fox, Vice President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; Merry Beth Hall, 2135 Megan Drive, Glen Allen, Virginia 23060; Jim Williams, New Hope Youth Foundation, 212 North Central Avenue, Staunton, Virginia 24401; Robert T. Vogler, Esquire, Allegheny Power Building, 10435 Downsview Pike, Hagerstown, Maryland 21740; Karl B. Anderson, Esquire, Jones, Day, Reavis & Pogue, 77 West Wacker, Chicago, Illinois 60601-1692; Leila L. Vespoli, Associate General Counsel, First Energy Services Corporation, 76 South Main Street, Akron, Ohio 44308; Michel A. King, President, Old Mill Power Company, 103 Shale Place, Charlottesville, Virginia 22902-6402; Dale P. Rogers, Director, 519 Kimball Avenue, N.W., Roanoke, Virginia 23218-1320; Channing J. Martin, Esquire, Williams Mullen Christian & Dobbins, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23218-1320; E. Janet Riddick, Virginia Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849; Mark G. Thessin, United Cities Gas Company, 810 Crescent Center Drive, Suite 600, Franklin, Tennessee 37067-6226; William H. Dean, Chief Executive Officer, M.C. Dean, 3725 Concorde Parkway, Suite 100, P.O. Box 220870, Chantilly, Virginia 20153; Kenneth G. Hurwitz, Esquire, and Danon W.D. Wright, Esquire, Venable, Baetjer, Howard & Civiletti, LLP, 1201 New York Avenue, N.W., Suite 1000, Washington, D.C. 20005-3917; and the Commission's Office of General Counsel and Divisions of Energy Regulation, Economics and Finance, and Public Utility Accounting.

Agency Contact: Copies of the regulation may be obtained from David R. Eichenlaub, Division of Economics and Finance, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9295.

CHAPTER 311.

INTERIM RULES GOVERNING ELECTRIC AND NATURAL GAS RETAIL ACCESS PILOT PROGRAMS.

~~[20 VAC 5-311-10. Interim rules governing competitive service providers.~~

~~A. The following provisions shall govern the relationship between the competitive service provider and its retail customers:~~

- ~~1. A competitive service provider shall provide accurate, understandable customer solicitation and marketing materials and customer service contracts which include clear pricing terms and conditions, term of customer contract and provisions for termination by either the customer or the competitive service provider.~~
- ~~2. A competitive service provider claiming its offerings possess unique attributes shall be required to provide reasonable support for the claim.~~
- ~~3. A competitive service provider shall have in place explicit dispute resolution procedures and clearly identify the addresses and phone numbers of persons authorized to assist customers when they have a complaint.~~

~~4. A competitive service provider shall furnish to customers a toll-free telephone number for customer inquiries during normal business hours regarding services provided by the competitive service provider.~~

~~5. A competitive service provider shall enroll a customer only when properly authorized by that customer and such authorization is appropriately verified.~~

~~6. A competitive service provider shall adequately safeguard customer information, including payment history, unless disclosure is otherwise authorized by the customer or unless the information to be disclosed is already in the public domain.~~

~~7. A competitive service provider may terminate a contract with a customer for nonpayment of competitive services with appropriate notification to the customer and to the local distribution company.~~

~~B. The following provisions shall govern the relationships between the competitive service provider and the local distribution company and the transmission provider:~~

~~1. A competitive service provider shall submit to the local distribution company the appropriate name of the entity, business and mailing addresses, and the names, telephone numbers and e-mail addresses of the appropriate contact persons.~~

~~2. A competitive service provider shall furnish the local distribution company proof of appropriate licensure from the State Corporation Commission.~~

~~3. A competitive service provider shall adhere to all requirements of the local distribution company's and transmission provider's schedules, terms and conditions of service as approved by the State Corporation Commission or the Federal Energy Regulatory Commission, or both, as applicable.~~

~~4. An energy service provider shall procure sufficient electric generation and transmission service to serve the requirements of its firm customers. In the event of a failure to fulfill such obligations, the energy service provider shall be responsible for penalties as proscribed by the local distribution company.~~

~~5. A competitive service provider shall comply with all initial and continuing requirements of the State Corporation Commission's licensure process and the local distribution company's and transmission provider's registration processes.~~

~~6. A competitive service provider shall adhere to standards developed for exchanging data and information in an electronic medium upon implementation of such standards.~~

~~C. Any request for a waiver of any of the provisions in subsection A or B of this section shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.~~

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~~20 VAC 5-311-20. Interim rules governing local distribution companies.~~

~~A. The following provisions shall govern the relationship between the local distribution company and the competitive service provider:~~

~~1. A local distribution company shall not give an affiliated competitive service provider undue preference over a nonaffiliated competitive service provider.~~

~~2. A local distribution company shall not give undue preference to an affiliated competitive service provider over the interests of any other competitive service provider related to the provision of electric transmission, distribution, generation or ancillary services, or natural gas supply or capacity. However, this provision is limited to activities that are beyond the jurisdiction of the Federal Energy Regulatory Commission.~~

~~3. To the extent the local distribution company provides any competitive service provider information related to the transmission, distribution or provision of electricity and/or natural gas, the local distribution company shall make such information contemporaneously available to all other competitive service providers upon request. The local distribution company may make such information available by posting it on an electronic bulletin board. Nothing in this subdivision shall require the local distribution company to disseminate to all competitive service providers information requested and deemed competitively sensitive by a competitive service provider and supplied by the local distribution company. This subdivision shall not apply to daily operational data provided by the local distribution company to any competitive service provider in the ordinary course of conducting business.~~

~~4. Employees of a local distribution company who have responsibility for operations or reliability functions of the distribution system shall operate independently from an affiliated competitive service provider, and their offices shall be separated from the offices of the affiliated competitive service providers to the maximum extent practicable.~~

~~5. The cost of any shared employees, services or facilities between a local distribution company and an affiliated competitive service provider shall be fully and clearly allocated between the two entities. Separate books of account and records shall be maintained for each such affiliate. Any local distribution company that provides competitive energy services through a division shall maintain documentation of the methodologies used to allocate any shared costs to that division and provide such documentation to the State Corporation Commission staff upon request.~~

~~6. A local distribution company shall not condition the provision of any distribution services on the purchase of electricity and/or natural gas from an affiliated competitive service provider.~~

~~7. Joint advertising shall be prohibited between the local distribution company and any competitive service~~

~~provider unless made available to all competitive service providers upon the same price, terms and conditions.~~

~~8. Neither a local distribution company nor any competitive service provider shall:~~

~~a. Suggest that the distribution services provided by the local distribution company are of a superior quality when electricity and/or natural gas is purchased from a particular competitive service provider; or~~

~~b. Suggest that the competitive energy services provided by a competitive service provider are being provided by a local distribution company rather than the specified competitive service provider.~~

~~9. No affiliated competitive service provider shall trade upon, promote or advertise its relationship with the local distribution company or use the name or logo employed by the local distribution company as its own, without clearly disclosing that the affiliated competitive service provider is not the same company as the local distribution company.~~

~~10. A local distribution company shall establish and file with the State Corporation Commission dispute resolution procedures to address complaints alleging violations of these rules.~~

~~11. Notwithstanding any other provision of this section, in emergency situations, a local distribution company is authorized to take any actions that may be necessary to ensure public safety and reliability of the distribution system. The State Corporation Commission upon a reasonable claim of inappropriate action may later investigate such actions.~~

~~B. The following provisions shall govern the relationship between the local distribution company and its retail customers:~~

~~1. A local distribution company shall provide pilot program information and facilitate enrollment of pilot customers pursuant to State Corporation Commission approved pilot programs.~~

~~2. A local distribution company shall, upon request, provide competitive service providers with the addresses of eligible pilot customers on a nondiscriminatory basis consistent with each local distribution company's pilot tariff as approved by the State Corporation Commission. Other customer specific information about pilot customers shall not be provided to competitive service providers without customer authorization.~~

~~3. Changes to terms and conditions concerning customer deposits required by the local distribution company to implement the pilot shall be set forth in each local distribution company's pilot tariff approved by the State Corporation Commission.~~

~~4. Changes to terms and conditions concerning customer disconnection for nonpayment shall be set forth in each local distribution company's pilot tariff approved by the State Corporation Commission.~~

~~5. The State Corporation Commission shall establish a policy to determine the disposition of partial payments with regard to services provided by competitive service providers and the local distribution company.~~

~~6. The local distribution company shall be the default supplier during the pilot program period pursuant to the prices, terms, and conditions of its State Corporation Commission approved tariffs.~~

~~7. A local distribution company shall only switch a pilot customer's competitive service provider in accordance with the local distribution company's pilot tariff approved by the State Corporation Commission.~~

~~C. Any request for a waiver of any of the provisions in subsection A or B of this section shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.~~

~~**20 VAC 5-311-30. Minimum requirements for licensure of energy service providers and aggregators.**~~

~~A. Any application for a license to be an energy service provider or aggregator shall include at least the following provisions:~~

~~1. Legal name or names of the applicant as well as any trade name or names.~~

~~2. a. Name of applicant and business addresses of the applicant's principal office and any Virginia office location or locations.~~

~~b. A list of states in which the applicant or an affiliate conduct electric or natural gas retail business.~~

~~3. Names of the applicant's affiliates and subsidiaries. Applicant may satisfy this requirement by providing a copy of its most recent Form 10K, Exhibit 21 filing with the Securities and Exchange Commission.~~

~~4. Disclosure of any affiliate relationships with Virginia local distribution companies as well as any related affiliated competitive service provider agreements pursuant to which competitive energy services are provided within the Commonwealth of Virginia.~~

~~5. Telephone number of the customer service department or the title and telephone number of the customer service contact person.~~

~~6. Title and telephone number of the company liaison with the State Corporation Commission.~~

~~7. A copy of the applicant's authorization to do business in Virginia from the State Corporation Commission.~~

~~8. In the event the energy service provider intends to collect security deposits or prepayments, the energy service provider shall hold such funds in escrow in Virginia, and shall provide the name and address of the institution holding such deposits or prepayments.~~

~~9. If the applicant collects or plans to collect taxes owed to the Commonwealth or to a locality within the Commonwealth, the applicant shall be required to provide proof of financial viability in the form of a~~

~~minimum bond rating of BBB by a major rating agency. In lieu of such minimum bond rating other instruments may be used to indemnify the state and locality for taxes to be collected from the customer, such as:~~

~~a. A deposit of \$25,000 in an escrow account;~~

~~b. A guarantee of \$25,000 by an affiliated corporation which has a minimum bond rating of BBB by a major rating agency;~~

~~c. The posting of a security bond with the State Corporation Commission in the amount of \$25,000; or~~

~~d. A committed line of credit in the amount of \$25,000.~~

~~10. Identification of the geographic area or areas or any pilots in which the applicant proposes to provide service, the type of service or services it proposes to provide, the class of customers to which it proposes to provide such services, and a description of the applicant's experience or other evidence regarding its ability to provide such services.~~

~~11. Disclose whether any application for license or authority to conduct business in a similar retail access program has ever been denied or whether any license or authority issued to it or an affiliate has ever been suspended, revoked or sanctioned.~~

~~12. A \$250 pilot registration fee shall accompany each initial application.~~

~~B. Any request for a waiver of any of the provisions in subsection A of this section shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.~~

~~**20 VAC 5-311-10. Applicability; definitions.**~~

~~A. The provisions in this chapter govern solely electric and natural gas retail access pilot programs conducted by Virginia electric and natural gas public utilities.~~

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

~~"Affiliated competitive service provider" means a competitive service provider that is a separate legal entity that controls, is controlled by, or is under common control of, a local distribution company or its parent. For the purpose of this chapter, any unit or division created by a local distribution company for the purpose of acting as a competitive service provider shall be treated as an affiliated competitive service provider and shall be subject to the same provisions and regulations.~~

~~"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or natural gas, or both, or (ii) offers to arrange for, or arranges for, the purchase of electric energy or natural gas, or both, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) furnishing legal services to two or more retail customers, suppliers or~~

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aggregators; (ii) furnishing educational, informational, or analytical services to two or more retail customers unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy or natural gas, or both; (iii) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) providing default service under § 56-585 of the Code of Virginia; (v) conducting business as a competitive service provider licensed under 20 VAC 5-311-50; and (vi) engaging in actions of a retail customer, acting in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy or natural gas, or both, for consumption by such retail customers.

"Business day" means any calendar day or computer processing day in the Eastern U.S. time zone, in which the general office of the applicable local distribution company is open for business with the public.

"Commencement of the pilot program" means the date established by the State Corporation Commission for the beginning of each pilot program.

"Competitive energy service" means the retail sale of electricity or natural gas, or both, or any other competitive service approved by the State Corporation Commission as part of a retail pilot program by an entity other than the local distribution company as a regulated utility.

"Competitive service provider" means a person that sells or offers to sell a competitive energy service within the Commonwealth. This term includes affiliated competitive service providers, as defined above, but does not include a party that supplies electricity or natural gas, or both, exclusively for its own consumption or the consumption of one or more of its affiliates.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase a competitive energy service from any licensed competitive service provider seeking to sell such services to that customer.

"Electronic Data Interchange" (EDI) means computer-to-computer exchange of business information using common standards for high volume electronic transactions.

"Local distribution company" means an entity regulated by the State Corporation Commission that owns or controls the distribution facilities required for the transportation and delivery of electricity or natural gas to the end user.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any city, county, town, authority or other political subdivision of the Commonwealth.

"Transmission provider" means an entity regulated by the Federal Energy Regulatory Commission that owns or operates, or both, the transmission facilities required for the delivery of electricity or natural gas to the local distribution company or end user.

"Virginia Electronic Data Transfer Working Group" (VAEDT) means the group of representatives from investor-owned

electric utilities, electric cooperatives, the staff of the State Corporation Commission, the Office of Attorney General, and natural gas utilities and suppliers, whose objective is to formulate guidelines and practices for the exchange of information during retail access pilot programs.

20 VAC 5-311-20. Competitive service providers.

A. Each competitive service provider shall comply with the following requirements with respect to its relationship with its potential or actual retail customers:

1. A competitive service provider shall, in any advertisements, solicitations, marketing materials, or customer service contracts, provide accurate, understandable information in a manner that is not misleading. Solicitations, advertising, and marketing materials shall contain a clear and conspicuous notice of a toll-free telephone number to contact for the additional information specified in subdivision 2 of this subsection. If such information is requested, it shall be provided in writing or by electronic means.

2. The following information shall be provided to the prospective customer in writing or by electronic means prior to, or contemporaneously with, the written contract: (i) for residential customers, an estimated total annual bill for a customer who uses, on a monthly basis, 1,000 kWh of electricity or 7.5 Mcf or 75 therms of natural gas, including all fees and minimum or fixed charges, exclusive of any nonrecurring financial or nonfinancial incentives, and the total average price per kWh, Mcf, or therm based on the annual bill; (ii) the value of any nonfinancial incentives or nonrecurring financial incentives; (iii) a statement regarding provisions for termination by the customer and by the competitive service provider; (iv) a statement of any minimum contract terms, minimum usage requirements, any required deposit, any applicable fees such as start-up fees or cancellation fees, and any minimum or fixed charges; and (v) following a clear and conspicuous caption: "**CUSTOMER'S RIGHT TO CANCEL**" in bold face type of a minimum size of 10 points, a statement that any customer may cancel its contract with a competitive service provider by notifying the competitive service provider or the local distribution company, without penalty, at any time prior to midnight of the 10th day following notification by the local distribution company of an enrollment request as provided in 20 VAC 5-311-30 B 4. If a competitive service provider's offer cannot be adequately described in accordance with the details described in clause (i) of this subdivision, or if the prospective customer is other than a residential customer, then the competitive service provider shall furnish similar information that will allow prospective customers to compare reasonably the full price of service if the competitive energy service is purchased from the competitive service provider to the full price of service charged by the local distribution company.

3. A competitive service provider, in arranging to provide service to a new customer, shall comply with the following requirements:

a. A competitive service provider shall enroll a customer only after the customer has affirmatively authorized such enrollment. A competitive service provider shall maintain adequate records allowing it to verify a customer's enrollment authorization. Examples of adequate records of enrollment authorization include: (i) a written contract signed by the customer; (ii) a written statement by an independent third party that witnessed or heard the customer's verbal commitments; (iii) a recording of the customer's verbal commitment; or (iv) electronic data exchange, provided that the competitive service provider can show that the electronic transmittal of a customer's authorization originated with the customer. Such authorization records shall contain the customer's name and address; the date the authorization was obtained; the name of the product, pricing plan, or service that is being subscribed; and acknowledgment of any switching fees, minimum contract terms or usage requirements, or cancellation fees. Such authorization records shall be retained for at least 12 months after enrollment and must be provided within five business days upon request by the customer or the staff of the State Corporation Commission. Such authorization procedures are not required where an existing customer moves to a new address and wishes to continue service with the same provider, provided that the competitive service provider is licensed to provide service to the customer's new location.

b. Upon obtaining the customer's authorization pursuant to subdivision a above, the competitive service provider shall send, contemporaneously: (i) an enrollment request to the local distribution company consistent with the terms and conditions of the local distribution company's pilot program or applicable pilot tariff as approved by the State Corporation Commission and (ii) a written contract to the customer. Such materials may be hand delivered, mailed or electronically transmitted, and shall be deemed to have been received on the date they are hand delivered or electronically transmitted or three calendar days after the date they are mailed.

c. The customer shall have 10 calendar days from the date the customer receives notification from the local distribution company pursuant to the procedures of 20 VAC 5-311-30 B 4 to advise the local distribution company or the competitive service provider that it wishes to cancel such enrollment or contract. In the event the competitive service provider receives a cancellation request, the competitive service provider shall, normally within one business day, notify the local distribution company of the customer's cancellation in order to terminate the enrollment process. Any customer that cancels an enrollment pursuant to the procedures of 20 VAC 5-311-30 B 4 shall be deemed to have withdrawn from the contract with that competitive service provider and shall incur no penalty or other obligation for doing so. Such contract shall thereupon be considered void from its inception and of no further effect.

d. The competitive service provider shall commence service to a customer on or after the date provided in the local distribution company's pilot program or applicable pilot tariff as approved by the State Corporation Commission. The competitive service provider may request, pursuant to the local distribution company's tariff or approved pilot program, a special meter reading, in which case the enrollment may become effective on the date of the special meter reading. The local distribution company shall perform the requested special meter reading as promptly as working conditions permit.

