



# Virginia Register of Regulations

VOL. 24 ISS. 14

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

MARCH 17, 2008

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18VAC115-30. Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling (Final).....	1953
20VAC5-314. Regulations Governing Interconnection of Small Electrical Generators (Proposed) .....	1954
22VAC40-705. Child Protective Services (Emergency).....	1987
<b>General Notices/Errata</b> .....	1992

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, 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 Joint Commission of Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

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

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

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

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

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

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

## **FAST-TRACK RULEMAKING PROCESS**

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

## **EMERGENCY REGULATIONS**

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 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

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

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **Cleo Elaine Powell**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

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# PUBLICATION SCHEDULE AND DEADLINES

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

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## March 2008 through January 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
24:14	February 27, 2008	March 17, 2008
<b>INDEX 2 Volume 24</b>		<b>April 2008</b>
24:15	March 12, 2008	March 31, 2008
24:16	March 26, 2008	April 14, 2008
24:17	April 9, 2008	April 28, 2008
24:18	April 23, 2008	May 12, 2008
24:19	May 7, 2008	May 26, 2008
24:20	May 21, 2008	June 9, 2008
<b>INDEX 3 Volume 24</b>		<b>July 2008</b>
24:21	June 4, 2008	June 23, 2008
24:22	June 18, 2008	July 7, 2008
24:23	July 2, 2008	July 21, 2008
24:24	July 16, 2008	August 4, 2008
24:25	July 30, 2008	August 18, 2008
24:26	August 13, 2008	September 1, 2008
<b>FINAL INDEX Volume 24</b>		<b>October 2008</b>
25:1	August 27, 2008	September 15, 2008
25:2	September 10, 2008	September 29, 2008
25:3	September 24, 2008	October 13, 2008
25:4	October 8, 2008	October 27, 2008
25:5	October 22, 2008	November 10, 2008
25:6	November 5, 2008	November 24, 2008
25:7	November 18, 2008 ( <b>Tuesday</b> )	December 8, 2008
<b>INDEX 1 Volume 25</b>		<b>January 2009</b>
25:8	December 3, 2008	December 22, 2008
25:9	December 16, 2008	January 5, 2009
25:10	December 30, 2008	January 19, 2009

\*Filing deadlines are Wednesdays unless otherwise specified.

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

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2007 VAC Supplement includes final regulations published through *Virginia Register* Volume 23, Issue 21, dated June 25, 2007). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 55-30-10 through 1 VAC 55-30-90	Added	23:26 VA.R. 4413-4416	10/3/07
1 VAC 55-30-10 through 1 VAC 55-30-90	Erratum	24:7 VA.R. 940	--
<b>Title 2. Agriculture</b>			
2 VAC 5-110 (Forms)	Amended	23:26 VA.R. 4452	--
2 VAC 5-210-30	Amended	24:9 VA.R. 1096	12/11/07
2 VAC 5-210-41	Amended	24:9 VA.R. 1097	12/11/07
2 VAC 5-580-10 through 2 VAC 5-580-310	Repealed	24:2 VA.R. 72	10/16/07
2 VAC 5-585-10 through 2 VAC 5-585-4070	Added	24:2 VA.R. 72-133	10/16/07
<b>Title 3. Alcoholic Beverages</b>			
3 VAC 5-50-40	Amended	23:25 VA.R. 4107	*
3 VAC 5-50-50	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-80	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-100	Amended	23:25 VA.R. 4108	*
3 VAC 5-50-130	Amended	23:25 VA.R. 4109	*
3 VAC 5-50-140	Amended	23:25 VA.R. 4110	*
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 5-36-50	Amended	24:6 VA.R. 638	1/1/08
4 VAC 5-36-60	Amended	24:6 VA.R. 644	1/1/08
4 VAC 5-36-70	Amended	24:6 VA.R. 645	1/1/08
4 VAC 5-36-90	Amended	24:6 VA.R. 647	1/1/08
4 VAC 5-36-100	Amended	24:6 VA.R. 649	1/1/08
4 VAC 5-36-110	Amended	24:6 VA.R. 654	1/1/08
4 VAC 5-36-120	Amended	24:6 VA.R. 655	1/1/08
4 VAC 5-36-130	Amended	24:6 VA.R. 656	1/1/08
4 VAC 5-36-140	Amended	24:6 VA.R. 657	1/1/08
4 VAC 5-36-150	Amended	24:6 VA.R. 659	1/1/08
4 VAC 5-36-200	Amended	24:6 VA.R. 662	1/1/08
4 VAC 5-36-210	Amended	24:6 VA.R. 670	1/1/08
4 VAC 5-36-220	Amended	24:6 VA.R. 675	1/1/08
4 VAC 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-30-5	Amended	24:10 VA.R. 1262	1/1/08

\* Objection to Fast-Track Rulemaking 24:1

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-30-40	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-200-10	Amended	24:6 VA.R. 676	10/26/07
4 VAC 15-270-40	Amended	24:6 VA.R. 676	7/1/08
4 VAC 15-270-80	Added	24:6 VA.R. 676	10/26/07
4 VAC 15-270-90	Added	24:6 VA.R. 677	1/1/08
4 VAC 15-320-25	Amended	24:10 VA.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 VA.R. 1274	1/1/08
4 VAC 15-350-20	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 VA.R. 1276	1/1/08
4 VAC 20-20-50	Amended	24:5 VA.R. 555	11/1/07
4 VAC 20-150-30	Amended	24:10 VA.R. 1277	1/1/08
4 VAC 20-252-55	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-90	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-252-100	Amended	24:4 VA.R. 471	10/1/07
4 VAC 20-252-120	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 VA.R. 1281	1/1/08
4 VAC 20-260-10	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-20	Amended	24:4 VA.R. 472	10/1/07
4 VAC 20-260-30	Amended	24:4 VA.R. 473	10/1/07
4 VAC 20-260-35	Added	24:4 VA.R. 474	10/1/07
4 VAC 20-260-40	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-260-60	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-320-50	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-20	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 VA.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 VA.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 VA.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 VA.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 VA.R. 960	12/1/07
4 VAC 20-610-50	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-620-30	Amended	24:10 VA.R. 1281	12/27/07
4 VAC 20-620-40 emer	Amended	24:8 VA.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 VA.R. 1282	12/27/07
4 VAC 20-650-20	Amended	24:4 VA.R. 474	10/1/07
4 VAC 20-650-30	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-650-40	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-720-20	Amended	24:4 VA.R. 475	10/1/07
4 VAC 20-720-20	Erratum	24:5 VA.R. 621	--