4. At a minimum, all customer service contracts shall include: (i) the price or, if the exact price cannot feasibly be specified, an explanation of how the price will be calculated; (ii) the length of the service contract; (iii) provisions for termination by the customer and by the competitive service provider; (iv) a statement of any minimum contract terms, minimum usage requirements, minimum or fixed charges, and any required deposit; (v) any applicable fees including, but not limited to, start-up fees, cancellation fees, late payment fees, and fees for checks returned for insufficient funds; (vi) a description of the dispute resolution procedures required pursuant to subsection A 8 of this section; (vii) following a clear and conspicuous caption: "**CUSTOMER'S RIGHT TO CANCEL**," appearing on the front side of the contract, or immediately above the customer's signature, in bold face type of a minimum size of 10 points, a statement that any customer may cancel its contract with a competitive service provider by notifying the competitive service provider or the local distribution company, without penalty, at any time prior to midnight of the 10th day following notification by the local distribution company of an enrollment request as provided in 20 VAC 5-311-30 B 4; and (viii) in a conspicuous place, confirmation of the customer's request for enrollment and the approximate date the customer's service will commence.

5. A competitive service provider claiming its offerings possess unusual or special attributes shall maintain documentation to substantiate any such claims. Such information may be made generally available through electronic means, and a written explanation shall be provided promptly upon request of any customer, prospective customer, competitive service provider, aggregator, local distribution company, or the staff of the State Corporation Commission.

6. In the event a competitive service provider collects security deposits or prepayments, such funds shall be held in escrow by a third party in Virginia, and the competitive service provider shall provide to the State Corporation Commission the name and address of the entity holding such deposits or prepayments.

7. A competitive service provider requiring a deposit or prepayment from a customer shall limit the amount of the deposit or prepayment to the equivalent of a customer's estimated liability for no more than two months' purchase of services from the competitive service provider by that customer.

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8. A competitive service provider shall have in place explicit dispute resolution procedures and shall clearly identify the addresses and phone numbers of persons authorized to assist customers when they have a complaint.

9. A competitive service provider shall furnish to customers 24-hour toll-free telephone numbers to call (i) in a service emergency and (ii) for other customer inquiries regarding services provided by the competitive service provider. The 24-hour toll-free telephone numbers shall be stated on all customer billing statements.

10. A competitive service provider shall adequately safeguard customer information, including payment history, unless the customer affirmatively authorizes disclosure or unless the information to be disclosed is already in the public domain. This provision, however, shall not restrict the disclosure of credit and payment information as currently permitted by applicable federal and state statutes.

11. A competitive service provider may include provisions in its service contracts that provide for automatic contract renewal during and beyond the duration of the pilot program upon the same terms and conditions, provided that, in any event, the contract shall provide that (i) it will terminate if the competitive service provider's license expires, or is suspended or revoked, and (ii) once the pilot program ends, the contract is subject to termination by either party upon 30 days written notice to the other party.

12. In the event that a competitive service provider's services are terminated for any reason other than by a customer's decision to terminate the contract, the competitive service provider shall send written notification of such termination to the customer at least 30 days prior to the date that service to the customer is scheduled to terminate.

B. Each competitive service provider shall comply with the following provisions with respect to its relationship with the local distribution companies and transmission providers:

1. A competitive service provider shall submit to the local distribution company the full name of the competitive service provider, the type of entity (e.g., partnership or corporation), physical street and mailing addresses, and the names, telephone numbers, and e-mail addresses of appropriate contact persons, including a 24-hour emergency telephone number, and the name, title, and address of any registered agent in Virginia for service of process.

2. A competitive service provider shall furnish the local distribution company and the transmission provider proof of licensure from the State Corporation Commission to provide competitive energy services in the Commonwealth.

3. A competitive service provider shall adhere to all requirements of schedules, terms, and conditions of service under the rate schedules and tariffs approved by

the State Corporation Commission or the Federal Energy Regulatory Commission, and of the local distribution company and the transmission provider, as applicable.

4. a. A competitive service provider selling electricity or natural gas, or both, at retail shall:

(1) Procure sufficient electric generation and transmission service or sufficient natural gas supply and delivery capability, or both, to serve the requirements of its firm customers;

(2) Abide by any applicable regulation or procedure of any institution charged with ensuring the reliability of the electric or natural gas systems, including the State Corporation Commission, the North American Electric Reliability Council, or the Federal Energy Regulatory Commission, or any successor agencies thereto;

(3) Comply with any obligations that the State Corporation Commission may impose to ensure access to sufficient availability of capacity; and

(4) Comply with generally accepted technical protocols applicable to particular competitive services.

b. In the event of a failure to fulfill the obligations set forth in subdivision a above, the competitive service provider shall be responsible for any applicable penalties as authorized or required by the regulator with jurisdiction over the matter.

5. An affiliated competitive service provider may use the name or logo of its affiliated local distribution company in advertising and solicitation materials. A disclaimer that clearly and conspicuously discloses that the affiliated competitive service provider is not the same company as the local distribution company shall accompany any such use. Such disclaimers shall not be required, however, on company vehicles, clothing, or trinkets, writing instruments, or similar promotional materials. Upon complaint of any interested person, the Attorney General, staff motion, or on its own motion, the State Corporation Commission may, after notice and an opportunity for hearing, make a determination whether any such usage is misleading and, if so, take appropriate corrective actions.

6. An affiliated competitive service provider shall operate independently of its affiliated local distribution company and shall abide by the following provisions with respect to any competitive energy service it offers in the certificated service territory of the affiliated local distribution company:

a. Not later than the commencement of the local distribution company's pilot program, or the date of licensure of such affiliated competitive service provider under this chapter, whichever is later, the affiliated competitive service provider shall implement internal controls to ensure that it and its employees that are engaged in the (i) merchant operations, transmission, or reliability functions of the electric generation or natural gas supply systems, or (ii) customer service,

sales, marketing, accounting or billing functions, do not receive information from an affiliated local distribution company or from entities that provide similar functions for or on behalf of its affiliated local distribution company or affiliated transmission provider as would give such affiliated competitive service provider an undue advantage over nonaffiliated competitive service providers. For purposes of this subdivision, "undue advantage" means an advantage that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

b. An affiliated competitive service provider shall file with the State Corporation Commission, a revised listing and description of all internal controls required in subdivision a above within 10 days subsequent to any modification of such controls as were originally provided under 20 VAC 5-311-50 A 7 as part of the requirements of the affiliated competitive service provider's application for license.

c. An affiliated competitive service provider shall document each occasion that an employee of its affiliated local distribution company, or of the transmission provider that serves its affiliated local distribution company, becomes one of its employees and each occasion that one of its employees becomes an employee of its affiliated local distribution company or the transmission provider that serves its affiliated local distribution company. Upon staff's request, such information shall be filed with the State Corporation Commission that identifies each such occasion. Such information shall include a listing of each employee transferred and a brief description of each associated position and responsibility.

7. In the event that a competitive service provider's services are terminated for any reason other than a customer's decision to terminate the contract, the competitive service provider shall provide notice of the termination, by any means specified by the VAEDT, to the local distribution company at least 30 days prior to the date that the competitive service provider's service to the customer is scheduled to terminate. In the event of a customer's decision to terminate the contract, the competitive service provider shall provide such notice to the local distribution company, normally within one business day, upon receipt of the customer's decision to terminate.

C. Competitive service providers shall be subject to the following general requirements:

1. Each person seeking to engage in the activities of a competitive service provider shall obtain a license from the State Corporation Commission prior to commencing such activities.

2. A competitive service provider shall comply with all initial and continuing requirements of the State Corporation Commission's licensure process and any reasonable registration processes required by the local distribution company and the transmission provider. Should the State Corporation Commission determine,

upon complaint of any interested person, the Attorney General, staff motion, or upon its own motion, that a competitive service provider has failed to comply with any of the requirements of this chapter or a commission order related thereto, the State Corporation Commission may, after providing due notice and an opportunity for a hearing, suspend or revoke the competitive service provider's license or take any other actions permitted by law or regulations as it may deem necessary to protect the public interest.

3. A competitive service provider shall, to the maximum extent feasible, adhere to standard practices for exchanging data and information in an electronic medium as may be specified by the VAEDT and as specified in the local distribution company's pilot program or applicable pilot tariff as approved by the State Corporation Commission. A competitive service provider shall cooperate with the VAEDT to comply on a continuing basis with the development and implementation of EDI requirements.

4. A competitive service provider providing electric service shall annually file a report with the State Corporation Commission stating: (i) to the extent feasible, fuel mix, and emissions data on at least an annualized basis or (ii) why it is not feasible to submit any portion of such data.

5. A competitive service provider shall retain customer billing and account records and complaint records for at least three years.

6. Each affiliated competitive service provider shall maintain separate books of accounts and records.

7. The competitive service provider shall not:

a. Suggest that the services provided by the local distribution company are of any different quality when either electricity, natural gas, or both is purchased from a particular competitive service provider; or

b. Suggest that the competitive energy services provided by a competitive service provider are being provided by a local distribution company rather than the competitive service provider.

20 VAC- 5-311-30. Local distribution companies.

A. Each local distribution company shall comply with the following provisions with respect to its relationship with competitive service providers:

1. The local distribution company shall provide service, information and products to all competitive service providers licensed in Virginia on terms and conditions as set forth in this chapter, as provided in applicable tariffs, and as approved by the State Corporation Commission as part of a pilot program.

2. The local distribution company shall not give undue preference to an affiliated competitive service provider over the interests of any other competitive service provider related to the provision of electric transmission, distribution, generation, or ancillary services, or natural

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gas supply or capacity. For purposes of this subdivision, "undue preference" means a preference that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

3. The local distribution company shall provide information related to the transmission, distribution or provision of electricity, ancillary services, or natural gas supply or capacity to an affiliated competitive service provider only if it makes such information available simultaneously, through an electronic bulletin board or similar means of public dissemination, to all other competitive service providers licensed to conduct business in Virginia. This provision shall not apply to daily operational data, information provided in response to inquiries regarding the applicability of tariffs and terms and conditions of service, or similar data provided by the local distribution company to any competitive service provider in the ordinary course of conducting business. Nothing in this provision shall require the local distribution company to disseminate to all competitive service providers information requested and deemed competitively sensitive by a competitive service provider and supplied by the local distribution company.

4. The local distribution company shall, upon request by a competitive service provider, provide such competitive service provider with the addresses of eligible pilot customers on a nondiscriminatory basis consistent with the local distribution company's pilot tariff as approved by the State Corporation Commission. No other customer information about eligible pilot customers shall be provided to competitive service providers unless the customer affirmatively authorizes disclosure or unless the information to be disclosed is already in the public domain. This provision, however, shall not restrict the disclosure of credit and payment information as currently permitted by applicable federal and state statutes.

5. The local distribution company shall not accept an enrollment request from a competitive service provider to switch a customer if that customer's account is subject to a pending disconnect notice from the local distribution company.

6. In the event the local distribution company is notified by a competitive service provider that the competitive service provider will terminate service to a customer, the local distribution company shall, normally within two business days, respond to the competitive service provider by any means specified by the VAEDT that will acknowledge (i) receipt of the competitive service provider's notice, and (ii) the date that the competitive service provider's service to the customer is scheduled to terminate.

7. Joint advertising and marketing shall be prohibited between the local distribution company and any competitive service provider unless made available to all competitive service providers upon the same price, terms, and conditions.

8. The local distribution company shall not condition the provision of any services on the purchase of any other service or product from it or any of its affiliates.

9. The local distribution company shall operate independently of any affiliated competitive service provider and shall observe the following requirements with respect to any competitive energy service offered by such affiliated competitive service provider in the local distribution company's certificated service territory:

a. Not later than the commencement of its pilot program, the local distribution company shall develop and implement internal controls to ensure that it and its employees that are engaged in the (i) merchant operations, transmission, or reliability functions of the electric generation or natural gas supply systems, or (ii) customer service, sales, marketing, accounting or billing functions, do not provide information to an affiliated competitive service provider or to entities that provide similar functions for or on behalf of such an affiliated competitive service provider as would give such affiliated competitive service provider an undue advantage over nonaffiliated competitive service providers. For purposes of this subdivision, "undue advantage" means an advantage that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

b. An affiliated local distribution company shall file with the State Corporation Commission, a listing and description of all internal controls required in subdivision a above, not later than 30 days prior to its implementation or within 10 days subsequent to any modification of such controls.

c. The local distribution company shall document each occasion that an employee of its affiliated competitive service provider becomes one of its employees and each occasion that one of its employees becomes an employee of its affiliated competitive service provider. Upon staff's request, such information shall be filed with the State Corporation Commission that identifies each such occasion. Such information shall include a listing of each employee transferred and a brief description of each associated position and responsibility.

10. With respect to affiliate transactions, the local distribution company shall abide by the following:

a. The local distribution company shall be compensated at the greater of fully distributed cost or market price for all nontariffed services, facilities, and products provided to an affiliated competitive service provider. An affiliated competitive service provider shall be compensated at the lower of fully distributed cost or market price for all nontariffed services, facilities, and products provided to the local distribution company. If market price data are unavailable, nontariffed services, facilities and products shall be compensated at fully distributed cost and the local distribution company shall document its efforts to determine market price data and its basis for concluding that such price data

are unavailable. Notification of a determination of the unavailability of market price data shall be included with the report required in subdivision b below.

b. The local distribution company shall file semi-annually for the duration of the pilot program, with the State Corporation Commission, a report that shall, at a minimum, include the amount and description of each type of nontariffed service provided to or by an affiliated competitive service provider; accounts debited or credited; and the compensation basis used, i.e., market price or fully distributed cost. The local distribution company shall maintain the following documentation for each agreement and arrangement where such services are provided to or by an affiliated competitive service provider and make such documentation available to staff upon request: (i) component costs (i.e., direct or indirect labor, fringe benefits, travel or housing, materials, supplies, indirect miscellaneous expenses, equipment or facilities charges, and overhead); (ii) profit component; and (iii) comparable market values, with supporting documentation.

11. The local distribution company shall not:

a. Suggest that the services provided by the local distribution company are of any different quality when either electricity, natural gas, or both is purchased from a particular competitive service provider; or

b. Suggest that the competitive energy services provided by a competitive service provider are being provided by a local distribution company rather than the competitive service provider.

12. The local distribution company may require reasonable financial security from the competitive service provider to financially safeguard the local distribution company and its customers from losses or additional costs incurred due to the nonperformance of the competitive service provider. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, or other arrangements that may be mutually agreed upon by the local distribution company and the competitive service provider. The amount of such financial security shall be commensurate with the level of risk assumed by the local distribution company, as determined by the parameters described in the local distribution company's pilot program or applicable pilot tariff as approved by the State Corporation Commission. Such security shall be used to offset any losses or additional costs incurred, due to the nonperformance of the competitive service provider, including the cost of replacement energy supplied by the local distribution company. Disagreements with respect to financial security shall be subject to the dispute resolution procedures established pursuant to subdivision 13 of this subsection.

13. The local distribution company shall establish, and file for State Corporation Commission approval, dispute resolution procedures to address complaints alleging violations of, or disputes arising under, the provisions of

this section. The local distribution company shall make such filing no later than 60 days prior to the commencement of the pilot program.

14. The provisions of this chapter shall not be deemed to prohibit the local distribution company, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure public safety and reliability of the distribution system. The State Corporation Commission, upon a claim of inappropriate action or its own motion, may investigate and take such corrective actions as may be appropriate.

15. The local distribution company shall, to the maximum extent feasible, adhere to standard practices for exchanging data and information in an electronic medium as may be specified by the VAEDT and as specified in the local distribution company's pilot program or applicable pilot tariff as approved by the State Corporation Commission. The local distribution company shall cooperate with the VAEDT to comply on a continuing basis with the development and implementation of EDI requirements.

B. Each local distribution company shall comply with the following provisions with respect to its relationship with its retail customers:

1. The local distribution company shall provide pilot program information and facilitate enrollment of pilot customers pursuant to pilot programs approved by the State Corporation Commission.

2. The local distribution company shall continue to allow customers to participate in its pilot program by selecting a competitive service provider until the maximum participation limits established and defined in its retail access pilot program, as approved by the State Corporation Commission, have been met.

3. The local distribution company shall provide, pursuant to the prices, terms, and conditions of its tariffs approved by the State Corporation Commission, service to all customers that do not select a competitive service provider and to customers that chose a competitive service provider but whose service is terminated at the behest of the customer or by the competitive service provider for any reason during the pilot program period.