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-40 through 4 VAC 20-720-80	Amended	24:4 VA.R. 478-480	10/1/07
4 VAC 20-720-40	Amended	24:12 VA.R. 1457	2/1/08
4 VAC 20-720-50	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-60	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-80	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-95	Added	24:4 VA.R. 480	10/1/07
4 VAC 20-720-110	Amended	24:4 VA.R. 480	10/1/07
4 VAC 20-755-10	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-20	Amended	24:2 VA.R. 133	9/1/07
4 VAC 20-755-30	Amended	24:2 VA.R. 136	9/1/07
4 VAC 20-910-45	Amended	24:5 VA.R. 556	11/1/07
4 VAC 20-960-45	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-35	Added	24:12 VA.R. 1459	2/1/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1120-20	Amended	23:23 VA.R. 3871	6/28/07
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 25-20 (Forms)	Amended	23:24 VA.R. 3968	--
4 VAC 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 VA.R. 3696	8/8/07
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-130-777.17	Amended	23:22 VA.R. 3696	8/8/07
<b>Title 5. Corporations</b>			
5 VAC 5-20-20	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 VA.R. 1349	2/15/08
5 VAC 5-30-10	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-20	Amended	23:23 VA.R. 3872	7/1/07
5 VAC 5-30-30	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-40	Amended	23:23 VA.R. 3873	7/1/07
5 VAC 5-30-50	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-60	Amended	23:23 VA.R. 3874	7/1/07
5 VAC 5-30-70	Amended	23:23 VA.R. 3875	7/1/07
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-20-10 through 6 VAC 15-20-230	Amended	23:22 VA.R. 3697-3703	8/9/07
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 VA.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 VA.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 VA.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 VA.R. 1523	--
6 VAC 20-120-40	Amended	23:25 VA.R. 4177	9/19/07
6 VAC 35-20-37 emer	Amended	23:25 VA.R. 4178	8/1/07-7/31/08
6 VAC 35-180-10 through 6 VAC 35-180-170	Added	24:5 VA.R. 557-561	1/1/08
6 VAC 35-190-10 through 6 VAC 35-190-110	Added	24:2 VA.R. 137-139	10/31/07
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	23:23 VA.R. 3876	7/1/06-12/29/07
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
<b>Title 8. Education</b>			
8 VAC 20-21-10 through 8 VAC 20-21-730	Repealed	23:25 VA.R. 4179	9/21/07
8 VAC 20-22-10 through 8 VAC 20-22-760	Added	23:25 VA.R. 4179-4214	9/21/07

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-160-10	Amended	23:23 VA.R. 3876	8/27/07
8 VAC 20-160-20	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-30	Amended	23:23 VA.R. 3878	8/27/07
8 VAC 20-160-40	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-50	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-160-60	Amended	23:23 VA.R. 3879	8/27/07
8 VAC 20-190-10	Repealed	24:5 VA.R. 562	1/1/08
8 VAC 20-500-10	Repealed	24:5 VA.R. 563	1/1/08
8 VAC 20-541-10 through 8 VAC 20-541-60	Repealed	23:25 VA.R. 4214	9/21/07
8 VAC 20-542-10 through 8 VAC 20-542-600	Added	23:25 VA.R. 4214-4270	9/21/07
8 VAC 35-60-10	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-20	Added	24:1 VA.R. 25	8/28/07
8 VAC 35-60-30	Added	24:1 VA.R. 25	8/28/07
8 VAC 40-140-10 through 8 VAC 40-140-90	Added	23:22 VA.R. 3704-3706	7/1/07
<b>Title 9. Environment</b>			
9 VAC 5-20-203	Amended	24:5 VA.R. 564	12/12/07
9 VAC 5-20-204	Amended	24:5 VA.R. 565	12/12/07
9 VAC 5-40-20	Amended	24:5 VA.R. 566	12/12/07
9 VAC 5-50-20	Amended	24:5 VA.R. 570	12/12/07
9 VAC 5-50-400	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-50-410	Amended	24:5 VA.R. 573	12/12/07
9 VAC 5-60-60	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-90	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-92	Added	24:5 VA.R. 579	12/12/07
9 VAC 5-60-95	Amended	24:5 VA.R. 579	12/12/07
9 VAC 5-60-100	Amended	24:5 VA.R. 580	12/12/07
9 VAC 5-91-20	Amended	24:5 VA.R. 587	12/12/07
9 VAC 5-140-1061	Added	24:6 VA.R. 679	12/26/07
9 VAC 5-140-1062	Added	24:6 VA.R. 680	12/26/07
9 VAC 5-140-2061	Added	24:6 VA.R. 681	12/26/07
9 VAC 5-140-2062	Added	24:6 VA.R. 682	12/26/07
9 VAC 5-140-3061	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3062	Added	24:6 VA.R. 683	12/26/07
9 VAC 5-140-3400	Amended	24:5 VA.R. 594	12/12/07
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 20-130-10	Amended	24:4 VA.R. 480	11/28/07
9 VAC 20-130-40	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-60	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-70	Amended	24:4 VA.R. 484	11/28/07
9 VAC 20-130-90	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-110	Amended	24:4 VA.R. 485	11/28/07
9 VAC 20-130-120	Amended	24:4 VA.R. 486	11/28/07
9 VAC 20-130-120	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-125	Added	24:4 VA.R. 488	11/28/07
9 VAC 20-130-125	Erratum	24:6 VA.R. 889	--
9 VAC 20-130-130	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-140	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-150	Repealed	24:4 VA.R. 489	11/28/07
9 VAC 20-130-165	Amended	24:4 VA.R. 489	11/28/07
9 VAC 20-130-175 through 9 VAC 20-130-230	Amended	24:4 VA.R. 490-493	11/28/07
9 VAC 20-130-200	Erratum	24:6 VA.R. 889	--

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-20-10	Amended	24:6 VA.R. 701	1/1/08
9 VAC 25-20-20	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-30	Repealed	24:6 VA.R. 702	1/1/08
9 VAC 25-20-40	Amended	24:6 VA.R. 702	1/1/08
9 VAC 25-20-50	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-60	Amended	24:6 VA.R. 703	1/1/08
9 VAC 25-20-90	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-100	Amended	24:6 VA.R. 704	1/1/08
9 VAC 25-20-110	Amended	24:6 VA.R. 705	1/1/08
9 VAC 25-20-120	Amended	24:6 VA.R. 706	1/1/08
9 VAC 25-20-130	Amended	24:6 VA.R. 708	1/1/08
9 VAC 25-20-146	Added	24:6 VA.R. 708	1/1/08
9 VAC 25-20-147	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-20-148	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-20-149	Added	24:6 VA.R. 709	1/1/08
9 VAC 25-31-100	Amended	24:3 VA.R. 313	11/14/07
9 VAC 25-31-100	Amended	24:6 VA.R. 711	1/1/08
9 VAC 25-31-120	Amended	24:3 VA.R. 309	11/14/07
9 VAC 25-31-165	Amended	24:3 VA.R. 333	11/14/07
9 VAC 25-31-220	Amended	24:6 VA.R. 731	1/1/08
9 VAC 25-31-290	Amended	24:6 VA.R. 735	1/1/08
9 VAC 25-31-460	Amended	24:6 VA.R. 738	1/1/08
9 VAC 25-31-475	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-485	Added	24:6 VA.R. 738	1/1/08
9 VAC 25-31-505	Added	24:6 VA.R. 739	1/1/08
9 VAC 25-32 (Forms)	Amended	24:6 VA.R. 739	--
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
9 VAC 25-32-40	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-60	Amended	24:6 VA.R. 739	1/1/08
9 VAC 25-32-80	Amended	24:6 VA.R. 740	1/1/08
9 VAC 25-32-100	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-140	Amended	24:6 VA.R. 743	1/1/08
9 VAC 25-32-210	Amended	24:6 VA.R. 744	1/1/08
9 VAC 25-32-220	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-240	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-300	Amended	24:6 VA.R. 745	1/1/08
9 VAC 25-32-310 through 9 VAC 25-32-760	Added	24:6 VA.R. 746-781	1/1/08
9 VAC 25-120-10	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-196-20	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 VA.R. 1125	2/6/08
9 VAC 25-210-10	Amended	24:9 VA.R. 1132	2/6/08
9 VAC 25-210-60	Amended	24:9 VA.R. 1136	2/6/08
9 VAC 25-210-116	Amended	24:9 VA.R. 1140	2/6/08



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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-210-130	Amended	24:9 VA.R. 1142	2/6/08
9 VAC 25-260-5	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-30	Amended	24:2 VA.R. 139	9/11/07
9 VAC 25-260-30	Amended	24:2 VA.R. 140	9/11/07
9 VAC 25-260-30	Amended	24:7 VA.R. 908	*
9 VAC 25-260-30	Amended	24:13 VA.R. 1741	*
9 VAC 25-260-50	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-187	Added	24:4 VA.R. 536	8/14/07
9 VAC 25-260-310	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-260-480	Amended	24:4 VA.R. 536	8/14/07
9 VAC 25-660-10	Amended	24:9 VA.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 VA.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 VA.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 VA.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 VA.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 VA.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 VA.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 VA.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 VA.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 VA.R. 1174	2/6/08
9 VAC 25-680-80	Amended	24:9 VA.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 VA.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 VA.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 VA.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-720-50	Amended	23:23 VA.R. 3881	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3888	10/22/07
9 VAC 25-720-50	Amended	23:23 VA.R. 3895	10/22/07
9 VAC 25-720-50	Amended	24:2 VA.R. 140	11/15/07
9 VAC 25-720-80	Amended	23:23 VA.R. 3901	10/22/07
9 VAC 25-720-90	Amended	24:2 VA.R. 147	11/15/07
9 VAC 25-790-10	Amended	24:6 VA.R. 784	1/1/08
9 VAC 25-790-50	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-60	Amended	24:6 VA.R. 787	1/1/08
9 VAC 25-790-120	Amended	24:6 VA.R. 788	1/1/08
9 VAC 25-790-130	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-150	Amended	24:6 VA.R. 790	1/1/08
9 VAC 25-790-180	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-200	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-240	Amended	24:6 VA.R. 791	1/1/08
9 VAC 25-790-540	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-550	Amended	24:6 VA.R. 792	1/1/08
9 VAC 25-790-570	Amended	24:6 VA.R. 795	1/1/08
9 VAC 25-790-580	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-590	Amended	24:6 VA.R. 797	1/1/08
9 VAC 25-790-600	Amended	24:6 VA.R. 798	1/1/08

\* Effective upon filing notice of U.S. EPA approval with Registrar of Regulations

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-790-660	Amended	24:6 VA.R. 799	1/1/08
9 VAC 25-790-880	Amended	24:6 VA.R. 799	1/1/08
<b>Title 11. Gaming</b>			
11 VAC 10-45-10	Amended	24:5 VA.R. 595	12/12/07
11 VAC 10-45-25	Added	24:5 VA.R. 596	12/12/07
<b>Title 12. Health</b>			
12 VAC 5-31-2300 through 12 VAC 5-31-2970	Added	24:6 VA.R. 806-818	1/1/08
12 VAC 5-40-10 through 12 VAC 5-40-190	Repealed	24:6 VA.R. 806	1/1/08
12 VAC 5-90-80 emer	Amended	24:5 VA.R. 597	10/24/07-10/23/08
12 VAC 5-125-10 through 12 VAC 5-125-180	Added	23:23 VA.R. 3904-3919	9/1/07
12 VAC 5-220-10	Amended	24:11 VA.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 VA.R. 1353	3/5/08
12 VAC 5-220-130	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-200	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-371-150	Amended	24:11 VA.R. 1357	3/5/08
12 VAC 5-381-10 through 12VAC5-381-40	Amended	24:11 VA.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12VAC5-381-100	Amended	24:11 VA.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 VA.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 VA.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-410-230	Amended	24:11 VA.R. 1371	3/5/08
12 VAC 5-421-10	Amended	24:2 VA.R. 149	10/16/07
12 VAC 5-421-90	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-100	Amended	24:2 VA.R. 157	10/16/07
12 VAC 5-421-120	Amended	24:2 VA.R. 158	10/16/07
12 VAC 5-421-140	Amended	24:2 VA.R. 158	10/16/07
12 VAC 5-421-160	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-170	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-180	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-190	Amended	24:2 VA.R. 159	10/16/07
12 VAC 5-421-200	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-230	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-250	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-270	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-295	Added	24:2 VA.R. 160	10/16/07
12 VAC 5-421-300	Amended	24:2 VA.R. 160	10/16/07
12 VAC 5-421-330	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-340	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-350	Amended	24:2 VA.R. 161	10/16/07
12 VAC 5-421-360	Amended	24:2 VA.R. 161	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-430	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-440	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-450	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-460	Added	24:2 VA.R. 162	10/16/07
12 VAC 5-421-500	Amended	24:2 VA.R. 162	10/16/07
12 VAC 5-421-520	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-530	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-550	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-560	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-570	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-580	Amended	24:2 VA.R. 163	10/16/07
12 VAC 5-421-590	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-600	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-620	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-670	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-680	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-700	Amended	24:2 VA.R. 164	10/16/07
12 VAC 5-421-720	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-760	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-765	Added	24:2 VA.R. 166	10/16/07
12 VAC 5-421-780	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-790	Amended	24:2 VA.R. 166	10/16/07
12 VAC 5-421-800	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-820	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-830	Amended	24:2 VA.R. 167	10/16/07
12 VAC 5-421-840	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-850	Amended	24:2 VA.R. 169	10/16/07
12 VAC 5-421-860	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-870	Amended	24:2 VA.R. 170	10/16/07
12 VAC 5-421-880	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-890	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-900	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-910	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-920	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-930	Added	24:2 VA.R. 171	10/16/07
12 VAC 5-421-940	Amended	24:2 VA.R. 172	10/16/07
12 VAC 5-421-950	Amended	24:2 VA.R. 172	10/16/07
12 VAC 5-421-960	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-970	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-990	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1000	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1010	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1020	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1030	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1040	Amended	24:2 VA.R. 173	10/16/07
12 VAC 5-421-1070	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1090	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1120	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1200	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1260	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1270	Amended	24:2 VA.R. 174	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-1300	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1310	Amended	24:2 VA.R. 174	10/16/07
12 VAC 5-421-1320	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1330	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1340	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1350	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1360	Amended	24:2 VA.R. 175	10/16/07
12 VAC 5-421-1370	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1460	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1510	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1520	Amended	24:2 VA.R. 176	10/16/07
12 VAC 5-421-1530	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1540	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1620	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1640	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1660	Amended	24:2 VA.R. 177	10/16/07
12 VAC 5-421-1670	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1680	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1690	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1700	Amended	24:2 VA.R. 178	10/16/07
12 VAC 5-421-1710	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1720	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1730	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1750	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1760	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1780	Amended	24:2 VA.R. 179	10/16/07
12 VAC 5-421-1810	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1820	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1880	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1890	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1900	Amended	24:2 VA.R. 180	10/16/07
12 VAC 5-421-1960	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2010	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2080	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2190	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2200	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2210	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2270	Amended	24:2 VA.R. 181	10/16/07
12 VAC 5-421-2310	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2320	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2520	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2630	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2680	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2710	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2790	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2810	Amended	24:2 VA.R. 182	10/16/07
12 VAC 5-421-2820	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2840	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2850	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2870	Amended	24:2 VA.R. 183	10/16/07