4. Upon receipt of an enrollment request from a competitive service provider, pursuant to 20 VAC 5-311-20 A 3 b, the local distribution company shall, normally within one business day of receipt of such notice, mail notification to the customer advising of the enrollment request, the approximate date that the competitive service provider's service commences, and the caption and statement as to cancellation required by 20 VAC 5-311-20 A 2 (v). Such notice shall be deemed to have been received by the customer three calendar days after the date of mailing. The customer shall have 10 calendar days from the date the customer receives such notification to advise the local distribution company or the competitive service provider that it wishes to cancel such enrollment. In the event the local distribution company receives notice of a cancellation request from the

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competitive service provider pursuant to the provisions of 20 VAC 5-311-20 A 3 c, the local distribution company shall, normally within one business day, terminate the enrollment process. In the event the local distribution company receives a cancellation request from the customer, the local distribution company shall, normally within one business day, notify the competitive service provider of the customer's cancellation and terminate the enrollment process. Additionally, the local distribution company shall send to the State Corporation Commission a monthly report of all such cancellation requests, which report shall include the approximate date of the enrollment; the identity of the competitive service provider; the name and address of the customer that cancelled such enrollment; and a brief statement of the reasons, if any, given by the customer for the cancellation.

5. In the event that the local distribution company is notified by a competitive service provider that a customer's service will be terminated, the local distribution company, in addition to responding to the competitive service provider as required by subdivision A 6 of this section, shall send written notification to the customer, normally within five business days, that it was so informed and describe the customer's opportunity to select a new supplier. The local distribution company shall inform the affected customer that if the customer does not select another competitive service provider, the local distribution company will provide the customer's generation or natural gas supply.

6. Pilot program customer deposits held or collected by local distribution companies shall be for only those services provided by the local distribution company to customers participating in the pilot program. Any deposit held by the local distribution company in excess of this amount shall be promptly refunded to the customer. The local distribution company may, upon a customer's return to service provided by the local distribution company, collect the generation portion of a customer deposit as permitted by the local distribution company's tariffs and 20 VAC 5-10-20.

7. Changes to terms and conditions concerning customer disconnection for nonpayment shall be set forth in each local distribution company's pilot tariff approved by the State Corporation Commission.

20 VAC 5-311-40. Aggregators.

A. Each person seeking to act as an aggregator shall obtain a license from the State Corporation Commission prior to conducting business as an aggregator within the Commonwealth.

B. An aggregator shall abide by the following requirements as applicable:

1. An aggregator that is also the competitive service provider or acting as an agent of a competitive service provider for two or more customers shall comply with all of the provisions of this chapter applicable to competitive service providers with respect to such customers.

2. An aggregator that does not meet the conditions in subdivision 1 of this subsection in arranging to provide service to a customer, shall:

a. In any advertisements, solicitations, marketing materials, or customer service contracts provide accurate, understandable information, in a manner that is not misleading;

b. Disclose in writing to prospective customers, and include in each written contract: (i) the nature of the service to be provided; (ii) the length of the contract; (iii) the fees or prices that will be charged for such service, provisions for termination of the contract by the customer and the aggregator; (iv) any other terms that are necessary for the prospective customer to make an informed choice in selecting an aggregator; and (v) following a clear and conspicuous caption: "**CUSTOMER'S RIGHT TO CANCEL**," appearing on the front side of the contract, or immediately above the customer's signature, in bold face type of a minimum size of 10 points, a statement that any customer may cancel its contract with an aggregator by notifying the aggregator, without penalty, at any time, prior to midnight of the third business day following receipt of the contract;

c. Provide to each customer a written contract, which may be hand delivered, mailed, or electronically transmitted, and which shall be deemed to have been received on the date such contract is hand delivered or electronically transmitted or three calendar days after the date the contract was mailed; and

d. Provide a period of three business days, commencing with the customer's receipt of a written contract, during which time the customer may withdraw from the contract without incurring any penalty or other obligations.

3. An aggregator expecting to receive compensation from a retail customer shall, prior to contracting with customers, provide written notice to the customers or prospective customers if the aggregator is, or expects to be, compensated by one or more competitive service providers. Such notice shall identify such competitive service providers.

20 VAC 5-311-50. Licensure of competitive service providers and aggregators.

A. Each person applying for a license to conduct business as a competitive service provider or an aggregator shall file the original application with 15 copies thereof with the Clerk of the State Corporation Commission. Each application shall include the following:

1. Legal name of the applicant as well as any trade name.

2. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the date thereof; e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date thereof.

3. Name and business addresses of all principal corporate officers and directors, partners, and LLC members, as appropriate.

4. a. Physical business addresses and telephone numbers of the applicant's principal office and any Virginia office location or locations.

b. A list of states in which the applicant or an affiliate conducts business related to electricity or natural gas, the names under which such business is conducted and a description of the businesses conducted.

5. Names of the applicant's affiliates and subsidiaries. If available, applicant shall satisfy this requirement by providing a copy of its most recent form 10K, Exhibit 21 filing with the Securities and Exchange Commission.

6. Disclosure of any affiliate relationships with local distribution companies or competitive service providers, or both, that conduct business in Virginia, and any agreements with the affiliated local distribution company that affect the provision of competitive energy services within the Commonwealth of Virginia.

7. If an affiliated competitive service provider, provide a description of internal controls it has designed to ensure that it and its employees that are engaged in the (i) merchant operations, transmission, or reliability functions of the electric generation or natural gas supply systems, or (ii) customer service, sales, marketing, accounting or billing functions, do not receive information from an affiliated local distribution company or from entities that provide similar functions for or on behalf of its affiliated local distribution company or affiliated transmission provider as would give such affiliated competitive service provider an undue advantage over nonaffiliated competitive service providers. For purposes of this subdivision, "undue advantage" means an advantage that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

8. Telephone number of the customer service department or the title and telephone number of the customer service contact person.

9. Name, title, address, and telephone number, facsimile (FAX) number, and e-mail address of the company liaison with the State Corporation Commission.

10. Name, title, and address of any registered agent in Virginia for service of process.

11. If a foreign corporation, a copy of the applicant's authorization to conduct business in Virginia from the State Corporation Commission; if a domestic corporation, a copy of the certificate of incorporation from the State Corporation Commission.

12. Sufficient information to demonstrate financial fitness commensurate with the service or services proposed to be provided. Applicant shall submit the following information related to general financial fitness:

a. Applicant's audited balance sheet and income statement for the most recent fiscal year. Published

financial information such as the Securities and Exchange Commission forms 10K and 10Q should be provided, if available.

b. Proof of a minimum bond rating (or other senior debt) of "BBB-" or an equivalent rating by a major rating agency, or a guarantee with a guarantor possessing a credit rating of "BBB-" or higher from a major rating agency. In lieu of such minimum bond rating or guarantee, submit other evidence that will demonstrate the applicant's financial responsibility.

13. Identification of the geographic area or areas, the name of the local distribution company that is certificated to provide service in the area or areas and the associated pilot program or programs in which the applicant proposes to provide service, the type of service or services it proposes to provide, the class of customers to which it proposes to provide such services, and, if applying to sell electricity or natural gas, or both, at retail and, if feasible, access to the sources of supply it intends to use.

14. a. Disclosure of any (i) civil, criminal, or regulatory sanctions or penalties imposed within the previous five years against the company, any of its affiliates, or any officer, director, partner, or member of an LLC or any of its affiliates, pursuant to any state or federal consumer protection law or regulation; and (ii) felony convictions within the previous five years, which relate to the business of the company or to an affiliate thereof, of any officer, director, partner, or member of an LLC.

b. Disclosure of whether any application for license or authority to conduct the same type of business as it proposes to offer in Virginia has ever been denied or whether any license or authority issued to it or an affiliate has ever been suspended, revoked or sanctioned.

c. If applicant has engaged in the provision of electricity or natural gas, or both, in Virginia or any other state, a report of all instances of violations of reliability standards that were determined to be the fault of the applicant, including unplanned outages, failure to meet service obligations, and any other deviations from reliability standards during the previous three years. The report shall include, for each instance, the following information: a description of the event, its duration, its cause, the number of customers affected, any reports, findings or issuances by regulators or electric and natural gas system reliability organizations relating to the instance, any penalties imposed, and whether and how the problem has been remedied.

15. A \$250 pilot registration fee payable to the State Corporation Commission shall accompany each initial application.

16. Sufficient information to demonstrate technical fitness commensurate with the service or services to be provided, to include:

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a. *The applicant's experience.*

b. *Identity of applicant's officers directly responsible for operations in the business to be conducted in Virginia and their experience in the generation of electricity, procurement of electricity or natural gas, or both, and the provision of energy services to retail customers.*

c. *If applying to sell electricity or natural gas, or both, at retail, documentation of any membership or participation in regional reliability councils or regional transmission organizations.*

d. *If applying to sell electricity or natural gas, or both, at retail, information concerning access to generation, supply and reserves. For electric pilots, information specifying, to the extent possible, the expected sources of electricity or electricity procurement practices that will be used to support retail sales of electricity in Virginia. For natural gas pilots, information regarding pipeline capacity and storage arrangements, including assurances that such suppliers will be able to meet the requirements of their essential human needs customers.*

17. *Applicants other than aggregators shall file a copy of their dispute resolution procedure for approval by the State Corporation Commission.*

B. *The license application shall be signed by an officer with appropriate authority under penalty of perjury that all information supplied on the application form is true and correct, and that, if licensed, applicant will abide by all applicable regulations of the State Corporation Commission.*

C. *Each person applying for a license to conduct business as a competitive service provider or an aggregator shall contemporaneously serve a copy of its application upon each applicable local distribution company located within the service territory or territories where the competitive service provider intends to operate.*

D. *Upon receipt of an application for a license to conduct business as a competitive service provider or an aggregator, the State Corporation Commission shall enter an order providing for notice to appropriate persons and an opportunity for written comment on the application.*

E. *A license to conduct business as a competitive service provider or an aggregator granted under this section shall expire upon the termination of the pilot program unless otherwise ordered by the State Corporation Commission. The State Corporation Commission will consider extending or converting licenses issued under this chapter to allow licensed entities to continue to provide service after the termination of the pilot programs.*

F. *If any application fails in any respect to be complete, the application will not be regarded as filed. The State Corporation Commission will take no action on any application until deemed complete and filed.*

20 VAC 5-311-60. General provisions.

A. *Any request for a waiver of any of the provisions in this chapter shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.*

B. *Any natural gas retail access pilot program previously approved by the State Corporation Commission and in operation prior to the adoption of this chapter, as well as any competitive service provider or aggregator participating in such programs, shall be required to comply with the provisions of this chapter within 120 days from the chapter's adoption or from the date of denial of a waiver request filed under subsection A of this section, whichever is later.*

C. *Each local distribution company, competitive service provider, and aggregator shall comply with the standards for billing information set forth in § 56-592 D 1, 2, and 4 of the Code of Virginia and with such standards that may be established by the State Corporation Commission pursuant to § 56-592 D of the Code of Virginia.*

D. *A local distribution company, a competitive service provider, or an aggregator shall bear the responsibility for meter reading and billing as provided or allowed by law and as approved by the State Corporation Commission.*

E. *A customer payment received in partial payment of a single consolidated bill shall be applied as designated by the customer or, in the absence of a customer designation, to arrearages owed the local distribution company, then to arrearages owed the competitive service provider, then to current charges of the local distribution company, and then to current charges of the competitive service provider.*

F. *A competitive service provider and an aggregator shall inform the State Corporation Commission within 30 days of the following: (i) any change in its name, address and telephone numbers; (ii) any information contained in its application that has changed regarding its affiliate status with a local distribution company; and (iii) any changes to information provided pursuant to 20 VAC 5-311-50 A 14 a.*

G. *The State Corporation Commission shall have the right to inspect the books, papers, records and documents, and to require special reports and statements, of any competitive service provider or aggregator regarding qualifications to conduct business within the Commonwealth, in support of affiliate transactions, to investigate allegations of violations of this chapter, or to resolve a complaint filed against a competitive service provider or an aggregator.*

H. *The provisions of this chapter may be enforced by the State Corporation Commission by any means authorized under any applicable law or regulation. Enforcement actions may specifically include, without limitation, the refusal to issue any license for which application has been made, and the refusal to renew or the revocation or suspension of any license previously granted. Any person aggrieved by a violation of these regulations may pursue any civil relief that may be available under state or federal law including, without limitation, private actions for enforcement of these*

regulations, without regard to or first pursuing the remedies available from the State Corporation Commission hereunder.]

V.A.R. Doc. No. R99-121; Filed May 26, 2000, 12:09 p.m.

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

The distribution list referenced as Attachment B in the following order is not being published. However, the list is available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1300 East Main Street, 1st Floor, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday, or it may be viewed at the Virginia Code Commission, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219, during regular office hours.

Title of Regulation: **20 VAC 5-315-10 et seq. Regulations Governing Net Energy Metering.**

Statutory Authority: §§ 12.1-13 and 56-594 of the Code of Virginia.

Effective Date: May 25, 2000.

Summary:

These regulations establish requirements intended to facilitate net energy metering for customers owning and operating an electrical generator that uses as its total fuel source solar, wind or hydro energy. These regulations standardize the interconnection requirements for such facilities and will govern the metering, billing and contract requirements between net metering customers, electric distribution companies and energy service providers.

The regulations contain provisions pertaining to (i) company notification, (ii) conditions of interconnection, (iii) metering, billing and tariff considerations, (iv) liability insurance, (v) additional controls and test, and (vi) waivers.

The commission made modifications to the proposed regulations to include the requirement of a lockable, utility accessible, manual disconnect switch. The regulation requires that all renewable fuel generators are inspected by a licensed electrician or in some cases, the electric distribution company. If the electric distribution company performs the inspection, a fee of no more than \$50 may be imposed upon the net metering customer for such inspection.

Agency Contact: Please direct questions to Tommy Oliver, Division of Economics and Finance, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218, telephone (804) 371-9358. There is a charge for copies as set forth in §§ 12.1-21 and 13.1-617 of the Code of Virginia.

AT RICHMOND, MAY 25, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the
STATE CORPORATION COMMISSION

CASE NO. PUE990788

Ex Parte: In the matter of
establishing regulations for
net energy metering pursuant to
Va. Code § 56-594

**ORDER ADOPTING REGULATIONS GOVERNING NET
ENERGY METERING**

As part of the Virginia Electric Restructuring Act ("the Act"), § 56-594 of the Code of Virginia directs the Commission to establish by regulation a program, to begin no later than July 1, 2000, which affords eligible customer-generators the opportunity to participate in net energy metering.

By order entered December 22, 1999, the Commission established this proceeding for the promulgation of regulations in accordance with § 56-594. Also on December 22, 1999, the Commission Staff filed proposed regulations to govern net energy metering as well as a report describing its proposed regulations. The Staff's proposed regulations were developed after receiving input from numerous stakeholders and interested parties. These parties provided both written responses to Staff data requests and participated in meetings and a workshop conducted by the Staff.

Our order of December 22, 1999, provided notice to interested parties and the public of the proposed regulations and invited formal comments and requests for hearing. The Commission received comments from the following parties: The Potomac Edison Company, d/b/a Allegheny Power; Appalachian Power Company, d/b/a American Electric Power ("AEP-VA"); the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel"); Old Dominion Electric Cooperative and its member distribution cooperatives, together with the Virginia, Maryland & Delaware Association of Electric Cooperatives ("the Cooperatives"); the Maryland-DC-Virginia Solar Energy Industries Association ("MDV-SEIA"); Southern Environmental Law Center; LG&E Energy Corporation; and Virginia Electric and Power Company ("Virginia Power"). AEP-VA and Virginia Power requested a hearing on the proposed regulations.

By order of February 22, 2000, we established a procedural schedule for receiving evidence at a public hearing. We directed our Staff to file testimony or other filing adopting its December 22, 1999, report, and we directed parties desiring to participate at the hearing to similarly file testimony or other filing adopting its previously filed comments. The Staff filed comments adopting its report on March 10, 2000, and parties made their filings on March 21, 2000. The hearing was held on March 29 and 30, 2000. The Staff, Consumer Counsel, MDV-SEIA, Virginia Power, the Cooperatives, AEP-VA, and Allegheny Power participated at the hearing. At the hearing, the Commission heard opening statements from counsel and received extensive evidence from the Staff and witnesses for the parties.

Final Regulations

NOW THE COMMISSION, upon consideration of the record and the applicable law, is of the opinion and finds that the regulations attached hereto should be adopted, effective as of the date of this order. These regulations will, as required by § 56-594 A of the Code of Virginia, establish a program affording eligible customer-generators the opportunity to participate in net energy metering.

The regulations we adopt herein contain various modifications to those that were published in this case by our order of December 22, 1999. These modifications have been made after our consideration of proposed changes made to those rules by the Staff prior to the hearing in March of this year, other changes suggested at that proceeding, and our analysis of the question of how best to "facilitate the provision of net energy metering" without adversely affecting the public interest, as required by § 56-594 A of the Code of Virginia.

One change we have made corrects what we find to have been a misimpression of the statutory requirement that was incorporated in the third paragraph of proposed rule 20 VAC 5-315-50. That rule, as originally proposed, provided that excess generation occurring during any billing periods would be carried forward to be applied to consumption in future billing periods, but not past the end of the twelve-month net metering period. That proposal was intended to apply the provision of § 56-594 D of the Code of Virginia that a customer is not to be compensated for excess electricity produced during a net metering period in the absence of a separate power purchase agreement. That rule, as proposed, treated the customer less favorably than the statute requires, however. We have modified that rule herein to make it consistent with the statutory provision. Accordingly,

IT IS ORDERED THAT:

- (1) Regulations governing net energy metering are hereby adopted as shown in Attachment A to this order.
- (2) All electric utilities in the Commonwealth subject to Chapter 10 of Title 56 of the Code of Virginia shall file with the Commission's Division of Energy Regulation by June 16, 2000, tariff provisions necessary to implement the regulations as adopted herein.
- (3) There being nothing further to come before the Commission, this case shall be removed from the docket and the papers filed herein be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the clerk of the Commission to: All electric cooperatives and electric companies in Virginia as listed in Attachment B to this Order; John F. Dudley, Senior Assistant Attorney General & Chief, Insurance and Utilities Regulatory Section, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Mike Toalsan, Executive Vice President, Home Builders Association of Virginia, 1108 East Main Street, Suite 700, Richmond, Virginia 23219; MaryJo Fields, Virginia Building & Code Officials Association, P.O. Box 12164, Richmond, Virginia 23218; Harry W. Kincaid, Executive Director, Consulting Engineers Council of Virginia, 611 Research Road, Richmond, Virginia 23236; Todd Foley,

Director-External Affairs, BP Solarex, 1776 I Street, N.W., Suite 1000, Washington, D.C. 20006; James J. Ishee, Attorney at Law, 4122 Leonard Drive, Fairfax, Virginia 22030; Kenneth S. Jurman, Renewable Energy Project Manager, Department of Mines, Minerals and Energy, 202 North 9th Street, 8th Floor, Richmond, Virginia 23219; Leigh Dicks, Executive Director, Virginia Society of Professional Engineers, 9291 Laurel Grove Road, Suite 10, Mechanicsville, Virginia 23116; Randall Swisher, Executive Director, American Wind Energy Association, 122 C Street, N.W., 4th Floor, Washington, D.C. 20001; Phil Parrish, President, Matsys, 6800 Versar Center, Suite 275, Springfield, Virginia 22151; Jeffrey R. Yago, P.E., CEM, J. R. Yago & Associates, P.O. Box 10, Gum Springs, Virginia 23065; William Stewart, 40101 Highland View Lane, Paeonian Springs, Virginia 20129; John Pollack, P.O. Box 265, Batesville, Virginia 22924; Chris Larsen, Renewable Energy Specialist, North Carolina Solar Center, Box 7401, North Carolina State University, Raleigh, North Carolina 27695-7401; Daniel K. Slone, McGuire, Woods, Battle & Boothe, One James Center, Richmond, Virginia 23219; Carlo LaPorta, President, Capital Sun Group, 6503 81st Street, Cabin John, Maryland 20818; Jerry Paner, Solar Building Systems, 3131 Mount Hill Drive, Midlothian, Virginia 23113; Michel A. King, President, Old Mill Power Company, 103 Shale Place, Charlottesville, Virginia 22902-6402; Eric Thompson, Earthstar Energy Systems, P.O. Box 59, Schuyler, Virginia 22969; Paul Coughlin, Atlantic Solar Products Inc., 9351-J Philadelphia Road, Baltimore, Maryland 21237; Jerry Broadway, Virginia Economic Development Partnership, 901 East Byrd Street, Richmond, Virginia 23218-0798; Paul Hughes, Environmental Services, Inc., 8929 Colesbury Place, Fairfax, Virginia 22031; Michael Eckart, Solar International Management, Solar Bank Project, 1828 L Street, N.W., Suite 1000, Washington, D.C. 20036; Richard S. Corner, AIA, 909 Windsor Road, Virginia Beach, Virginia 23451; Linda Church-Ciucci, Executive Director, National Hydropower Association, One Massachusetts Avenue, N.W., Suite 720, Washington, D.C. 20001; Trip Pollard, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902; Fred Morse, Morse & Associates, 1808 Corcoran Street, N.W., Washington, D.C. 20009; Alden Hathaway, ICF Consulting Group, 9300 Lee Highway, Fairfax, Virginia 22031-1207; Richard Good, President, Solar Services, Inc., 1364 London Bridge Road, Suite 102, Virginia Beach, Virginia 23456-3111; Watt Bradshaw, Blue Ridge Energy Company, Route 3, Box 82A, Broadway, Virginia 22815; Peter Biondo, USA Solar, 1108 Montrose Avenue, Charlottesville, Virginia 22902; Paul Maycock, PV Energy Systems, Inc., 4539 Old Auburn Road, Warrenton, Virginia 20187; Thomas J. Starrs, Principal, Kelso Starrs & Associates, 14503 S.W. Reddings Beach Road, Vashon, Washington 98070; Ken Schall, Commonwealth Solar, 12433 Autumn Sun Lane, Ashland, Virginia 23005; Jody Solell, Solar Electrics, 4060 Trapp Road, Fairfax, Virginia 22032-1137; Duncan Abernathy, American Institute of Architects, 15 South 5th Street, Richmond, Virginia 23219; Thomas B. Nicholson, Esquire, Williams, Mullen, Clark & Dobbins, P.C., Two James Center, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23218-1320; Charles J. Kruff, Allegheny Energy, Regulations and Rates, 10435 Downsview Pike, Hagerstown, Maryland 21740-1766;

Robert A. Omberg, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Michael Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; Kodwo Ghartey-Tagoe, Esquire, McGuire, Woods, Battle & Boothe, L.L.P., One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Pamela Johnson, Esquire, and Jill Hayek, Esquire, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; Marleen Brooks, Esquire, Allegheny Power, Legal Department, 10435 Downsview Pike, Hagerstown, Maryland 21740-1766; James R. Bacha, American Electric Power Service Corporation, One Riverside Plaza, Columbus, Ohio 43215; Alvin H. Sobel, 6712 South King's Highway, Alexandria, Virginia 22306; Stephen S. Kalland, Executive Director, MDVA-SEIA, 1963 39th Street, N.W., Washington, D.C. 20007; Ronald L. Willhite, LG&E Energy Corporation, P.O. Box 32030, Louisville, Kentucky 40232; Christopher Cook, Esquire, Maryland-DC-Virginia Solar Energy, 16020 Pennsbury Drive, Bowie, Maryland 20716; Nancy Fennell, 5320 Cave Spring Lane, Roanoke, Virginia 24018; and the Commission's Divisions of Economics and Finance, Energy Regulation, and Office of General Counsel.

ATTACHMENT A

CHAPTER 315.

REGULATIONS GOVERNING NET [ENERGY] METERING.

20 VAC 5-315-10. Applicability and scope.

These regulations are promulgated pursuant to the provisions of § 56-594 of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) They establish requirements intended to facilitate net energy metering for customers owning and operating an electrical generator that uses as its total fuel source solar, wind or hydro energy. These regulations will [~~serve to~~] standardize the interconnection requirements for such facilities and will govern the metering, billing and contract requirements between net metering customers, electric distribution companies and energy service providers.

20 VAC 5-315-20. Definitions.

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

"Billing period" means, as to a particular customer, the time period between the dates on which the electric distribution company or energy service provider, as the case may be, issues the customer's bills.

"Electric distribution company" means the [~~company~~ entity] that owns and/or operates the distribution facilities delivering electricity to the net metering customer's premises.

"Energy service provider" means the [~~company~~ entity] providing electric energy to a net metering customer, either [~~or~~ as] a tariffed, competitive, or default [~~basis~~ service pursuant to § 56-585 of the Code of Virginia].

"Net metering customer" means a customer owning and operating a renewable fuel generator under a net metering service arrangement.

"Net metering period" means each successive 12-month period [beginning with the first meter reading date] following the date of final interconnection of the renewable fuel generator with the electric distribution company's facilities.

"Net metering service" means measuring the difference, over the net metering period between electricity supplied to a net metering customer from the electric grid and the electricity generated and fed back to the electric grid by the net metering customer, using a single meter [or, as provided in 20 VAC 5-315-70, additional meters].

"Renewable fuel generator" means an electrical generating facility that:

1. Has [a an alternating current] capacity of not more than 10 kilowatts for residential customers and not more than 25 kilowatts for nonresidential customers;
2. Uses as its total fuel source solar, wind, or hydro energy;
3. Is owned and operated by the net metering customer and is located on the customer's premises;
4. Is interconnected and operated in parallel with the electric distribution company's facilities; and
5. Is intended primarily to offset all or part of the [net metering] customer's own electricity requirements.

20 VAC 5-315-30. Company notification.

The prospective net metering customer shall submit a [completed commission-approved] notification form [, as provided in 20 VAC 5-315-90,] to the electric distribution company and, if different from the electric distribution company, the energy service provider, at least [44 30] days prior to the date the customer intends to interconnect his renewable fuel generator to the electric distribution company's facilities. A net metering customer shall have all equipment necessary to complete the grid interconnection installed prior to such notification. The electric distribution company shall have [44 30] days from the date of notification to determine whether the requirements contained in 20 VAC 5-315-40 have been met. [The date of notification shall be considered to be the third day following the mailing of such notification form by the prospective net metering customer.]

[~~Fifteen~~ Thirty-one] days after [the date of notification,] a net metering customer [~~submits the interconnection form, he~~] may interconnect his renewable fuel generator and begin operation of said renewable fuel generator unless the electric distribution company or the energy service provider requests a waiver of this requirement under the provisions of 20 VAC 5-315-80, prior to said [45th 31st] day. [In cases where the electric distribution company or energy service provider requests a waiver, a copy of the request for waiver must be mailed simultaneously by the requesting party to the net metering customer and to the commission's Division of Energy Regulation.]

The electric distribution company shall file with the commission's Division of Energy Regulation a copy of each completed notification form within 30 days of final interconnection.

Final Regulations

20 VAC 5-315-40. Conditions of interconnection.

A. A prospective net metering customer may begin operation of his renewable fuel generator on an interconnected basis when:

1. The [net metering] customer has properly notified both the electric distribution company and energy service provider (in accordance with 20 VAC 5-315-30) of his intent to interconnect;

2. [~~The customer has certified that his installed renewable fuel generator meets all provisions of all applicable safety and performance standards established by local and national electrical codes including the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, or other national testing laboratories~~ If required by the electric distribution company's net metering tariff, the net metering customer has installed a lockable, electric distribution company accessible, load breaking manual disconnect switch];

3. [~~The inverter settings have been checked by the electric distribution company for renewable fuel generators exceeding a generating capacity of 10 kilowatts~~ A licensed electrician has certified, by signing the commission-approved notification form as provided in 20 VAC 5-315-90, that any required manual disconnect switch has been installed properly and that the renewable fuel generator has been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code];

4. [~~The customer has complied with the electric distribution company's current interconnection guidelines for nonstatic inverter generators~~ The vendor has certified, by signing the commission-approved notification form as provided in 20 VAC 5-315-90, that the renewable fuel generator being installed is in compliance with the requirements established by Underwriters Laboratories or other national testing laboratories];

[5. In the case of static inverter-connected renewable fuel generators with an alternating current capacity in excess of 10 kilowatts, the net metering customer has had the inverter settings inspected by the electric distribution company. The inspecting electric distribution company may impose a fee on the net metering customer of no more than \$50 for such inspection;

6. In the case of nonstatic inverter-connected renewable fuel generators, the net metering customer has interconnected according to the electric distribution company's interconnection guidelines and the electric distribution company has inspected all protective equipment settings. The inspecting electric distribution company may impose a fee on the net metering customer of no more than \$50 for such inspection.]

B. A prospective net metering customer shall not be allowed to interconnect a renewable fuel generator if doing so will cause the total rated generating [alternating current] capacity of all interconnected renewable fuel generators within that customer's electric distribution company's service

territory to exceed 0.1% of that company's Virginia peak-load forecast for the previous year. [In any case where a prospective net metering customer has submitted a notification form required by 20 VAC 5-315-30 and that customer's interconnection would cause the total rated generating alternating current capacity of all interconnected renewable fuel generators within that electric distribution company's service territory to exceed 0.1% of that company's Virginia peak-load forecast for the previous year, the electric distribution company shall, at the time it becomes aware of the fact, send written notification to such prospective net metering customer and to the commission's Division of Energy Regulation that the interconnection is not allowed. In addition, upon request from any customer, the electric distribution company shall provide to the customer the amount of capacity still available for interconnection pursuant to § 56-594 D of the Code of Virginia.]

C. Neither the electric distribution company nor the energy service provider shall impose any charges upon a net metering customer for any interconnection requirements specified by this chapter [, except as provided under subdivisions A 5 and 6 of this section, and 20 VAC 5-315-50 as related to off-site metering].

20 VAC 5-315-50. Metering, billing and tariff considerations.

Net metered energy shall be measured in accordance with standard metering practices by metering equipment capable of measuring (but not necessarily displaying) power flow in both directions. Each contract or tariff governing the relationship between a net metering customer, electric distribution company or energy service provider shall be identical, with respect to the rate structure, all retail rate components, and monthly charges, to the contract or tariff under which the same customer would be served if such customer was not a net metering customer [with the exception that time of use metering is not permitted]. Said contract or tariff shall be applicable to both the electric energy supplied to, and consumed from, the grid by that customer.

[In instances where net metering customers' metering equipment is of a type for which meter readings are made off site and where this equipment has, or will be, installed for the convenience of the electric distribution company, the electric distribution company shall provide the necessary additional metering equipment to enable net metering service at no charge to the net metering customer. In instances where a net metering customer has requested, and where the electric distribution company would not have otherwise installed, metering equipment which is intended to be read off site, the electric distribution company may charge the net metering customer its actual cost of installing any additional equipment necessary to implement net metering service.]

If electricity generated by the [net metering] customer and fed back to the electric grid exceeds the electricity supplied to the [net metering] customer from the grid [(~~negative net consumption~~)] during a net metering period, the [net metering] customer shall receive no compensation from the electric distribution company nor the energy service provider unless that net metering customer has entered into a

purchase power contract with the electric distribution company and/or the energy service provider.

~~[During any billing period for which a net metering customer has a negative net consumption, the customer shall be required to pay only the nonusage sensitive charges for that month. Such negative net consumption shall be applied against future energy consumption, but not past the end of the net metering period. If electricity generated by the net metering customer and fed back to the electric grid exceeds the electricity supplied to the net metering customer from the grid during any billing period (billing period credit), the net metering customer shall be required to pay only the nonusage sensitive charges for that billing period. Such billing period credits shall be accumulated, carried forward and applied at the first opportunity to any billing periods having positive net consumptions. However, any accumulated billing period credits remaining unused at the end of a net metering period shall be carried forward into the next net metering period only to the extent that such accumulated billing period credits carried forward do not exceed the net metering customer's positive net consumption for the current net metering period.]~~

20 VAC 5-315-60. Liability insurance.

~~[Net metering customers shall not be required to obtain additional liability insurance as a condition of interconnecting with the electrical grid. A net metering customer with a renewable fuel generator with a rated capacity not exceeding 10 kilowatts shall maintain homeowners, commercial, or other insurance providing coverage in the amount of at least \$100,000 for the liability of the insured against loss arising out of the use of a renewable fuel generator, and for a renewable fuel generator with a rated capacity exceeding 10 kilowatts such coverage shall be in the amount of at least \$300,000. Net metering customers shall not be required to obtain liability insurance with limits higher than that which is stated in this section; nor shall such customers be required to purchase additional liability insurance where the customer's existing insurance policy provides coverage against loss arising out of the use of a renewable fuel generator by virtue of not explicitly excluding coverage for such loss.]~~

20 VAC 5-315-70. Additional controls and tests.

~~[Except as provided in 20 VAC 5-315-40 A 5 and 6 and 20 VAC 5-315-50 as related to off-site metering,] no net metering customer shall be required to pay for additional metering, testing or controls in order to interconnect with the electric distribution company or energy service provider. However, this chapter shall not preclude a net metering customer, an electric distribution company or an energy service provider from installing additional controls or meters, or from conducting additional tests. The expenses associated with these additional meters, tests or equipment shall be borne by the party desiring the additional meters, tests or equipment.~~

20 VAC 5-315-80. Request for waivers.

~~Any request for a waiver of any of the provisions of this chapter shall be considered by the Virginia State Corporation Commission on a case-by-case basis, and may be granted~~

upon such terms and conditions as the commission may impose.

[20 VAC 5-315-90. Commission-approved interconnection notification form.

The following commission-approved interconnection notification form shall be used as specified in this chapter.

Final Regulations

STATE CORPORATION COMMISSION
Division of Economics and Finance

Effective 5/2000

INTERCONNECTION NOTIFICATION

PURSUANT TO COMMISSION REGULATION 20 VAC 5-315-30, APPLICANT HEREBY GIVES NOTICE OF INTENT TO OPERATE A GENERATING FACILITY.

Section 1. Applicant Information

Name: _____

Mail Address: _____

City: _____ State: _____ Zip Code: _____

Facility Location (if different from above): _____

Daytime Phone Number: _____

Distribution Utility: _____ Account Number: _____

Energy Service Provider (ESP): _____ Account Number: _____

(if different than electric distribution company)

Section 2. Generating Facility Information

Generator Type (check one): Solar _____, Wind _____, Hydro _____

Generator Manufacturer, Model Name & Number: _____

_____ Power Rating in Kilowatts: AC: _____ DC: _____

Inverter Manufacturer, Model Name & Number: _____

_____ Battery Backup? (yes or no) _____

Section 3. Installation Information

Installation Date: _____ Proposed Interconnection Date: _____

Section 4. Certifications

1. The system hardware is listed by Underwriters Laboratories to be in compliance with UL 1741:

Signed (Vendor): _____ Date: _____

Name (printed): _____ Company: _____

Phone Number: _____

2. The system has been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code.

Signed (Licensed Electrician): _____ Date: _____

License Number: _____ Phone Number: _____

Mail Address: _____

City: _____ State: _____ Zip Code: _____

3. Utility signature signifies only receipt of this form, in compliance with the Commission's net energy metering regulations, Regulation 20 VAC 5-315-30.

Signed (Utility Representative): _____ Date: _____

I hereby certify that, to the best of my knowledge, all of the information provided in this Notice is true and correct.

Signature of Applicant _____

]

VA.R. Doc. No. R00-75; Filed May 25, 2000, 3:27 p.m.