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-421-2880	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2930	Amended	24:2 VA.R. 183	10/16/07
12 VAC 5-421-2990	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3040	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3120	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3200	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3210	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3230	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3310	Amended	24:2 VA.R. 184	10/16/07
12 VAC 5-421-3370	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3380	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3450	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3510	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3560	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3580	Amended	24:2 VA.R. 185	10/16/07
12 VAC 5-421-3590	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3620	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3660	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3700	Amended	24:2 VA.R. 186	10/16/07
12 VAC 5-421-3750	Amended	24:2 VA.R. 187	10/16/07
12 VAC 5-421-3760	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3800	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3815	Added	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3860	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3900	Amended	24:2 VA.R. 188	10/16/07
12 VAC 5-421-3960	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-3970	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4000	Amended	24:2 VA.R. 189	10/16/07
12 VAC 5-421-4035	Added	24:2 VA.R. 190	10/16/07
12 VAC 5-421-4050	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-421-4070	Amended	24:2 VA.R. 191	10/16/07
12 VAC 5-585-70	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-510	Amended	24:5 VA.R. 602	12/17/07
12 VAC 5-585-600	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-610	Amended	24:5 VA.R. 607	12/17/07
12 VAC 5-585-620	Amended	24:5 VA.R. 612	12/17/07
12 VAC 5-585-630	Amended	24:5 VA.R. 614	12/17/07
12 VAC 5-585-760 through 12 VAC 5-585-830	Added	23:25 VA.R. 4298-4301	10/1/07
12 VAC 30-10-820	Added	24:2 VA.R. 191	10/31/07
12 VAC 30-60-500 emer	Added	23:26 VA.R. 4427	8/8/07-8/7/08
12 VAC 30-80-40 emer	Amended	24:3 VA.R. 377	10/1/07-9/30/08
12 VAC 30-120	Erratum	23:24 VA.R. 4080	--
12 VAC 30-120-70	Amended	24:13 VA.R. 1791	7/1/08
12 VAC 30-120-90	Amended	24:13 VA.R. 1793	7/1/08
12 VAC 30-120-140	Amended	24:13 VA.R. 1794	7/1/08
12 VAC 30-120-211	Amended	24:13 VA.R. 1797	7/1/08
12 VAC 30-120-213	Amended	24:13 VA.R. 1800	7/1/08
12 VAC 30-120-225	Amended	24:13 VA.R. 1802	7/1/08
12 VAC 30-120-229	Amended	24:13 VA.R. 1804	7/1/08
12 VAC 30-120-237	Amended	24:13 VA.R. 1805	7/1/08
12 VAC 30-120-247	Amended	24:13 VA.R. 1807	7/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-370 emer	Amended	23:24 VA.R. 4029	9/1/07-8/31/08
12 VAC 30-120-380 emer	Amended	23:24 VA.R. 4032	9/1/07-8/31/08
12 VAC 30-120-700	Amended	24:13 VA.R. 1808	7/1/08
12 VAC 30-120-710	Amended	24:13 VA.R. 1812	7/1/08
12 VAC 30-120-754	Amended	24:13 VA.R. 1813	7/1/08
12 VAC 30-120-758	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-762	Amended	24:13 VA.R. 1815	7/1/08
12 VAC 30-120-770	Amended	24:13 VA.R. 1816	7/1/08
12 VAC 30-120-900	Amended	24:13 VA.R. 1818	7/1/08
12 VAC 30-120-910	Amended	24:13 VA.R. 1820	7/1/08
12 VAC 30-120-920	Amended	24:13 VA.R. 1821	7/1/08
12 VAC 30-120-970	Amended	24:13 VA.R. 1823	7/1/08
12 VAC 30-120-1500 through 12 VAC 30-120-1550	Added	24:6 VA.R. 819-829	12/26/07
12 VAC 30-120-1500	Amended	24:13 VA.R. 1825	7/1/08
12 VAC 30-120-1510	Amended	24:13 VA.R. 1827	7/1/08
12 VAC 30-120-1550	Amended	24:13 VA.R. 1828	7/1/08
12 VAC 30-120-1560	Added	24:13 VA.R. 1830	7/1/08
12 VAC 30-120-2000	Added	24:13 VA.R. 1832	7/1/08
12 VAC 30-120-2010	Added	24:13 VA.R. 1833	7/1/08
12 VAC 30-135-100 through 12 VAC 30-135-360	Added	24:2 VA.R. 196-218	12/1/07
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
12 VAC 35-115-10 through 12 VAC 35-115-250	Amended	23:25 VA.R. 4301-4340	9/19/07
12 VAC 35-115-90	Erratum	24:6 VA.R. 889	--
12 VAC 35-115-145	Added	23:25 VA.R. 4329	9/19/07
12 VAC 35-115-146	Added	23:25 VA.R. 4330	9/19/07
12 VAC 35-115-160	Repealed	23:25 VA.R. 4332	9/19/07
<b>Title 13. Housing</b>			
13 VAC 5-31	Erratum	23:24 VA.R. 4079	--
13 VAC 5-91	Erratum	23:24 VA.R. 4080	--
13 VAC 5-112-340	Amended	24:8 VA.R. 979	1/23/08
13 VAC 10-40-20	Amended	24:7 VA.R. 911	11/13/07
13 VAC 10-40-60	Amended	24:7 VA.R. 914	11/13/07
13 VAC 10-40-80	Amended	24:7 VA.R. 915	11/13/07
13 VAC 10-40-100	Amended	24:7 VA.R. 916	11/13/07
13 VAC 10-40-110	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-120	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-130	Amended	24:7 VA.R. 917	11/13/07
13 VAC 10-40-170	Amended	24:7 VA.R. 920	11/13/07
13 VAC 10-40-190	Amended	24:7 VA.R. 920	11/13/07
13 VAC 10-40-210	Amended	24:7 VA.R. 921	11/13/07
13 VAC 10-40-230	Amended	24:7 VA.R. 921	11/13/07
13 VAC 10-180-10	Amended	24:11 VA.R. 1373	2/4/08
13 VAC 10-180-50	Amended	24:11 VA.R. 1374	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1387	2/4/08
13 VAC 10-180-100	Amended	24:11 VA.R. 1397	2/4/08
<b>Title 14. Insurance</b>			
14 VAC 5-215-20	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-30	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-50	Amended	23:22 VA.R. 3769	7/1/07