GOVERNOR

EXECUTIVE ORDER NUMBER SIXTY-THREE (00)

DECLARATION OF A STATE OF EMERGENCY FOR THE ENTIRE COMMONWEALTH DUE TO WINTER STORM

On January 25, 2000, I verbally declared a state of emergency to exist for the entire Commonwealth of Virginia following a winter storm with high winds that dumped up to 18 inches of snow across much of the state and caused significant drifting and blizzard conditions. This state of emergency was also declared in anticipation of a second winter storm predicted to impact the Commonwealth over the time frame from January 28 to January 31, 2000.

Safeguarding the health and general welfare of the citizens of the Commonwealth required that state action be taken to help prepare for and alleviate the conditions which may result from this situation. I also found that the potential effects of this blizzard, and the threat of future storms, constituted a natural disaster wherein human life and public and private property were imperiled, as described in § 44-75.1.A.4 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued January 25 and January 29, 2000, wherein I proclaimed that a state of emergency exists throughout the Commonwealth and directed that appropriate assistance be rendered by agencies of both state and local governments to prepare for and alleviate any conditions resulting from these storms, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions insofar as possible. Pursuant to §§ 44-75.1 A 3 and A 4 of the *Code of Virginia*, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid. This included Virginia National Guard assistance to the Virginia State Police in the provision of essential commodities such as home heating fuel, etc., to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Services and the Adjutant General, and with the approval of the Secretary of Public Safety, found necessary.

In order to marshal all public resources and to implement appropriate preparedness, response, and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I ordered the following protective and restoration measures:

A. The full implementation by state agencies and local governments of the Commonwealth of Virginia Emergency Operations Plan (COVEOP).

B. Full activation of the Virginia Emergency Operations Center (VEOC) and State Emergency Response Team (SERT). Furthermore, I am directing that the VEOC and SERT coordinate state operations in support of affected localities and the Commonwealth, to include issuing mission assignments to agencies designated in the COVEOP and others that may be identified by the State Coordinator of Emergency Services, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property, and implementation of recovery activities.

C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Services, in coordination with the Department of Information Technology, and with the prior consent of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the impending event, pursuant to § 44-146.18 of the *Code of Virginia*.

D. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Services to enter into any other supplemental agreements, pursuant to §§ 44-146.17 (5) and 44-146.28:1 of the *Code of Virginia*, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Services is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the *Code of Virginia*.

E. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight/overwidth/registration/license exemptions to carriers transporting essential commodities and emergency relief supplies into and through the Commonwealth in order to support the disaster response and recovery. The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	60,000 Pounds
Tractor-Semitrailer (4 Axles)	70,000 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with

Department of Motor Vehicles. This includes the vehicles en route and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for the purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the *Code of Virginia*.

The foregoing overweight transportation privileges and the regulatory exemption provided by § 52.8.4 A of the *Code of Virginia*, and implemented in 19 VAC 30-20-40 B of the "Motor Carrier Safety Regulations," shall remain in effect for sixty (60) days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

F. The discontinuance of provisions authorized in paragraph E above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

G. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the *Code of Virginia*, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

H. Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in paragraph M below, in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 43 of Chapter 935, 1999 Virginia Acts of Assembly.

I. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work,

entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28 (b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.

J. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and other identified and tasked by the State Coordinator of Emergency Services for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23 (a) of the *Code of Virginia*.

K. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in pre-storm preparations and in alleviating the human suffering and damage to property as a result of this storm.

2. Pursuant to § 52-6 of the *Code of Virginia*, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Services or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia

National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

L. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with § 44-54.12 of the *Code of Virginia*; and

4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof.

M. The costs incurred by the Department of Military Affairs and Virginia Defense Force in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 511 of Chapter 935, 1999 Virginia Acts of Assembly.

This Executive Order shall be effective retroactive to January 25, 2000, and shall remain in full force and effect until June 30, 2000, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 21st day of February 2000.

/s/ James S. Gilmore, III
Governor

VA.R. Doc. No. R00-191; Filed May 30, 2000, 12:05 p.m.

EXECUTIVE ORDER NUMBER SIXTY-FOUR (00)

CONTINUING THE GOVERNOR'S COMMISSION ON TRANSPORTATION POLICY

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.1-51.36 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Governor's Commission on Transportation Policy.

The Commission was created under Executive Order Number Forty-Three (1999) issued by me on May 21, 1999, and was classified as a gubernatorial advisory commission in accordance with Section 2.1-51.35 and 9-6.25 of the *Code of Virginia*.

All aspects of the Commission's duties and responsibilities, membership and structure, funding source, costs, and staff remain as set forth in Executive Order Forty-Three (1999).

This Executive Order shall be effective upon signing and shall remain in force and effect until December 31, 2000, unless amended or rescinded by further executive order.

Given under my hand and the Seal of the Commonwealth of Virginia on this 19th day of May, 2000.

/s/ James S. Gilmore, III
Governor

VA.R. Doc. No. R00-191; Filed May 30, 2000, 12:06 p.m.

EXECUTIVE ORDER NUMBER SIXTY-FIVE (00)

IMPLEMENTING ELECTRONIC GOVERNMENT IN THE COMMONWEALTH OF VIRGINIA

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-39.1

Governor

and 2.1-41.1 of the *Code of Virginia*, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the policies and procedures to accelerate and implement electronic government and related technology initiatives. To carry out these policies and procedures, and without altering the powers and duties of the Geographic Information Network Division and the Division of Public Safety Communication, I hereby direct that an Electronic Government Implementation Division be established within the Department of Technology Planning.

Preamble

Since 1994, when Virginia became only the second state government to establish a web site, the Commonwealth has been a leader in using technology to deliver information and services to her citizens through the Internet. State agencies and institutions now provide a wealth of information and interactive services online. These efforts have continued and intensified under the direction of Executive Order 51 (1999), which called in part for the development of plans by each Executive Branch agency and institution of higher education for the delivery or expansion of services through the Internet. While there has been significant progress in implementing the recommendations of the Governor's Commission on Information Technology, it is clear that the Commonwealth is only beginning the deployment of "electronic government."

"Electronic Government" is an important endeavor that will enable citizens and businesses to interact with a more streamlined, service-oriented government. In this environment, citizens and businesses will not simply receive information or participate in transactions passively. Rather, they will become involved in a more active dialog with their state government. Successful e-government will be achieved when all Virginia's citizens and communities are efficiently using the tools of technology, especially the Internet, to actively participate in their state government.

The Commonwealth must now move aggressively to fully implement these electronic government initiatives to assure that Virginians benefit substantially from the convenience, accuracy, and efficiency of interfacing with government and education via the Internet.

The Commonwealth's Year 2000 (Y2K) project, led by the Century Date Change Initiative Project Office, demonstrated that a comprehensive project management approach applied statewide can efficiently guide large-scale initiatives to a successful conclusion. Emerging from this effort were a number of lessons learned, which together form a set of "best practices" that provide a framework for managing projects at a statewide level in recognition of their inherent risks and benefits.

Project management is foremost about managing change in an organization, whether the change is mandated by external factors or motivated by internal factors related to improving organizational effectiveness. I hereby direct the Electronic Government Implementation Division to work to ensure that project management is consistently applied to the initiatives included in this executive order.

Part 1: Electronic Government Implementation Division

In carrying out the policies and procedures set forth in this Order, the Electronic Government Implementation Division shall work closely with Executive Branch agencies and institutions of higher education to determine the most effective and efficient means of rapidly moving more state government services to the Internet. The Division shall be responsible for:

- Developing and promoting a standard methodology that can be used by Executive Branch agencies to implement the provisions of this Executive Order;
- Coordinating activities of the other agencies within the Office of the Secretary of Technology to provide technical assistance to all Executive Branch agencies on the implementation of these e-government initiatives;
- Promoting and coordinating, to the greatest extent feasible, the sharing of resources, applications and application/database development among Executive Branch agencies;
- Consulting with the Department of Planning and Budget to determine the fiscal implications of developing e-government projects;
- Prioritizing funding needs for electronic government strategies and initiatives, and making recommendations where appropriate to the Governor, the Secretaries of Technology and Finance, the Department of Planning and Budget, and the VIPNet Board of Directors where priority projects cannot be funded within existing resources;
- Ensuring that the implementation of e-government projects that cannot be funded within existing resources fully conforms to the schedule established by the Secretary of Finance for budget development;
- Facilitating the implementation of a comprehensive process for project management of technology activities within state government and providing technical assistance to agencies as needed;
- Working with Executive Branch agencies to assure that their electronic government initiatives, once fully implemented, will result in demonstrable net savings or increases in productivity for the Commonwealth;
- Coordinating the implementation of the specific initiatives that are outlined in Part Two of this Executive Order.

Part 2: Specific Initiatives

The Electronic Government Implementation Division shall work with other Executive Branch agencies, as necessary, to coordinate a successful implementation of the following electronic government initiatives, already in various stages of development, that will further the Commonwealth's e-government effort.

A. Electronic Procurement

There are few areas of government administration that the Internet is changing faster or more dramatically than

procurement. Not only does web-based technology allow faster, more accurate purchasing and contracting, but also it allows for greater competition for goods and services and the ability to compare prices, offers, and value.

Last year, the Department of General Services inaugurated its E-Mall, a central procurement web site for the Commonwealth, offering information, links to state contracts and solicitations, access to a growing number of vendor catalogs, and the beginning stages of Internet purchasing capability. Virginia's E-Mall, one of the most comprehensive in the nation, is the first step toward a more comprehensive electronic procurement process available to all state agencies, universities, and local governments.

Virginia must continue to move aggressively to take advantage of the substantial benefits derived from widespread and regular use of the Internet for purchasing and procurement. Toward that end, I hereby direct the Department of General Services to implement the statewide electronic procurement system authorized by Item 75 (b) of the 2000 Appropriation Act by:

- Issuing a Request for Proposals (RFP) for a web-based electronic procurement system to be implemented no later than March 1, 2001;
- Expediting the evaluation and review process for the RFP and its implementation to the extent possible within established guidelines and existing law;
- Working with the Council on Technology Services to encourage universal participation by Executive Branch agencies and institutions and to develop an educational program for those agencies, institutions of higher education, and local governments on how to most effectively incorporate electronic procurement into their business processes;
- Identifying barriers in regulation and in the Code of Virginia to continued expansion of the use of electronic procurement for purchasing and for establishing contracts.

The Secretary of Finance and the Departments of Treasury, Planning and Budget, and Accounts shall cooperate with the Department of General Services to explore and select the most viable financing options for developing the electronic procurement system, as required by Item 75 (b) of the 2000 Appropriation Act.

Upon completion of the statewide electronic procurement system, I hereby direct all Executive Branch agencies and institutions to take advantage of its benefits to the fullest extent possible.

B. Administrative Applications

The Commonwealth is widely recognized for the innovative ways in which many agencies are harnessing the Internet to deliver information and services to citizens and businesses. Agencies and institutions are aggressively using the tools offered by new technologies to better meet citizens' expectations and to serve their needs.

This same technology must also be applied to make government operate more efficiently and to allow state employees to become more productive. Web-based technology can be applied to a wide range of administrative processes within state government, used by virtually every agency, to make them more efficient. These processes include, but are not limited to, employee benefits administration, leave reporting and accounting, travel planning and booking, motor pool reservations, and expense reporting.

I hereby direct the Electronic Government Implementation Division, with the cooperation and assistance of the Governor's Cabinet and the Council on Technology Services, to:

- Work with the Departments of Accounts, General Services, Personnel and Training, and Transportation, to identify key processes, such as those identified above, that can be "web-enabled;"
- Identify administrative activities of other Executive Branch agencies that can also be "web-enabled;"
- Identify changes necessary to implement these administrative systems that can be effected through policy directive, Executive Order, change in regulation, or amendment of the Code of Virginia;
- Develop a plan and schedule for implementation of web-based versions of these processes. This plan shall be submitted to each Secretary through the Secretary of Technology no later than October 31, 2000. Implementation of the web-based versions of these processes shall occur within 12 months of approval of the plan.

C. Digital Signatures

Electronic security and authentication are integral components of successful e-government. To fully utilize the Internet in conducting the essential functions of government, the Commonwealth must have a means to provide assurance that the participating parties are who they claim to be and that the contents of their communications and transactions have not been altered. Digital signatures, through the use of security measures such as "public key infrastructure (PKI)," are designed to establish identity by employing a "Certificate Authority" to provide signature authentication.

Through the efforts of the Council on Technology Services, four state agencies and two local governments have agreed to participate in projects to demonstrate the use of this security technology. The successful completion of this first stage should result in the following:

- Establishment of the policies, practices, guidelines and standards that will serve as the basis for applying digital signatures throughout state government;
- Application of a proven operating environment that supports the use of secure digital signature technology and could later be applied statewide;
- A digital signature structure that can support the use of more than one Certificate Authority;

- A demonstrated working model that allows for the verification of digital signatures that can then be extended to the Commonwealth's public sector community, to business partners, and to the general public.
- Toward that end I hereby direct the Secretary of Technology, through the Electronic Government Implementation Division, to:
 - Receive advice and assistance from the Council on Technology Services in regard to the Commonwealth's implementation of these initial demonstration projects;
 - Coordinate with the Council on Technology Services regarding the development of the related policies, standards, and guidelines necessary for statewide deployment of digital signatures;
 - Coordinate with the appropriate Executive Branch agencies to facilitate the procurement activities relating to statewide deployment of digital signature technology;
 - Encourage Executive Branch agencies and institutions to take advantage of digital signature technology and to develop an educational program for those agencies, institutions of higher education, and local governments on how to implement secure digital signature technology;
 - Ensure that implementation of digital signature technology by the Commonwealth complies with the provisions of the Uniform Electronic Transactions Act of 2000.

I direct Executive Branch agencies and institutions to take advantage of the benefits of digital signature technology to the fullest extent possible.

D. Privacy and Security

As the Commonwealth transitions into e-government, the privacy and security of sensitive information must be protected. To assure that the provisions of the Privacy Act of 1976 are met, I direct the Electronic Government Implementation Division to:

- Ensure that privacy and security issues are appropriately identified and addressed for all projects included in this Executive Order;
- Coordinate with the State Internal Auditor to ensure that Executive Branch agency internal auditors are involved in these projects from their inception to ensure that appropriate control measures are included;
- Implement a management process to track electronic security breaches and to disseminate relevant information quickly to Executive Branch agencies;
- Coordinate with the Council on Technology Services regarding the development of related policies, standards, and guidelines.

E. Seat Management

Virginia is the national leader in initiating a state government-wide contract for the provision of computer services at each state employee's desk or "seat" through a private sector contract for "seat management services." Under the seat management contract, the customer agency pays one fixed fee for all desktop or laptop personal computing services including hardware, software, maintenance, and help desk. The vendor must meet prescribed service levels to earn that fee.

The seat management contract will bring a number of benefits to participating agencies, including:

- Placing the upgrading of computer hardware and software on a regular schedule, thus eliminating obsolescence, reducing total cost of ownership, and enhancing productivity;
- Reducing agencies' expenses to store, sell, or otherwise dispose of surplus computer equipment;
- Providing a means to quickly standardize a large number of systems without major up-front funding;
- Promoting accurate asset management;
- Providing a single source of accountability for all personal computing desktop hardware and services.

The Commonwealth has issued a Request for Proposals (RFP) to have a contract in place by September of 2000. Services under the contract will be available to state agencies, institutions of higher education, and local governments.

The Electronic Government Implementation Division will coordinate the implementation of seat management by:

- Developing and recommending to the Secretary of the Technology guidelines for the conduct of Total Cost of Ownership (TCO) studies to determine the cost to buy, maintain, and support the hardware and software associated with a piece of computer equipment over its useful life, as required by Section 4-5.06 (b)2 of the 2000 Appropriation Act;
- Developing a statewide educational program on the implementation and use of the seat management contract;
- Assisting Executive Branch agencies and institutions of higher education, as needed, in developing specific plans for implementing seat management;
- Developing a post-implementation review process for assessing the value of seat management within Virginia state government.

Once the seat management contract is in place, I direct all Executive Branch agencies and institutions to take advantage of its benefits where implementing seat management would be cost effective and would facilitate timely fulfillment of their missions.

F. Digital Opportunities

The Digital Opportunities initiative addresses the growing disparity between those Virginians who have access to the Internet and related technology and those who do not. The goal is to establish a community-based infrastructure, in partnership with government and industry, that will help ensure access to computers and the Internet for all citizens without barriers of race, income, education level, geography, and disability. This action will enable all Virginians to fully participate in the Commonwealth's economic, political, and social life.

Toward that end, I hereby direct the Secretary of Technology to:

- Proceed with establishing the Establish Digital Opportunity Task Force required by Item 502 D.2 of the 2000 Appropriation Act. The Task Force shall be composed of representatives from private-sector industry and from state and local government agencies that are directly involved in activities supporting resolution of this issue. It shall coordinate resources, develop a plan for implementing programs, make recommendations to the Secretary of Technology, and accomplish other tasks related to increasing digital opportunities for Virginians, as directed by the Secretary;
- Assist the Task Force with coordinating the efforts of Executive Branch agencies and institutions of higher education in identifying ways to expand public access to computers and the Internet through community-based resources;
- Establish a clearinghouse of best practices and resource information that may be accessed by community organizations and local governments who may want to replicate the ideas.

The Library of Virginia shall coordinate with the Task Force and the Electronic Government Implementation Division to ensure its "Infopowering the Commonwealth" initiative complements the objectives of the Digital Opportunity initiative.

Part 3: Applicability to All Executive Branch Agencies and Effective Date

All Executive Branch agencies and institutions of the Commonwealth shall cooperate with and provide assistance to the Secretary of Technology and the Electronic Government Implementation Division in implementing each part of this Executive Order to the fullest extent allowed by law and consistent with their various missions.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2002, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 24th day of May, 2000.

/s/ James S. Gilmore, III
Governor

VA.R. Doc. No. R00-193; Filed May 30, 2000, 12:06 p.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice Regarding Adoption of Regulation

The Board of Agriculture and Consumer Services intends to adopt 2 VAC 5-600, Regulations Pertaining to Food for Human Consumption, adopted by the Commissioner of Agriculture and Consumer Services on May 23, 2000, which is published in the "Final Regulations" section of this issue of the Virginia Register.

This action is taken in concert with and pursuant to authority contained in § 3.1-398 of the Code of Virginia (1950), as amended, which states that:

...Notwithstanding any other requirement under the Administrative Process Act (§ 9-6.14:1 et seq.) to the contrary, the Commissioner may adopt any regulation under the federal act without public hearing. Such regulation shall be effective upon filing with the Registrar of Regulations. The board, at its next regular meeting, shall adopt the regulation after notice but without public hearing.

STATE CORPORATION COMMISSION

May 25, 2000

Administrative Letter 6-2000

TO: All Licensed Health Insurers, All Licensed Health Maintenance Organizations, and All Licensed Health Services Plans

RE: Rules Governing Independent External Review of Final Adverse Utilization Review Decisions (14 VAC 5-215-10 et seq.)

The 2000 Session of the Virginia General Assembly enacted, and Governor Gilmore signed, House Bill 726, which makes certain changes to Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2, among other sections of the Code of Virginia.

One of the important changes resulting from this legislation is that the dollar threshold amount an appellant must exceed in order to have an appeal accepted for external review of an MCHIP's final adverse decision is decreased from \$500 to \$300. Other significant changes involve the definitions of "final adverse decision" and "covered person." These changes require that the forms relevant to the appeal of a final adverse decision, which are part of 14 VAC 5-215-10 et seq., be revised.

As allowed by 14 VAC 5-215-120, the Bureau hereby modifies the appeal-related forms accordingly.

- The "Instructions for Completing the Appeal of Final Adverse Decision Form" is revised in the second paragraph to reflect the decrease from \$500 to \$300.
- The "Important Terms and Definitions" form's definition of "cost of service" is revised to reflect the decrease from \$500 to \$300, and the definition of "final adverse

decision" is revised as provided in House Bill 726. The definition of "covered person" is added in order to assist appellants in understanding the definition of "appellant."

- The "Appeal of Final Adverse Decision Form" is revised to reflect the decrease from \$500 to \$300.

These changes are effective with respect to final adverse decisions made on or after July 1, 2000. The \$500 amount and the original forms are applicable to final adverse decisions made from May 17, 2000, through June 30, 2000. Copies of both the revised forms and the original forms are attached to this Administrative Letter for your convenience. In addition, this Administrative Letter and both sets of forms will be available on the Bureau's website at www.state.va.us/scc/division/boi.

Questions relating to this Administrative Letter should be directed to Don Beatty, Manager, Managed Care Health Insurance Plan, External Appeals, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23218, (804) 371-9115 or dbeatty@scc.state.va.us.

July 1, 2000

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State Corporation Commission
Bureau of Insurance
Life and Health Division
P.O. Box 1157
Richmond, VA 23218
(804) 371-9741

INSTRUCTIONS FOR COMPLETING THE APPEAL
OF FINAL ADVERSE DECISION FORM
Please Read Carefully Before Completing the Form

Before completing the attached form, please read the following instructions carefully. We also recommend that you review the form itself as well as the "Important Terms and Definitions" list attached.

The law requires that in order to be "appealable" the actual cost to the covered person of the services or procedures in question exceed \$300 if the final adverse decision is not reversed. Please verify the cost of the service(s) before requesting an appeal of a final adverse decision.

1. **Name & Address**
Please type (or print) the covered person's full name. Include the address, daytime telephone number, date of birth, sex and policy number, certificate number, or other identifying number of the covered person.
2. **Appellant Information**
This section is to be completed by the appellant who is making the appeal on behalf of the covered person. This section does not need to be completed if the covered person is requesting the external review on his own behalf.
3. **Name of the Managed Care Health Insurance Plan**
Please provide the name, address and telephone number of the Managed Care Health Insurance Plan (MCHIP). The MCHIP name should be the same as the insurance company or health maintenance organization providing the covered person's coverage. If the covered person is covered by insurance through an employer, please provide the name, address and phone number of the employer, if available. If the plan is self-funded, please indicate that information as well (optional).
4. **Describe the Covered Person's Situation**
Please clearly and accurately describe the nature of the circumstances surrounding the covered person's request for an appeal of a final adverse decision. Attach **copies** of any pertinent and essential documentation that supports your request, including the letter from the covered person's MCHIP denying coverage for the service or services you want reviewed. This could include, but is not limited to, correspondence from treating physicians and medical records.
5. **Expedited Review**
In certain situations, an expedited review of an appeal of a final adverse decision may be requested. Please review the definition of "emergency medical condition" provided with this form. If the situation involves an "emergency medical condition," please indicate this by checking the "yes" box and attach supporting documentation.
6. **Filing Fee Waiver**
Please note that the \$50 filing fee may be waived. If you wish to request that the filing fee be waived, please describe the reason or reasons for the request and provide supporting documentation.
7. **Authorization/Authorization to Release Medical Information**
Please carefully read the "Authorization" section on the "Appeal of Final Adverse Decision" form and the separate "Authorization to Release Medical Information" form included with this package. Information that you provide or authorize to be released may be shared with an impartial health entity. The signature of the covered person or other authorized signature is required on both of these forms in order for the appeal of the final adverse decision to occur.

and one or more providers with respect to the delivery of health care services and requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with, or employed by the health carrier.

"Self-funded Plan" - an employer sponsored group health plan administered by an insurance company or MCHIP. The employer actually pays for claims that are processed and administered by the insurance company or MCHIP.

State Corporation Commission
Bureau of Insurance
Life and Health Division
P. O. Box 1157
Richmond, VA 23218
(804) 371-9741



IMPORTANT TERMS AND DEFINITIONS

"Appellant" - means (i) the covered person; (ii) the covered person's parent, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor; (iii) the covered person's spouse, parent, committee, legal guardian, or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated; or (iv) the covered person's treating health care provider acting with the consent of the covered person, the covered person's parent, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor, or the covered person's spouse, parent, committee, legal guardian or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated.

"Covered person" - means an individual, whether a policyholder, subscriber, enrollee, covered dependent, or a member of a managed care health insurance plan, who is entitled to health care services or benefits provided, arranged for, paid for, or reimbursed pursuant to a managed care health insurance plan as defined in and subject to regulation under Chapter 58 (§ 38.2-5800 et seq.) of Title 38.2 of the Code of Virginia, when such coverage is provided under a contract issued in this Commonwealth.

"Cost of Service" - the total amount paid by the covered person for a rendered service or the assumed liability for that service by the covered person for a rendered service. The law requires that in order for an appeal of a final adverse decision to occur, the actual cost to the covered person of the service if the final adverse decision is not reversed must exceed \$300.

"Emergency Medical Condition" - the sudden and, at the time, unexpected onset of a health condition or illness that requires immediate medical attention, the absence of which would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy. Emergency medical condition also means a health condition or illness that if not treated within the time frame allotted for a standard review will result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the covered person's health in serious jeopardy.

"Expedited Review" - a review of a final adverse decision that is provided in an urgent manner due to the fact that the covered person has an emergency medical condition.

"Final Adverse Decision" - means a utilization review determination: (i) declining to grant an expedited review in a situation involving an alleged emergency medical condition; (ii) declining to provide coverage or services for an alleged emergency medical condition, whether before or after granting an expedited review; or (iii) denying benefits or coverage, and concerning which all internal appeals available to the cover person pursuant to Title 32.1 of the Code of Virginia have been exhausted. In other words, and except in emergency situations, it is the final decision of the plan after the internal appeal process has been exhausted.

"Impartial Health Entity" - an organization selected by the Bureau of Insurance that performs, under contract with the Bureau of Insurance, reviews of final adverse decisions. The Bureau of Insurance is not an impartial health entity.

"Managed Care Health Insurance Plan" or **"MCHIP"** - an arrangement for the delivery of health care in which a health carrier undertakes to provide, arrange and pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis which contains one or more incentive arrangements, including any credentialing requirements intended to influence the cost or level of health care services between the health carrier

State Corporation Commission
Bureau of Insurance
Life and Health Division
P.O. Box 1157
Richmond, VA 23218
(804) 371-9741



APPEAL OF FINAL ADVERSE DECISION FORM

If you meet the definition of an **appellant**¹, and have had a request for approval of health care service(s) denied by a Managed Care Health Insurance Plan (MCHIP), you may have the right to an external review of the MCHIP's decision. An **impartial health entity** selected by the Bureau of Insurance will review the appropriateness of the MCHIP's decision, and make a recommendation to the Commissioner of Insurance as to whether the health care service(s) should be covered. In order for such a review to occur, the appellant must complete and sign this form. Additionally, the appeal in question must meet the following criteria:

1. The cost of service in question must exceed \$300;
2. The appeal must be filed within 30 days of the final adverse decision by the MCHIP;
3. The MCHIP's internal appeal process must have been exhausted (except for expedited reviews); and
4. A \$50 filing fee must be submitted with this form by check or money order made payable to the Treasurer of Virginia. This fee is nonrefundable unless it can be demonstrated that paying the fee constitutes a financial hardship to the **covered person** (see item 6 on the following page).

Additional instructions and definitions of key terms for completing this form are attached. If you have questions while completing this form or if you have questions that are not addressed in the instruction form, you may contact The Office of the Managed Care Ombudsman toll free at (877) 310-6560, or locally at (804) 371-9032, for assistance.

The decision reached as a result of this external review process is binding upon the **covered person** as well as the issuer of the **covered person's** policy to the same extent that each would be bound by a judgment entered in a court action at law or in equity.

I request an external review of the MCHIP's final adverse decision by an **impartial health entity** as chosen by the Bureau of Insurance. I certify that the **covered person's** MCHIP's internal appeals have been exhausted, or that the requirements for an **expedited review** have been met. I enclose copies of all correspondence or other documents which may include patient medical records, correspondence from medical providers and/or the MCHIP relating to this matter that may help the Bureau of Insurance and the **impartial health entity** in its evaluation of my request for review.
(Please type or print clearly all requested information in the spaces provided, or use additional pages, if necessary.)

1. Name of the **Covered Person**: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Daytime Phone Number: (_____) _____
 Date of Birth: _____ Sex: _____
 ID# (Policy or Certificate Number): _____

2. If you are an appellant **other than the covered person**, please tell us your name and what your relationship is with the **covered person**: _____

¹ Words in bold type are defined key terms

3. Complete Name of MCHIP: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: (_____) _____

Is this health coverage provided through an employer? Yes No
 If yes, please provide the employer's name, address, and telephone number: _____

Is this a **self-funded plan**? Yes No (This question can be left unanswered if you are unsure.)

4. On a separate sheet of paper, please describe the situation you are seeking help with and describe the service(s) or procedure(s) in question:
 Please send us a copy of the letter informing the **covered person** of the MCHIP's final adverse decision. Include information such as medical records from the medical provider of the **covered person** that supports that the service in question is medically appropriate and necessary. Attach copies of any information that you or the **covered person's** health care provider believe is essential to the requested review.

5. Are you requesting an expedited review? Yes No
 If yes, please provide documentation that the **covered person's** situation involves an **emergency medical condition**.

6. Are you requesting a waiver of the \$50 filing fee? Yes No
 If yes, please provide the reason and documentation to support the claim that paying the \$50 filing fee would cause financial hardship to the **covered person**.

AUTHORIZATION

I understand and agree that a copy of this form and any information I provide may be forwarded to the MCHIP and to the **impartial health entity**.

Signature of Appellant (if not the **covered person**) _____ Date _____
 Signature of **Covered Person** or Other Authorized Signature _____ Date _____



State Corporation Commission
Bureau of Insurance
Life and Health Division
P.O. Box 1157
Richmond, VA 23218
(804) 371-9741

AUTHORIZATION TO RELEASE MEDICAL INFORMATION

This authorization must be signed by (i) the covered person; (ii) the covered person's parent, legal guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor; (iii) the covered person's spouse, parent, committee, legal guardian, or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated; or (iv) the covered person's treating health care provider acting with the consent of the covered person, the covered person's parent, guardian, legal custodian, or other individual authorized by law to act on behalf of the covered person, if the covered person is a minor, or the covered person's spouse, parent, committee, legal guardian or other individual authorized by law to act on behalf of the covered person, if the covered person is not a minor but is incompetent or incapacitated.

Any health care provider of services or supplies, insurance company, or any other organization, institution or person that has a record or knowledge regarding the covered person named below and such person's health, is hereby authorized to furnish to the Bureau of Insurance, or its designated impartial health entity, information concerning services or supplies provided or proposed to be provided to such covered person.

If I am not the covered person listed below, I hereby certify that I am authorized by law to execute this authorization on the covered person's behalf.

This authorization is given for the purpose of conducting an external review of a final adverse decision made by a utilization review entity. This authorization is valid for 90 days from the date below.

Printed Name of Covered Person: _____

Social Security # of Covered Person: _____

Covered Person's Date of Birth: _____

Signature of Covered Person: _____

OR

Other Authorized Signature: _____

Date: _____

* * *

May 30, 2000

Administrative Letter 7-2000

TO: All Companies licensed pursuant to § 38.2-1024 or § 38.2-1206 of Title 38.2 of the Code of Virginia to write any form of property or casualty insurance or seeking authority in Virginia to write credit property insurance.

RE: Credit Property Insurance, Code of Virginia § 38.2-122.2

During its 2000 session, the General Assembly of Virginia enacted House Bill 716. This bill amended statutes affecting various types of credit insurance and also added a new § 38.2-122.2 to the Code of Virginia which, effective July 1, 2000, establishes "credit property insurance" as a class of insurance. Insurers that intend to write this coverage or that are currently writing the coverage described in this new section must request an amendment to their license if they are going to offer "credit property insurance" on or after July 1, 2000.

- An insurer authorized in Virginia prior to July 1, 2000, to offer fire, miscellaneous property, inland marine or homeowners insurance may request that its license be amended to recognize specific authority for credit property insurance by filing the "*Special Application for Amended License in Virginia, Code of Virginia Section 38.2-122.2 - Credit Property Insurance*" attached to this administrative letter. Insurers submitting a properly completed special application form to the Bureau of Insurance before January 1, 2001, will have their license amended automatically to specify authority for credit property insurance.
- On and after January 1, 2001, an insurer that may have been eligible to use this special application, but which failed to submit the completed special application form before the January 1, 2001, deadline must request the amendment to its license through the regular application process.
- All other insurers seeking authority for an additional line or class of insurance also must request the amendment to their license through the regular application process.

Companies writing credit property insurance should familiarize themselves with the provisions of House Bill 716 as enacted as Chapter 526 of the 2000 Acts of Assembly. "HB716" may be viewed on the Internet at the "Government; Legislative Branch" sections of the website for the Commonwealth of Virginia at <http://www.state.va.us/>. The laws, as amended and effective July 1, 2000, should be available at the "Government, Code of Virginia" sections of this website after July 1, 2000.

Questions concerning license authorization should be directed to the Financial Regulation Division of the Bureau of Insurance. Questions pertaining to the rate, form, or certification requirements contained in House Bill 716 should

be directed to Rebecca Nichols, CPCU, CIC, AIE, Principal Insurance Market Examiner, Personal Lines Rates and Forms Section, Property and Casualty Market Regulation Division, (804) 371-9965.

General Notices/Errata

NAIC Number _____

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

SPECIAL APPLICATION FOR AMENDED LICENSE IN VIRGINIA
CODE OF VIRGINIA SECTION 38.2-122.2 -- CREDIT PROPERTY INSURANCE

Full and Exact Corporate Name of Insurance Company (the Insurer)

Corporate Office Address in State of Domicile. Give Street Address, City, State, and Zip Code.

Executive or Administrative Office Address (i.e., Mailing Address). Give Street Address, City, State, and Zip Code.

organized under the laws of _____ hereby certifies that it is in compliance with the applicable laws of Virginia and applies for license to transact the class of credit property insurance in Virginia.

It is hereby certified that (i) the Insurer is duly authorized in Virginia to write the line(s) of fire, miscellaneous property, inland marine or homeowners insurance as classified by §§ 38.2-110, 38.2-111, 38.2-126 and 38.2-130 of the Code of Virginia and (ii) the Insurer understands its obligation to report its experience with credit property insurance annually by submitting the Credit Insurance Experience Exhibit required pursuant to § 38.2-1300 of the Code of Virginia.

Dated at _____ this the _____ day of _____, 2000.

Original Signature of Officer

Title of Officer

Sworn to and subscribed before me this _____ day of _____, 2000.

Notary's Seal

My commission expires _____

Completed forms must be filed prior to January 1, 2001, with the Financial Regulation Division of the Virginia State Corporation Commission, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23218

SCCBOI27 (5/18/00)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Virginia Coastal Resources Management Program

Public Notice of Additional Program Requiring Federal Consistency

Effective Monday, May 29, 2000, the Chesapeake Bay Preservation Act and Regulations were automatically incorporated into the Virginia Coastal Resources Management Program as one of the program's enforceable policies. Federal consistency provisions pursuant to the Coastal Zone Management Act are applicable.