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14 VAC 5-215-60	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-215-80	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 VA.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 VA.R. 1467	1/1/10
14 VAC 5-270-146	Added	24:12 VA.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 VA.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-420-10 through 14 VAC 5-420-60	Added	24:7 VA.R. 926-931	2/15/08
<b>Title 16. Labor and Employment</b>			
16 VAC 15-21-30	Amended	23:23 VA.R. 3933	8/23/07
16 VAC 25-90-1910.6	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.66 Appendix D	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.302 through 16 VAC 25-90-1910.308	Amended	24:1 VA.R. 26	12/15/07
16 VAC 25-90-1910.399 Subpart S Appendix A	Amended	24:1 VA.R. 26	12/15/07
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 30-20-80	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 VA.R. 1285	2/20/08
18 VAC 41-70-10 through 18 VAC 41-70-280	Added	23:25 VA.R. 4349-4359	9/20/07
18 VAC 50-30-10	Amended	24:3 VA.R. 416	11/15/07
18 VAC 50-30-40	Amended	24:3 VA.R. 418	11/15/07
18 VAC 50-30-90	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-100	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-120	Amended	24:3 VA.R. 419	11/15/07
18 VAC 50-30-130	Amended	24:3 VA.R. 420	11/15/07
18 VAC 50-30-190	Amended	24:3 VA.R. 421	11/15/07
18 VAC 50-30-200	Amended	24:3 VA.R. 422	11/15/07
18 VAC 50-30-220	Amended	24:3 VA.R. 422	11/15/07
18 VAC 60-20-17	Amended	24:3 VA.R. 424	11/29/07
18 VAC 60-20-71	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 60-20-220	Amended	24:10 VA.R. 1287	3/10/08
18 VAC 65-10-10 through 18 VAC 65-10-80	Amended	24:2 VA.R. 226-228	11/15/07
18 VAC 65-10-100	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-110	Amended	24:2 VA.R. 228	11/15/07
18 VAC 65-10-120	Amended	24:2 VA.R. 228	11/15/07
18 VAC 85-20-22	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-140	Amended	24:1 VA.R. 27	10/17/07
18 VAC 85-20-226	Added	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-235	Amended	23:25 VA.R. 4360	9/20/07
18 VAC 85-20-235	Amended	23:25 VA.R. 4361	9/20/07
18 VAC 85-20-290	Amended	23:23 VA.R. 3934	8/22/07
18 VAC 85-20-400 through 18 VAC 85-20-420	Adding	23:25 VA.R. 4362-4363	9/20/07
18 VAC 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-40-61	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-40-61	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-40-65	Amended	24:1 VA.R. 28	10/17/07
18 VAC 85-40-67	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-35	Amended	24:11 VA.R. 1405	3/5/08

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18 VAC 85-50-58	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-50-61	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-80-26	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-72	Amended	24:1 VA.R. 29	10/18/07
18 VAC 85-80-73	Added	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-152	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-101-153	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-35	Amended	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-155	Amended	24:1 VA.R. 30	10/18/07
18 VAC 85-110-161	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-120-130	Amended	24:2 VA.R. 229	10/31/07
18 VAC 90-20-10	Amended	24:13 VA.R. 1842	4/2/08
18 VAC 90-20-30	Amended	23:25 VA.R. 4363	10/1/07
18 VAC 90-20-35	Amended	24:13 VA.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 VA.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-70	Amended	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 VA.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 VA.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 VA.R. 1848	4/2/08
18 VAC 90-20-160	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-225	Added	23:25 VA.R. 4364	10/1/07
18 VAC 90-20-230	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-275	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 VA.R. 1853	4/2/08
18 VAC 90-30-10	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-120	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-121	Added	24:10 VA.R. 1289	2/20/08
18 VAC 90-30-240	Added	24:3 VA.R. 427	11/29/07
18 VAC 90-40-100	Amended	24:6 VA.R. 831	1/11/08
18 VAC 90-60-100	Amended	24:3 VA.R. 429	11/29/07
18 VAC 95-10-10 through 18 VAC 95-10-80	Amended	24:2 VA.R. 231-232	11/15/07
18 VAC 95-10-100	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-10-110	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-10-120	Amended	24:2 VA.R. 232	11/15/07
18 VAC 95-30-10 through 18 VAC 95-30-210	Added	24:6 VA.R. 832-837	1/2/08
18 VAC 105-20-10	Amended	23:22 VA.R. 3791	9/24/07
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
18 VAC 110-20-180	Erratum	24:3 VA.R. 444	--
18 VAC 110-20-321	Added	24:8 VA.R. 986	1/23/08



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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 VA.R. 986-987	1/23/08
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-40-10 through 18 VAC 110-40-50	Amended	24:3 VA.R. 430-431	11/14/07
18 VAC 110-50-10	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-160	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-180	Added	24:10 VA.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 VA.R. 1292	2/20/08
18 VAC 112-20-81 emer	Added	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-90 emer	Amended	24:4 VA.R. 497	11/1/07-10/31/08
18 VAC 112-20-130 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-131 emer	Amended	24:4 VA.R. 498	11/1/07-10/31/08
18 VAC 112-20-150 emer	Amended	24:4 VA.R. 499	11/1/07-10/31/08
18 VAC 120-40-10	Amended	23:24 VA.R. 4038	9/5/07
18 VAC 120-40-15	Added	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-20	Amended	23:24 VA.R. 4039	9/5/07
18 VAC 120-40-60	Repealed	24:3 VA.R. 433	12/29/07
18 VAC 120-40-80 through 18 VAC 120-40-360	Amended	23:24 VA.R. 4040-4052	9/5/07
18 VAC 120-40-221	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-222	Added	23:24 VA.R. 4043	9/5/07
18 VAC 120-40-295	Added	23:24 VA.R. 4048	9/5/07
18 VAC 120-40-342	Added	23:24 VA.R. 4050	9/5/07
18 VAC 120-40-370	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-380	Repealed	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-385	Added	23:24 VA.R. 4052	9/5/07
18 VAC 120-40-390	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-400	Repealed	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-410	Amended	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411	Added	23:24 VA.R. 4053	9/5/07
18 VAC 120-40-411.1 through 18 VAC 120-40-411.21	Added	23:24 VA.R. 4054-4064	9/5/07
18 VAC 120-40-415	Added	23:24 VA.R. 4064	9/5/07
18 VAC 120-40-415.1	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.2	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-415.3	Added	23:24 VA.R. 4065	9/5/07
18 VAC 120-40-420	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 120-40-430	Amended	23:24 VA.R. 4066	9/5/07
18 VAC 125-20-170	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 125-30-120	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 130-20-10	Amended	24:6 VA.R. 838	1/1/08
18 VAC 130-20-30	Amended	24:6 VA.R. 842	1/1/08
18 VAC 130-20-60	Amended	24:6 VA.R. 843	1/1/08
18 VAC 130-20-110	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-170	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-180	Amended	24:6 VA.R. 844	1/1/08
18 VAC 130-20-210	Amended	24:6 VA.R. 846	1/1/08
18 VAC 130-20-220	Amended	24:6 VA.R. 847	1/1/08
18 VAC 130-20-230	Amended	24:6 VA.R. 847	1/1/08
18 VAC 135-20-10	Amended	24:11 VA.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 VA.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 VA.R. 1410	4/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 135-20-101	Added	24:11 VA.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-160	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 VA.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 VA.R. 1420	4/1/08
18 VAC 135-30 (Forms)	Amended	24:1 VA.R. 41	--
18 VAC 135-40 (Forms)	Amended	24:1 VA.R. 43	--
18 VAC 135-50-10	Amended	23:22 VA.R. 3794	9/22/07
18 VAC 135-50-20	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-220	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-400	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-60-60	Amended	24:9 VA.R. 1230	3/1/08
18 VAC 150-10-10	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-20	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-30	Amended	23:23 VA.R. 3937	10/7/07
18 VAC 150-10-40	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-50	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-60	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-70	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-80	Amended	23:23 VA.R. 3938	10/7/07
18 VAC 150-10-100	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-110	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-10-120	Amended	23:23 VA.R. 3939	10/7/07
18 VAC 150-20-30	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-100	Amended	24:3 VA.R. 436	11/29/07
18 VAC 150-20-140	Amended	24:3 VA.R. 437	11/29/07
18 VAC 150-20-220	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-230	Added	24:3 VA.R. 438	11/29/07
18 VAC 150-20-240	Added	24:3 VA.R. 438	11/29/07
<b>Title 19. Public Safety</b>			
19 VAC 30-20-115	Added	24:11 VA.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 VA.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 VA.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 VA.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 VA.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 VA.R. 997	3/1/08
19 VAC 30-70-80	Amended	24:8 VA.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 VA.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 VA.R. 1001-1070	3/1/08

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
19 VAC 30-170-15	Amended	24:2 VA.R. 233	10/1/07
19 VAC 30-170-50	Amended	24:2 VA.R. 233	10/1/07
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-417-10	Amended	24:4 VA.R. 513	10/9/07
20 VAC 5-417-50	Amended	24:4 VA.R. 513	10/9/07
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10-40	Amended	23:23 VA.R. 3940	7/1/07
21 VAC 5-20-65	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-95	Added	23:23 VA.R. 3942	7/1/07
21 VAC 5-20-280	Amended	23:23 VA.R. 3943	7/1/07
21 VAC 5-20-330	Amended	23:23 VA.R. 3947	7/1/07
21 VAC 5-80-65	Added	23:23 VA.R. 3949	7/1/07
21 VAC 5-80-160	Amended	23:23 VA.R. 3950	7/1/07
21 VAC 5-80-200	Amended	23:23 VA.R. 3954	7/1/07
21 VAC 5-110	Erratum	23:24 VA.R. 4079	--
21 VAC 5-110-65	Added	23:23 VA.R. 3959	7/1/07
21 VAC 5-110-75	Added	23:23 VA.R. 3960	7/1/07
<b>Title 22. Social Services</b>			
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
22 VAC 40-35-10	Amended	23:23 VA.R. 3962	9/1/07
22 VAC 40-35-80	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-90	Amended	23:23 VA.R. 3965	9/1/07
22 VAC 40-35-100	Amended	23:23 VA.R. 3966	9/1/07
22 VAC 40-41-10 through 22 VAC 40-41-50	Amended	23:22 VA.R. 3796-3799	9/1/07
22 VAC 40-41-55	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-41-60	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-72-55	Added	24:5 VA.R. 616	12/12/07
22 VAC 40-72-367	Added	24:5 VA.R. 616	12/12/07
22 VAC 40-72-930	Amended	24:1 VA.R. 38	11/1/07
22 VAC 40-72-960	Amended	24:1 VA.R. 39	11/1/07
22 VAC 40-375-10 through 22 VAC 40-375-60	Repealed	24:5 VA.R. 616	12/12/07
22 VAC 40-470-10	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-770-10 through 22 VAC 40-770-160	Repealed	24:2 VA.R. 234	11/1/07
22 VAC 40-771-10 through 22 VAC 40-771-160	Added	24:2 VA.R. 234-242	11/1/07
22 VAC 42-10-10 through 22 VAC 42-10-1000	Repealed	24:6 VA.R. 849	12/28/07
22 VAC 42-11-10 through 22 VAC 42-11-1090	Added	24:6 VA.R. 850-885	12/28/07
<b>Title 23. Taxation</b>			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 VA.R. 1520-1521	4/19/08
23 VAC 10-10-80	Amended	24:12 VA.R. 1521	4/19/08
23 VAC 10-10-90	Repealed	24:12 VA.R. 1522	4/19/08
23 VAC 10-210-485	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-693 emer	Amended	23:25 VA.R. 4364	7/26/07-07/25/08
23 VAC 10-210-6041	Amended	23:24 VA.R. 4068	9/6/07
23 VAC 10-210-6042	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-210-6043	Amended	23:24 VA.R. 4069	9/6/07
23 VAC 10-240-20 through 23 VAC 10-240-60	Repealed	23:25 VA.R. 4372-4373	10/04/07
23 VAC 10-240-100	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-130	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-140	Repealed	23:25 VA.R. 4373	10/04/07

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
23 VAC 10-240-150	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-200	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-210	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-240	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-270	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-280	Repealed	23:25 VA.R. 4373	10/04/07
23 VAC 10-240-300	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-310	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-330	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-340	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-360	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-380	Repealed	23:25 VA.R. 4374	10/04/07
23 VAC 10-240-400	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-420	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-430	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-450	Repealed	23:25 VA.R. 4375	10/04/07
23 VAC 10-240-460	Repealed	23:25 VA.R. 4375	10/04/07
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 20-120-10 through 24 VAC 20-120-180	Repealed	24:4 VA.R. 516	1/1/08
24 VAC 20-121-10 through 24 VAC 20-121-220	Adding	24:4 VA.R. 516-529	1/1/08
24 VAC 22-20-10	Amended	24:3 VA.R. 439	12/1/07
24 VAC 22-20-20	Amended	24:3 VA.R. 440	12/1/07
24 VAC 27-10-10 through 24 VAC 27-10-120	Added	23:24 VA.R. 4071-4075	9/20/07
24 VAC 30-45-10	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-20	Added	24:2 VA.R. 243	10/1/07
24 VAC 30-45-30	Added	24:2 VA.R. 244	10/1/07
24 VAC 30-200-10	Amended	24:4 VA.R. 529	11/28/07
24 VAC 30-200-20	Amended	24:4 VA.R. 530	11/28/07
24 VAC 30-200-30	Amended	24:4 VA.R. 531	11/28/07
24 VAC 30-200-35	Added	24:4 VA.R. 532	11/28/07
24 VAC 30-200-40	Amended	24:4 VA.R. 533	11/28/07

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF NURSING

#### Agency Decision

Title of Regulation: **18VAC90-20. Regulations Governing the Practice of Nursing.**

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

Name of Petitioner: Carmina Teresa V. Bautista.

Nature of Petitioner's Request: To amend regulations to eliminate the requirement for the CGFNS qualifying examination for foreign-trained nurses.

Agency Decision: Request granted.

Statement of Reasons for Decision: The board has reviewed the comments received as a result of the petition and has looked at requirements for foreign-trained graduates in other states. It will consider revising its requirement for CGFNS qualifying examination.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4623, FAX (804) 527-4455, or email [jay.douglas@dhp.virginia.gov](mailto:jay.douglas@dhp.virginia.gov).

VA.R. Doc. No. R08-04; Filed February 25, 2008, 11:10 a.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

#### Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that Virginia Soil and Conservation Board has WITHDRAWN the Notice of Intended Regulatory Action for **4VAC50-60, Stormwater Management Regulations**, which was published in 22:8 VA.R. 1082 December 26, 2005. On September 21, 2007, the board approved a motion to withdraw the NOIRA with the intent of filing a revised NOIRA in order to ensure that the intent and scope of the intended regulatory action is clearly communicated.

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

Agency Contact: David C. Dowling, Policy, Planning and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, Telephone 804-786-2291, FAX 804-786-6141, email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R06-128; Filed February 25, 2008, 11:09 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to consider amending the following regulations: **4VAC50-60, Stormwater Management Regulations**. The purpose of the proposed action is to amend the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations to establish (i) criteria to protect the quality and manage the quantity of stormwater runoff to state waters, (ii) criteria for the administration of a local stormwater management program, (iii) processes and procedures for board approval of a qualifying local program, and (iv) local program oversight and implementation criteria for the board and the department.