The National Oceanic and Atmospheric Administration (NOAA) issued guidance on May 12, 1998, entitled, *Final Guidance on Incorporating Coastal Nonpoint Pollution Control Programs into State and Territory Coastal Management Programs*. This guidance outlines the process for incorporating enforceable policies fully approvable under the state's Coastal Nonpoint Source Program. As such, the Commonwealth and NOAA have identified the following elements of the Chesapeake Bay Preservation Act and Regulations as enforceable policies being added to the Virginia Coastal Program:

Chesapeake Bay Preservation Act

- Section 10.1-2100 Cooperative state-local program
- Section 10.1-2101 Definitions
- Section 10.1-2103 Powers and duties of the board
- Section 10.1-2104 Exclusive authority of board to institute legal actions
- Section 10.1-2107 Board to develop criteria
- Section 10.1-2108 Local government authority
- Section 10.1-2109 Local governments to designate Chesapeake Bay preservation areas; incorporate into local plans and ordinances; impose civil penalties
- Section 10.1-2111 Local government requirements for water quality protection
- Section 10.1-2114 State agency consistency

Chesapeake Bay Local Assistance Board Final Regulation: Chesapeake Bay Preservation Area Designation and Management Regulations, Virginia Administrative Code 9 VAC 10-20

- 9 VAC 10-20-30 Purpose of regulations
 - 9 VAC 10-20-40 Definitions
- Part II: Local Government Programs
- 9 VAC 10-20-50 Local program development
 - 9 VAC 10-20-60 Elements of program

Part III: Chesapeake Bay Preservation Area Designation Criteria

- 9 VAC 10-20-80 Resource protection areas
- 9 VAC 10-20-90 Resource management areas
- 9 VAC 10-20-100 Intensely developed areas

Part IV: Land Use and Development Performance Criteria

- 9 VAC 10-20-110 Purpose
- 9 VAC 10-20-120 General performance criteria
- 9 VAC 10-20-130 Performance criteria for Resource Protection Areas
- 9 VAC 10-20-140 Local program development
- 9 VAC 10-20-150 Administrative waivers and exemptions
- 9 VAC 10-20-160 Exceptions to the criteria

Part V: Implementation, Assistance, and Determination of Consistency

- 9 VAC 10-20-210 Designation of Chesapeake Bay Preservation Areas
- 9 VAC 10-20-220 Preparation and submission of management program
- 9 VAC 10-20-230 Certification of local program

Part VI: Enforcement

- 9 VAC 10-20-240 Applicability
- 9 VAC 10-20-250 Administrative proceedings
- 9 VAC 10-20-260 Legal proceedings

Federal agencies were notified directly by mail on May 26, 2000. Please contact Ellie Irons for further information on federal consistency or Laura McKay for questions about the Virginia Coastal Program at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond Virginia 23219. Questions regarding the Chesapeake Bay Preservation Act may be directed to Michael Clower, Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia 23219.

BOARD OF MEDICINE

Notice of Period Review of Regulations Request for Comment

Review Announcement: Pursuant to Executive Order 25 and the board's Public Participation Guideline Regulations, the Board of Medicine is requesting comment on the following regulations:

18 VAC 85-40-10 et seq. Regulations Governing the Practice of Respiratory Care Practitioners.

Goals of the regulations: 1) achieve a high level of satisfaction for application and renewal processes for all licensed

General Notices/Errata

practitioners. 2) increase the number of licensed respiratory care practitioners and achieve a reduction in unlicensed practice.

18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants.

Goals of the regulations: 1) achieve a high level of satisfaction for application and renewal processes for all licensed practitioners. 2) review regulations to ensure consistency and application to the current practices of physician assistants.

18 VAC 85-80-10 et seq. Regulations Governing the Practice of Occupational Therapy.

Goals of the regulations: 1) achieve a high level of satisfaction for application and renewal processes for all licensed practitioners. 2) review regulations to ensure consistency and application to the current practices of occupational therapy.

The board will consider whether the existing regulations are essential to protect the health, safety and welfare of the public and provide assurance that practitioners are competent to practice. Alternatives to the current regulations or suggestions for clarification of the regulation will also be received and considered.

If any member of the public would like to comment on these regulations, please send comments until August 2, 2000, to Elaine J. Yeatts, Regulatory Boards Administrator, Department of Health Professions, 6606 West Broad Street, Richmond, VA 23230, e-mail eyeatts@dhp.state.va.us or FAX (804) 662-9114.

Regulations may be viewed on-line at www.townhall.state.va.us, or copies will be sent upon request.

STATE BOARD OF SOCIAL SERVICES

Implementation of a Statewide Child Protective Services Differential Response System

The Virginia Department of Social Services, in accordance with § 63.1-248.2.1 of the Code of Virginia (effective July 1, 2000), will promulgate regulations within 280 days to support and guide the implementation of a differential response in all local agencies that administer Child Protective Services (CPS) in Virginia. The differential response system transforms the current "one size fits all" response to CPS reports into a more flexible system. For the first time CPS will be able to direct attention to the most severe cases involving child safety while assessing the appropriate intervention for families with less egregious offenses.

This CPS reform will be implemented on a region-by-region basis with orientation and training beginning no later than November 2000 and continuing until all five social services regions have completed orientation and training. The order of implementation will be as follows: Northern, Eastern, Central, Piedmont, and Western Region. The current five pilot agencies will continue using the policy provided to them as pilots until their region is provided training on the new

regulations and policy. All regions will receive the required orientation and training by September 2001. A detailed outline of what is to be provided by the department to the localities in the orientation, training, and support phases of implementation will be available through the department's broadcast system by September 1, 2000.

STATE WATER CONTROL BOARD

Proposed Consent Special Order Gate City Sewage Treatment Plant Gate City Sanitation Authority

The State Water Control Board proposes to take an enforcement action against the above listed facility. Under the terms of the proposed special order, the owner of this facility has agreed to be bound by the terms and conditions of a schedule of compliance contained in the appendix of the order. The requirements contained in the order bring the facility into compliance with state law and protect water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the special order until July 18, 2000. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212 and should refer to the consent special order.

The proposed order may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, Virginia.

A copy of the order may be obtained in person or by mail from the above office or by calling Dallas Sizemore at (540) 676-4842.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.



Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page:
<http://legis.state.va.us/codecomm/register/regindex.htm>

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08


CALENDAR OF EVENTS

Symbol Key

-  Location accessible to 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.

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


† **July 17, 2000 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 W, Richmond,
Virginia. 

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail accountancy@dpor.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES


Virginia Cattle Industry Board

† **July 27, 2000 - 10:30 a.m.** -- Open Meeting
Holiday Inn, Woodrow Wilson Parkway, Staunton, Virginia. 
(Interpreter for the deaf provided upon request)

During the regular meeting, the board will approve minutes from the May 2000 meeting in addition to reviewing the financial statement for the period May 1 through June 30. Staff will give program updates for the state and national level. Committees will convene to review project proposals submitted by staff and other organizations for planning for FY 00-01 marketing plan. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Reginald B. Reynolds, Executive Director, Virginia Cattle Industry Board, Department of Agriculture and Consumer Services, P.O. Box 9, Daleville, VA 24083, telephone (540) 992-1992, FAX (540) 992-4632.

Virginia Small Grains Board

July 27, 2000 - 8 a.m. -- Open Meeting
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia 

The board will review FY 1999-2000 project reports and will receive 2000-2001 project proposals. Minutes from the last board meeting and a current financial statement will be heard and approved. Additionally, action will be taken on any other new business that comes before the group. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Small Grains Board, Department of Agriculture and Consumer Services, 1100 Bank Street, Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

STATE AIR POLLUTION CONTROL BOARD

July 7, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources**, and **9 VAC 5-80-10 et seq. Permits for Stationary Sources**. The regulation amendments concern provisions covering federal operating permits and can be summarized as falling primarily into seven categories. The proposed amendments (i) remove deficiencies that prevent full federal approval for Virginia's Title V program; (ii) support

commitments made in a letter of February 27, 1997, from the DEQ director to EPA's Region III administrator amending previous program submittals; (iii) incorporate guidance from EPA's White Papers of July 1995 and March 1996; (iv) clarify applicable state requirements; (v) bring the acid rain program into conformity with federal regulations; (vi) incorporate provisions relating to the new federal Compliance Assurance Monitoring (CAM) rule; and (vii) incorporate provisions relating to § 112(j) of the federal Clean Air Act.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Abingdon Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

Roanoke Regional Office
Department of Environmental Quality
3019 Peters Creek Road, Suite D
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Harrisonburg Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Fredericksburg Satellite Office
Department of Environmental Quality
806 Westwood Office Park
Fredericksburg, Virginia
Ph: (540) 899-4600

Woodbridge Regional Office
Department of Environmental Quality
1549 Old Bridge Road, Suite 108
Woodbridge, Virginia
Ph: (703) 490-8922

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., July 7, 2000, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Kathleen Sands, Ph.D., Policy Analyst, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TTY ☎

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND THEIR FAMILIES

State Executive Council

June 28, 2000 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street,
Richmond, Virginia.

A monthly meeting to discuss interagency programmatic and fiscal policies, oversee the administration of funds appropriated under the Act, and advise the Governor.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services, Department of Social Services, Wythe Building, 1604 Santa Rosa Road, Suite 137, Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

AUCTIONEERS BOARD

† **July 11, 2000 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8514 at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The

Calendar of Events

department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail auctioneers@dpor.state.va.us.

BOARD FOR BARBERS

June 19, 2000 - 9 a.m. -- CANCELED

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases, has been canceled.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail barbers@dpor.state.va.us.

BOARD FOR BRANCH PILOTS

† August 2, 2000 - 9:30 a.m. -- Public Hearing
Virginia Port Authority, 600 World Trade Center, 6th Floor, Norfolk, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to amend regulations entitled: **18 VAC 45-20-05 et seq. Board for Branch Pilots Rules and Regulations.** The purpose of the proposed action is to clarify the regulations relating to chemical and physical impairments and testing thereof and make other changes which may be necessary pursuant to the board's periodic review of its regulations.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Public comments may be submitted until August 21, 2000.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 19, 2000 - 10 a.m. -- Open Meeting
Williamsburg Municipal Building, Lafayette Street, Conference Room 3A, Williamsburg, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general business, including a review of local Chesapeake Bay Preservation Area programs. Public comment will be taken in the meeting. A tentative agenda is available from the Chesapeake Bay Local Assistance Department.

Contact: Carolyn J. Elliott, Executive Secretary Senior, Chesapeake Bay Local Assistance Department, 101 N. 14th Street, 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY ☎, e-mail celliott@cblad.state.va.us.

STATE BOARD FOR COMMUNITY COLLEGES

† July 19, 2000 - 3 p.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

Committee meetings.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, (804) 371-8504/TTY ☎

† July 20, 2000 - 9:30 a.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Dr. Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126, FAX (804) 371-0085, (804) 371-8504/TTY ☎

COMPENSATION BOARD

June 27, 2000 - 11 a.m. -- Open Meeting
Compensation Board, Ninth Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

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 cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Agricultural BMP Implementation Advisory Committee

July 6, 2000 - 9:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia.☎ (Interpreter for the deaf provided upon request)

A quarterly meeting. Request for interpreter for the deaf should be filed with the department two weeks prior to the meeting.

Contact: Dana R. Bayless, Agricultural Incentives Program Manager, Department of Conservation and Recreation, 203 Governor Street, Richmond, VA 23219, telephone (804) 371-7330, e-mail drbayless@dcr.state.va.us.

BOARD FOR COSMETOLOGY

June 19, 2000 - 9 a.m. -- CANCELED

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases, has been canceled.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY, e-mail cosmo@dpor.state.va.us.

STATE BOARD OF EDUCATION

June 22, 2000 - 9 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† July 27, 2000 - 9 a.m. -- Open Meeting
Location to be announced.

A business meeting. Persons requesting services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, P.O. Box 2120, 101 N. 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

† June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The Board of Education seeks to set forth an alternative route for teacher licensure that may be taken by military personnel who wish to become fully licensed teachers in Virginia. The alternative route is available to military personnel who seek teaching endorsements pre-K through 12, with the exception of special education.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.

† June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The Board of Education seeks to establish an endorsement teaching area in American Sign Language and to incorporate related licensure requirements into the licensure regulations.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.

† June 22, 2000 - 2:30 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to adopt regulations entitled: **8 VAC 20-640-10. Regulations Governing Substitute Teachers.** The purpose of the proposed action is to ensure that substitute teachers employed by Virginia's public schools meet the basic requirements before teaching in the classroom. The Code of Virginia requires the Board of Education to promulgate regulations for temporarily employed teachers.

Statutory Authority: §§ 22.1-16 and 22.1-302 of the Code of Virginia.

Public comments may be submitted until August 18, 2000.

Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or (804) 225-2524.

July 5, 2000 - Public comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-131-10 et seq. Regulations Establishing Standards for Accrediting Public Schools in Virginia.** The purpose of this action is to repropose amendments to this regulation and to open an additional 30-day public comment period.

The proposed revisions to this regulation were initially published in the November 22, 1999, edition of the Virginia Register (16:5 11/22/99). During the 60-day comment period and in the public hearings, the public and local school officials voiced agreement with the premise that schools and students should be held to rigorous standards; however, most speakers disagreed with the premise of evaluating schools solely on the basis of test scores. In addition, many of the speakers at the hearings raised the question of what the board was going to do to help schools that have difficulty meeting the standards. During the months of January through April 2000, the board continued to receive comments on the proposals.

Based on this extensive comment and discussions with legislators during the General Assembly session, the board, at its February 24, 2000, meeting, decided to revise the earlier version of the proposed revisions and to develop additional proposals for the accrediting standards and to seek additional public comment. The reproposal was approved by the board on April 27, 2000. These additional revisions are in response to the public comment received.

Statutory Authority: §§ 22.1-19 and 22.1-253.13:13 of the Code of Virginia.

Contact: Charles W. Finley, Assistant Superintendent for Accountability, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 786-0790.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY AND MANASSAS PARK

June 19, 2000 - 1:30 p.m. -- Open Meeting
1 County Complex Court, Occoquan Conference Room,
Prince William, Virginia. ☎

A multi-jurisdictional meeting to discuss issues related to hazardous substances in the jurisdictions and to discuss SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 9250 Lee Avenue, Manassas, VA 20110, telephone (703) 792-7405 or FAX (703) 792-6492.

DEPARTMENT OF ENVIRONMENTAL QUALITY

June 22, 2000 - 7 p.m. -- Open Meeting
Allen O. Woody, Jr. Municipal Building, Town Council
Chambers, 345 Donald Avenue, Rocky Mount, Virginia. ☎

The first public meeting to receive comments on the development of fecal coliform bacteria TMDLs for Maggodee Creek and the lower portion of the Blackwater River located in Franklin County.

Contact: Clint Boschen, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6729, (804) 698-4021/TTY ☎, e-mail cjboschen@deq.state.va.us.

June 29, 2000 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ☎

A public hearing to receive testimony on a proposed Commonwealth of Virginia § 111(d) Plan. The proposed plan is intended to control emissions of nonmethane organic compounds (NMOC) to the atmosphere from municipal solid waste landfills.

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.state.va.us.

Ground Water Protection Steering Committee

July 18, 2000 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ☎

A regular meeting of the committee. Meeting minutes and agenda are available from Mary Ann Massie.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, FAX (804) 698-4032, (804) 698-4021/TTY ☎, e-mail mamassie@deq.state.va.us.


BOARD OF FUNERAL DIRECTORS AND EMBALMERS

June 21, 2000 - 2 p.m. -- Public Hearing
Richmond Marriott, 500 East Broad Street, Richmond,
Virginia ☎

The board will conduct a public hearing on legislative proposals to be adopted at the meeting on May 30, 2000. To receive a copy of the legislative proposals, contact the board.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail etisdale@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES


July 20, 2000 - 9 a.m. -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board will meet and intends to adopt webless migratory game bird and September Canada goose seasons and bag limits based on frameworks provided by the U.S. Fish and Wildlife Service. The board will solicit comments from the public during the public hearing portion of the meeting, at which time any interested citizen present shall be heard.


The board may also discuss general and administrative issues. The board may elect to hold a dinner Wednesday evening, July 19, at a location and time to be determined; and it may hold a closed session before the public session begins on July 20.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4000 W. Broad Street, Richmond, VA 23230, telephone (804) 367-1000 or FAX (804) 367-0488.


BOARD FOR GEOLOGY

† **July 13, 2000 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks in advance of the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, or (804) 367-9753/TTY 

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 11, 2000 - 9 a.m. -- Open Meeting
August 1, 2000 - 9 a.m. -- Open Meeting
September 5, 2000 - 9 a.m. -- Open Meeting
Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)


Local Emergency Preparedness Committee meeting as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main Street, Hopewell, VA 23860, telephone (804) 541-2298.


VIRGINIA HOUSING DEVELOPMENT AUTHORITY

June 20, 2000 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23060, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY 


STATEWIDE INDEPENDENT LIVING COUNCIL

July 12, 2000 - 1 p.m. -- Open Meeting
Department for the Visually Handicapped, 395 Azalea Avenue, Resource and Information Library, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting to discuss progress and assess the impact of the State Plan for Independent Living.

Contact: Jim Rothrock, Statewide Independent Living Council, 1802 Marroit Rd., Richmond, VA 23229, telephone (804) 673-0119, FAX (804) 282-7118.

INNOVATIVE TECHNOLOGY AUTHORITY


† **July 12, 2000 - 10 a.m.** -- Open Meeting
Virginia Center for Innovative Technology, 2214 Rock Hill Road, Herndon, Virginia. 

A meeting to elect officers.

Contact: Linda E. Gentry, Secretary, Virginia Center for Innovative Technology, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, (703) 689-3035 or FAX (703) 689-3041.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Migrant and Seasonal Farmworkers Board

† **July 12, 2000 - 9:30 a.m.** -- Open Meeting
Southwest Virginia Higher Education Center, One Partnership Circle, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the board.

Calendar of Events

Contact: Patti C. Bell, Public Relations Coordinator, Department of Labor and Industry, 13 S. 13th Street, Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail pcb@doli.state.va.us.

STATE LIBRARY BOARD

June 19, 2000 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will meet to discuss matters pertaining to The Library of Virginia and The Library Board. Committees of the board will meet as follows:

Public Library Development Committee (Orientation Room) - 8:15 a.m.

Publications and Educational Services Committee (Conference Room B) - 8:15 a.m.

Records Management Committee (Conference Room C) - 8:15 a.m.

Archival and Information Services Committee (Orientation Room) - 9:30

Collection Management Services Committee (Conference Room B) - 9:30

Legislative and Finance Committee (Conference Room C) - 9:30

The full board will meet at 10:30 a.m. in the Board Meeting Room on Floor 2M. If necessary, meetings can be scheduled over lunch for the Executive Committee and the Nominating Committee.

Contact: Jean H. Taylor, Executive Secretary Senior, State Library Board, The Library of Virginia, Richmond, VA 23219, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jttaylor@lva.lib.va.us.

MARINE RESOURCES COMMISSION

June 27, 2000 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide the following marine environmental matters beginning at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; and policy and regulatory issues. The commission will hear and decide the following fishery management items beginning at approximately noon: regulatory proposals, fishery management plans, fishery conservation issues, licensing, and shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TTY ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Pharmacy Liaison Committee

June 26, 2000 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

A meeting to conduct regular business.

Contact: Marianne Rollings, R.Ph., Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmas.state.va.us.

Provider Advisory Council

June 22, 2000 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 E. Broad Street, Richmond, Virginia. ♿

A meeting to discuss medical assistance services policy and discuss issues of interest to Medicaid health care providers.

Contact: Leah D. Hamaker, Legislative Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-4626 or FAX (804) 371-4981.

BOARD OF MEDICINE

† **June 30, 2000 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A panel of the board will convene, pursuant to §§ 54.1-2400 and 9-6.14:12 of the Code of Virginia, to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to § 2.1-344, A7 and A15 of the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler/Renee Dixon, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail PSadler@dhp.state.va.us.

Informal Conference Committee

June 22, 2000 - 9:30 a.m. -- Open Meeting

† **July 20, 2000 - 9:30 a.m.** -- Open Meeting

Wyndham Roanoke Hotel, 2801 Hershberger Road, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

† **July 6, 2000 - 9:30 a.m.** -- Open Meeting

Central Park Hotel, 2801 Plank Road, Fredericksburg, Virginia. (Interpreter for the deaf provided upon request)

July 13, 2000 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixson, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY

MOTOR VEHICLE DEALER BOARD

† **July 10, 2000 - 9 a.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 9 a.m.

Franchise Law Committee - 10 a.m.

Licensing Committee - 10:45 a.m.

Transaction Recovery Fund Committee - 1:30 p.m.

Advertising Committee - 2:15 p.m.

Personnel Committee - 3 p.m.

Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

† **July 11, 2000 - 8:30 a.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Finance Committee will meet at 8:30 a.m. followed by a full board meeting at 9:30 a.m. Meetings may begin later, but not earlier than scheduled. Meeting end times

are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

† **July 11, 2000 - 2 p.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public meeting to discuss electronic commerce in the automobile dealer industry as it relates to the Motor Vehicle Dealer Board and current and future issues.

Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† **July 12, 2000 - 1 p.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Millicent N. Ford, Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-1032.

BOARD OF NURSING

June 19, 2000 - 8:30 a.m. -- Open Meeting

June 27, 2000 - 8:30 a.m. -- Open Meeting

August 1, 2000 - 8:30 a.m. -- Open Meeting

August 2, 2000 - 8:30 a.m. -- Open Meeting

August 3, 2000 - 8:30 a.m. -- Open Meeting

August 7, 2000 - 8:30 a.m. -- Open Meeting

August 8, 2000 - 8:30 a.m. -- Open Meeting

August 14, 2000 - 8:30 a.m. -- Open Meeting

August 30, 2000 - 8:30 a.m. -- Open Meeting

September 7, 2000 - 8:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 3 and 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad Street, 4th Floor, Richmond, VA

Calendar of Events

23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

OLD DOMINION UNIVERSITY

† **July 17, 2000 - 3 p.m.** -- Open Meeting

† **August 14, 2000 - 3 p.m.** -- Open Meeting

Old Dominion University, Webb University Center, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

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.

Contact: Donna Meeks, Assistant to the Vice President for Administration and Finance, Old Dominion University, 225 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

† **September 14, 2000 - 2:30 p.m.** -- Open Meeting

Old Dominion University, Webb University Center, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

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.

Contact: Donna Meeks, Assistant to the Vice President for Administration and Finance, Old Dominion University, 225 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD OF PSYCHOLOGY

† **June 26, 2000 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A formal administrative hearing to hear possible violations of Board of Psychology regulations and statutes. No public comment will be received.

Contact: Arnice Covington, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail acovington@sdhp.state.va.us.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

June 22, 2000 - 11 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Bylaws Committee to discuss proposed changes to the bylaws.

Contact: Kimlah Hyatt, Administrative Staff Assistant, 1600 Forest Avenue, Suite 102, Richmond, VA 23229, telephone

(804) 662-9318, FAX (804) 662-9354, (804) 662-9333/TTY ☎, or e-mail: khyatt@vdh.state.va.us.

September 18, 2000 - 11 a.m. -- Open Meeting

Department for the Aging, 1600 Forest Avenue, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Kimlah Hyatt, Administrative Staff Assistant, 1600 Forest Avenue, Suite 102, Richmond, VA 23229, telephone (804) 662-9318, FAX (804) 662-9354, (804) 662-9333/TTY ☎, or e-mail: khyatt@vdh.state.va.us.

REAL ESTATE BOARD

† **June 20, 2000 - 9 a.m.** -- Open Meeting

† **June 21, 2000 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences pursuant to § 9-6.14:11 of the Administrative Process Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie A. Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-2179 or (804) 367-9753/TTY ☎

SMALL BUSINESS FINANCING AUTHORITY

† **June 27, 2000 - 10 a.m.** -- Open Meeting

September 27, 2000 - 10 a.m. -- Open Meeting

Department of Business Assistance, 707 East Main Street, 3rd Floor, Main Board Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Board of Directors to review applications for loans submitted to the authority for approval and for general business of the board. Contact the authority for confirmation of meeting time.

Contact: Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254 or FAX (804) 225-3384.

STATE BOARD OF SOCIAL SERVICES

† **June 23, 2000 - 9 a.m.** -- Public Hearing

Theatre Row Building, 730 East Broad Street, 7th Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC**


40-680-10 et seq. Virginia Energy Assistance Program. The proposed regulatory change eliminates the requirement for verification of resources for Energy Assistance applicants and removes the resource reference from the definitions.

Statutory Authority: § 63.1-25 of the Code of Virginia.


Public comments may be submitted until August 18, 2000.

Contact: Charlene H. Chapman, Human Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1751 or FAX (804) 225-2196.


BOARD FOR PROFESSIONAL SOIL SCIENTISTS

June 29, 2000 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to address policy and procedural issues and other business matters which may require board action. The meeting is open to the public, however, a portion of the board's business may be discussed in a closed meeting. The department fully complies with the Americans with Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Kelley L. Hellams.

Contact: Kelley L. Hellams, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230-3917, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail soilscientist@dpor.state.va.us.

VIRGINIA TOURISM AUTHORITY

June 20, 2000 - 10 a.m. -- Open Meeting
901 East Byrd Street, 19th Floor, Board Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Board of Directors to consider the Cooperative Marketing Program and the board's bylaws and articles of incorporation.

Contact: Winston Evans, Administrative Assistant, Virginia Tourism Authority, 901 E. Byrd Street, Richmond, VA 23219, telephone (804) 371-8174, FAX (804) 786-1919, (800) 828-1120/TTY , e-mail wevans@virginia.org.


VIRGINIA VETERANS CARE CENTER

† **June 30, 2000 - 1 p.m.** -- Open Meeting
Virginia Veterans Care Center, 4550 Shenandoah Avenue, Roanoke, Virginia.

A quarterly meeting of the Board of Trustees to review the operations of the center.

Contact: Duane A. Kavka, Executive Director, Virginia Veterans Care Center, P.O. Box 6334, Roanoke, VA 24017, telephone (540) 857-6974, FAX (540) 857-6954, toll-free 1-800-220-VETS(8387), (540) 342-8810/TTY , e-mail proffikc@dvh.state.va.us.


BOARD FOR THE VISUALLY HANDICAPPED

July 18, 2000 - 1 p.m. -- Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the board to review information regarding department activities and operations, review expenditures from the board's endowment fund, and discuss other issues raised for board members.


Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail proffikc@dvh.state.va.us.

VIRGINIA WASTE MANAGEMENT BOARD

June 26, 2000 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 1st Floor Conference Room, Richmond, Virginia. 

A meeting of the advisory committee established to assist the department in the development of amendments to 9 VAC 20-140-10 et seq., Certification of Recycling Machinery and Equipment for Tax Exemption Purposes.


Contact: Dan Gwinner, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804) 698-4327, e-mail dsgwinner@deq.state.va.us.

June 29, 2000 - 9 a.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 Intended Regulatory Action to amend 9 VAC 20-120-10 et seq., Regulated Medical Waste Management Regulations.

Contact: Michael Dieter, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, e-mail mjdieter@deq.state.va.us.

STATE WATER CONTROL BOARD

June 21, 2000 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 429 East Church Street, Kilmarnock, Virginia 

A meeting of the advisory committee established to assist the department in the development of amendments to

Calendar of Events

9 VAC 25-115-10 et seq., General VPDES Permit for Seafood Processing Facilities.

Contact: Michael B. Gregory, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032, e-mail mbgregory@deq.state.va.us.

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June 23, 2000 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-630-10 et seq. Virginia Pollution Abatement General Permit Regulation for Poultry Waste Management.** The purpose of the proposed amendments is to establish requirements for the proper storage, management and tracking of poultry waste.

Affected Locality: The regulation will be applicable statewide and will not affect any one locality disproportionately.


Question and Answer Period: A question and answer period will be held one-half hour prior to each of the public hearings at the same locations. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time. The board reserves the right to limit oral presentations at the public hearings to three minutes per speaker.

Accessibility to Persons with Disabilities: The public hearings will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Richard W. Ayers, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, telephone (804) 698-4075. Persons needing interpreter services for the deaf should notify Mr. Ayers no later than April 28, 2000.

Request for Comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Comments are also solicited regarding alternative approaches that meet the statutory mandate given by the General Assembly. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on Friday, June 23, 2000, and should be submitted to Mr. Ayers. Comments shall include the name, address, and telephone number of the writer and contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

Statutory Authority: § 62.1-44.17:1.1 of the Code of Virginia.

Contact: Richard W. Ayers, Office of Water Permit Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4075 or FAX (804) 698-4032.

June 21, 2000 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 

A meeting of the advisory committee established to assist the department in the development of amendments to 9 VAC 25-110-10 et seq., General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal To 1,000 Gallons Per Day.

Contact: Lily Choi, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, FAX (804) 698-4032, e-mail lychoi@deq.state.va.us.

June 28, 2000 - 9 a.m. -- Open Meeting

July 10, 2000 - 9 a.m. -- Open Meeting


August 10, 2000 - 9 a.m. -- Open Meeting

† September 7, 2000 - 9 a.m. -- Open Meeting

† September 20, 2000 - 9 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 the department in the development of General VWP Permits for Activities Impacting Wetlands regulations and in amendments to 9 VAC 25-210-10 et seq., Virginia Water Protection Permit Regulation.


Contact: Ellen Gilinsky, Virginia Water Protection Permit Program Manager, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 698-4375, FAX (804) 698-4032, (804) 698-4021/TTY , e-mail egilinsky@deq.state.va.us.

VIRGINIA WORKFORCE COUNCIL

July 20, 2000 - 9 a.m. -- Open Meeting

Virginia Employment Commission, Central Office, 703 East Main Street, Conference Room 303, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting of the Existing Workforce and the Hard-to-Employ Committee to consider policies on local board purpose and staffing, VIRGINIA WORKFORCE.com, public participation and local five-year strategic plans. Public comment will be received at 1 p.m. and will be limited to three minutes per person. A written copy of comments must be provided.


Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 225-2190 or (804) 371-8050/TTY 

LEGISLATIVE

VIRGINIA CODE COMMISSION

June 20, 2000 - 10 a.m. -- Open Meeting

NOTE: CHANGE IN LOCATION

State Capitol, Capitol Square, House Room 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review the commission's 2000 work plan and review 2000 legislation pertaining to the commission. Other items related to the commission's responsibilities may be discussed. An opportunity for public comment will be provided at the end of the meeting.

Contact: Jane D. Chaffin, Registrar of Regulations, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

SPECIAL MILITIA AND POLICE SUBCOMMITTEE STUDYING CARRYOVER LEGISLATION

† **July 11, 2000 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Robie Ingram or Carey Friedman, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the committee operations office at least 10 working days prior to the meeting.

Contact: Anne R. Howard, Committee Operations, House of Delegates, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ♿

COMMISSION ON VIRGINIA'S STATE AND LOCAL TAX STRUCTURE FOR THE 21ST CENTURY

† **July 10, 2000 - 9 a.m.** -- Open Meeting
University of Virginia, Alumni Hall, Charlottesville, Virginia ♿

A regular meeting of the commission devoted to the discussion and consideration of issues concerning the adequacy of Virginia's state and local tax structure to address the needs of the Commonwealth in the 21st century.

Contact: Mich Wilkinson or Rob Hodder, Staff Director/Deputy Staff Director, Commission on Virginia's State and Local Tax Structure for the 21st Century, Weldon Cooper Center for Public Service, 700 E. Franklin Street, Suite 700, Richmond, VA, 23219-2318, telephone (804) 786-4273, FAX (804) 371-0234, e-mail leisasteele@erols.com.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 19

Chesapeake Bay Local Assistance Board
Emergency Planning Committee, Local
- Prince William County, Manassas City, and
Manassas Park
Library Board, State
Nursing, Board of

- Special Conference Committee

June 20

Code Commission, Virginia
Housing Development Authority, Virginia
- Board of Commissioners
† Real Estate Board
Tourism Authority, Virginia
- Board of Directors

June 21

† Real Estate Board
Water Control Board, State

June 22

Education, Board of
Environmental Quality, Department of
Medical Assistance Services, Department of
- Provider Advisory Council
Medicine, Board of
- Informal Conference Committee
Public Guardian and Conservator Advisory Board,
Virginia
- By-Laws Committee

June 26

Medical Assistance Services, Department of
- Pharmacy Liaison Committee
† Psychology, Board of
Waste Management Board, Virginia

June 27

Compensation Board
Marine Resources Commission
Nursing, Board of
- Special Conference Committee
Small Business Financing Authority, Virginia
- Board of Directors

June 28

At-Risk Youth and Their Families, Comprehensive
Services for
- State Executive Council
Waste Management Board, Virginia

June 29

Soil Scientists, Board for Professional
Waste Management Board, Virginia

June 30

† Medicine, Board of
† Veterans Care Center, Virginia
- Board of Trustees

July 6

Conservation and Recreation, Department of
- Virginia Agricultural BMP Implementation Advisory
Committee
† Medicine, Board of
- Informal Conference Committee

July 10

† Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Franchise Law Committee

Calendar of Events

- Licensing Committee
- Transaction Recovery Fund Committee
- † Tax Structure for the 21st Century, Commission on Virginia's State and Local Water Control Board, State

July 11

- † Auctioneers Board
- Hopewell Industrial Safety Council
- † Militia and Police Subcommittee, Special
- † Motor Vehicle Dealer Board
 - Finance Committee

July 12

- Independent Living Council, Statewide
- † Innovative Technology Authority
- † Motor Vehicles, Department of
 - Medical Advisory Board

July 13

- † Geology, Board for
- Medicine, Board of
 - Informal Conference Committee

July 17

- † Accountancy, Board of
- † Old Dominion University
 - Executive Committee

July 18

- Environmental Quality, Department of
 - Ground Water Protection Steering Committee
- Visually Handicapped, Board for the

July 19

- † Community Colleges, State Board for

July 20

- † Community Colleges, State Board for
- Game and Inland Fisheries, Board of
- Workforce Council, Virginia
 - Existing Workforce and the Hard-to-Employ Committee

July 27

- Agriculture and Consumer Services, Department of
 - Virginia Cattle Industry Board
 - Virginia Small Grains Board
- † Education, Board of

August 1

- Hopewell Industrial Safety Council
- Nursing, Board of
 - Special Conference Committee

August 2

- Nursing, Board of
 - Special Conference Committee

August 3

- Nursing, Board of
 - Special Conference Committee

August 7

- Nursing, Board of
 - Special Conference Committee

August 8

- Nursing, Board of
 - Special Conference Committee

August 10

- Water Control Board, State

August 14

- Nursing, Board of
 - Special Conference Committee
- † Old Dominion University
 - Executive Committee

August 30

- Nursing, Board of
 - Special Conference Committee

September 5

- Hopewell Industrial Safety Council

September 7

- † Environmental Quality, Department of
- Nursing, Board of
 - Special Conference Committee

September 14

- † Old Dominion University
 - Board of Visitors

September 18

- Public Guardian and Conservator Advisory Board, Virginia

September 20

- † Water Control Board, State

PUBLIC HEARINGS

June 21

- Funeral Directors and Embalmers, Board of

June 22

- † Education, Board of

June 23

- † Social Services, State Board for

June 29

- Environmental Quality, Department of

August 2

- † Branch Pilots, Board for