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

Statutory Authority: §§10.1-107 and §10.1-603.4 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on April 16, 2008.

Agency Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219,

telephone 804-786-2291, FAX 804-786-6141, or email david.dowling@dcr.virginia.gov.

VA.R. Doc. No. R08-587; Filed February 25, 2008, 11:11 a.m.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending the following regulations: **9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements**. The purpose of the proposed action is to amend the regulation to require operator training for all owners and operators of underground storage tanks.

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

Statutory Authority: §§62.1-44.15 and 62.1-44.34:9 of the Code of Virginia; Resources Conservation and Recovery Act (42 USC §6901 et seq.); 40 CFR Parts 280 and 281.

Public Comments: Public comments may be submitted until May 1, 2008.

Agency Contact: Russell P. Ellison, III, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone 804-698-4269, FAX 804-698-4266, or email rpellison@deq.virginia.gov.

VA.R. Doc. No. R08-1196; Filed February 15, 2008, 4:31 p.m.

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to consider amending the following regulations: **18VAC30-20, Regulations of the Board of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to consider provisions to make it easier for a person to be licensed by endorsement or by reinstatement.

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

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# Notices of Intended Regulatory Action

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

Public Comments: Public comments may be submitted until 5 p.m. on April 16, 2008.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone 804-367-4630, FAX 804-527-4413, or email lisa.hahn@dhp.virginia.gov.

VA.R. Doc. No. R08-1218; Filed March 3, 2008, 12:57 p.m.

Richmond, VA 23233, telephone 804-662-4426, FAX 804-527-4471, or email elizabeth.carter@dhp.virginia.gov.

VA.R. Doc. No. R08-1217; Filed March 3, 2008, 12:19 p.m.

## BOARD OF OPTOMETRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Optometry intends to consider amending the following regulations: **18VAC105-20, Regulations of the Virginia Board of Optometry**. The purpose of the proposed action is to clarify and amend the unprofessional conduct section to establish standards of conduct.

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

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

Public Comments: Public comments may be submitted until 5 p.m. on April 16, 2008.

Agency Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone 804-367-4426, FAX 804-527-4466, or email elizabeth.carter@dhp.virginia.gov.

VA.R. Doc. No. R08-1098; Filed February 25, 2008, 11:42 a.m.

## BOARD OF VETERINARY MEDICINE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending the following regulations: **18VAC150-20, Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to consider comments received on fast-track regulations relating to equine dentistry requirements.

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

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

Public Comments: Public comments may be submitted until 5 p.m. on April 16, 2008.

Agency Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300,

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 3. ALCOHOLIC BEVERAGES

### ALCOHOLIC BEVERAGE CONTROL BOARD

#### Fast-Track Regulation

Title of Regulation: **3VAC5-70. Other Provisions (amending 3VAC5-70-220).**

Statutory Authority: §§4.1-103, 4.1-111, 4.1-207 and 4.1-209.1 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until April 16, 2008.

Effective Date: May 1, 2008.

Agency Contact: Jeffrey L. Painter, Legislative and Regulatory Coordinator, Department of Alcoholic Beverage Control, Post Office Box 27491, Richmond, VA 23261, telephone (804) 213-4621, FAX (804) 213-4411, TTY (804) 213-4687, or email jeffrey.painter@abc.virginia.gov.

Basis: Section 4.1-209.1 of the Code of Virginia provides that the Alcoholic Beverage Control Board may promulgate such regulations as it deems necessary to implement the provisions of the section that sets forth the requirements for shipments of wine or beer to consumers by wine or beer shipper licensees.

Purpose: The proposed amendments to 3VAC5-70-220 are necessary to conform the regulation with amendments to the Code of Virginia made by the 2007 General Assembly. This action promotes the health, safety or welfare of citizens by insuring the proper collection of the public revenue and helping to insure that alcoholic beverages are not shipped and delivered to those under the legal age, intoxicated persons, or interdicted persons.

Rationale for Using Fast-Track Process: The proposed action makes no substantive changes to the current regulation, except those mandated by action of the General Assembly.

Substance: Throughout 3VAC5-70-220, any recordkeeping or reporting requirements presently applied to wine or beer shippers will be amended by the addition of a reference to Internet wine retailers, who are also subject to these requirements. Subsection A of the section will also be amended to change a code section reference for a statute renumbered by action of the General Assembly, and to allow any wholesale distributor authorized to distribute a brand to provide a letter consenting to a wine or beer shipper or an

Internet wine retailer shipping the brand to Virginia consumers.

Issues: There are no disadvantages to the public or the Commonwealth associated with the proposed action. The primary advantage to the public, the agency and the Commonwealth is that the agency's regulations will come into conformity with the new Code provisions.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Code of Virginia §4.1-209.1, the Alcoholic Beverage Control Board (ABC) proposes to amend its Other Provisions regulation so that wholesale distributors may provide consent for non brand-owner shippers and Internet wine retailers to ship wine or beer directly to Virginia consumers. Pursuant to Chapter 558 of the 2007 Act of the Assembly, ABC also proposes to amend this regulation to reflect a statutory requirement that Internet wine retailers follow the same record keeping and reporting standards as wine and beer shippers.

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

Estimated Economic Impact. Until recently, there was no provision in the Code of Virginia that allowed wine and beer to be sold via the Internet and shipped to individual consumers in the Commonwealth. The Code of Virginia also, until this year, only allowed beer and wine shippers to get permission from the brand owners to ship their brands of beer and wine.

In 2007, the General Assembly passed legislation that sets fees, definitions and requirements for licensure of Internet wine retailers and sets rules for selling beer and wine directly to consumers. They also passed legislation that allows authorized wholesale distributors to give written permission to shippers so that they can ship the beer and wine brands that these wholesalers carry. As directed by this legislation, ABC is modifying its regulation to reflect these statutory changes.

Allowing Internet wine retailers (and beer and wine shippers in general) to sell, and ship, directly to individual consumers is likely to benefit both the sellers and buyers for these transactions. Internet wine retailers and beer and wine shippers will likely be able to earn greater revenue, and likely greater profits, from selling directly to individuals that want their product. Consumers will benefit from having more choice in where they are able to buy wine and beer. Opening up this market is also likely to increase competition for



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# Regulations

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customers which may, in turn, lower the prices that consumers have to pay for these products. To the extent that individual consumers substitute Internet purchases for local retail purchases, brick and mortar stores that have been, until now, the only source of wine and beer for off site consumption will likely experience decreases in revenue.

In order to enter this market, Internet wine retailers will have to pay a (statutorily set) \$150 licensure fee and will have to follow the same bookkeeping requirements that beer and wine shippers currently follow. These standards require licensed entities to maintain, for two years after a sale, information on

- 1) The number of containers shipped,
- 2) The volume of the containers that were shipped,
- 3) The brand of beer or wine that was shipped,
- 4) The names and addresses of recipients of the shipment and
- 5) The prices charged.

Each month, Internet wine retailers will also have to file a report, with the tax management section of ABC, which lists all of the above required information for any orders shipped during the calendar month previous to the filing.

Allowing wholesale distributors, and not just brand owners, to give permission for shippers and Internet retailers to sell the brands that they distribute will likely benefit shippers and retailers as well as their customers. Shippers and retailers will likely find it easier to get permission to sell any given brand of beer or wine now that they can get that permission from multiple sources. This may mean that they will be able to offer a wider variety of products to consumers who would, presumably, prefer more choice to less.

**Businesses and Entities Affected.** This proposed regulation will affect all 630 currently licensed beer and wine shippers as well as future holders of shipper or Internet wine retailer licenses. Brick and mortar sellers of wine and beer, as well as Virginia consumers of these products, will also be affected.

**Localities Particularly Affected.** No locality will be particularly affected by this proposed regulatory action.

**Projected Impact on Employment.** As this regulation, and applicable statutes, allow commercial activity that was formerly banned, jobs linked with Internet wine and beer sales will likely be created in the Commonwealth. The impact of these new jobs on total employment may be blunted to the extent that Internet sales of wine and beer replace, rather than augment, in-store sales. If this happens, job losses at brick and mortar wine and beer shops may partially offset the new jobs created.

**Effects on the Use and Value of Private Property.** The Internet sales allowed by this regulation, and applicable statutes, will likely increase revenue for licensed wine and

beer shippers and Internet wine retailers. This will likely increase profits for licensees who choose to sell wine and beer over the Internet. To the extent that individual consumers substitute Internet purchases for local retail purchases, brick and mortar stores that have been, until now, the only source of wine and beer for off site consumption will likely experience decreases in revenue.

**Small Businesses: Costs and Other Effects.** The Commonwealth currently licenses 630 beer and wine shippers; 95% of these shippers qualify as small businesses. These shippers will not incur any extra costs on account of this regulation. The Commonwealth does not currently license any Internet wine retailers, although ABC has already received two applications for such licenses. These future licensees will be subject to the same recordkeeping requirements as wine and beer shippers.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** The requirements of this proposed regulation are mandated by statute and loosen restrictions on Internet wine and beer sales. Holders of wine and beer shipper licenses, and Internet wine retailer licenses, are very likely to benefit from these changes.

**Real Estate Development Costs.** This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

**Legal Mandate.** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, §2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

[Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage](#)

Control Board concurs with the economic impact analysis of the Department of Planning and Budget.

**Summary:**

*Chapter 558 of the 2007 Acts of Assembly created a new Internet wine retailer license, which authorizes the licensee to take orders and ship wine directly to consumers in accordance with §4.1-112.1 of the Code of Virginia (now §4.1-209.1), the section that sets forth the process for direct shipments to consumers by holders of wine or beer shipper's licenses. The purpose of this action is to amend 3VAC5-70-220, dealing with recordkeeping and reporting requirements for wine or beer shippers, to acknowledge that these procedures must now also be followed by Internet wine retailers. In addition, the proposed amendments conform the regulation to amendments made by the General Assembly to the wine and beer shipper's license statute, changing the section number reference to its new designation and allowing nonbrand owner applicants to obtain authorization for direct shipment of a brand of wine or beer from any wholesale distributor authorized to distribute the brand.*

**3VAC5-70-220. Wine or beer shipper's licenses and Internet wine retailer licenses; application process; common carriers; records and reports.**

A. Any person or entity qualified for a wine shipper's license or beer shipper's license pursuant to ~~§4.1-112.1~~ §4.1-209.1 of the Code of Virginia, or an Internet wine retailer license pursuant to subdivision 6 of §4.1-207 of the Code of Virginia, must apply for such license by submitting form 805-52, Application for License. In addition to the application, each applicant shall submit as attachments a list of all brands of wine or beer sought to be shipped by the applicant, along with the board-assigned code numbers for each brand or a copy of the label approval by the appropriate federal agency for any brand not previously approved for sale in Virginia pursuant to 3VAC5-40-20 or 3VAC5-40-50 that will be sold only through direct shipment to consumers.

~~Except as provided in subsection B of §4.1-112.1 of the Code of Virginia, if~~ If the applicant is not also the brand owner of the brands listed in the application, the applicant shall obtain and submit with the application a dated letter identifying each brand, from the brand owner ~~for each brand or any wholesale distributor authorized to distribute the brand~~, addressed to the Supervisor, Tax Management Section, Virginia Department of Alcoholic Beverage Control, indicating the brand owner's or wholesale distributor's consent to the applicant's shipping the brand to Virginia consumers.

The applicant shall attach (i) a photocopy of its current license as a winery, farm winery, brewery, or alcoholic beverage retailer issued by the appropriate authority for the location from which shipments will be made and (ii) evidence

of the applicant's registration with the Virginia Department of Taxation for the collection of Virginia retail sales tax.

B. Any brewery, winery or farm winery that applies for a shipper's license or consents to the application by any other person, other than a retail off-premises licensee, for a license to ship such brewery's, winery's or farm winery's brands of wine or beer shall notify all wholesale licensees that have been authorized to distribute such brands in Virginia that an application for a shipper's license has been filed. Such notification shall be by a dated letter to each such wholesale licensee, setting forth the brands that wholesaler has been authorized to distribute in Virginia for which a shipper's license has been applied. A copy of each such letter shall be forwarded to the Supervisor, Tax Management Section, by the brewery, winery, or farm winery.

C. Any holder of a wine or beer shipper's license or Internet wine retailer's license may add or delete brands to be shipped by letter to the Supervisor, Tax Management Section, designating the brands to be added or deleted. Any letter adding brands shall be accompanied by any appropriate brand-owner consents or notices to wholesalers as required with an original application.

D. Any brand owner that consents to a holder of a wine shipper's license ~~or~~, beer shipper's license, or Internet wine retailer's license shipping its brands to Virginia consumers may withdraw such consent by a dated letter to the affected wine or beer shipper's licensee or Internet wine retailer's licensee. Copies of all such withdrawals shall be forwarded by the brand owner, by certified mail, return receipt requested, to the Supervisor, Tax Management Section. Withdrawals shall become effective upon receipt of the copy by the Tax Management Section, as evidenced by the postmark on the return receipt.

E. Wine shipper's licensees ~~and~~, beer shipper's licensees, and Internet wine retailer's licensees shall maintain for two years complete and accurate records of all shipments made under the privileges of such licenses, including for each shipment:

1. Number of containers shipped;
2. Volume of each container shipped;
3. Brand of each container shipped;
4. Names and addresses of recipients; and
5. Price charged.

The records required by this subsection shall be made available for inspection and copying by any member of the board or its special agents upon request.

F. On or before the 15th day of each month, each wine shipper's licensee ~~or~~, beer shipper's licensee, or Internet wine retailer's licensee shall file with the Supervisor, Tax

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Management Section, a report of activity for the previous calendar month. Such report shall include:

1. Whether any shipments were made during the month; and
2. If shipments were made, the following information for each shipment:
  - a. Number of containers shipped;
  - b. Volume of each container shipped;
  - c. Brand of each container shipped;
  - d. Names and addresses of recipients; and
  - e. Price charged.

Unless otherwise paid, payment of the appropriate beer or wine tax shall accompany each report.

G. All shipments by holders of wine shipper's licenses ~~or~~, beer shipper's licenses, or Internet wine retailer's licenses shall be by approved common carrier only. Common carriers possessing all necessary licenses or permits to operate as common carriers in Virginia may apply for approval to provide common carriage of wine or beer, or both, shipped by holders of wine shipper's licenses ~~or~~, beer shipper's licenses, or Internet wine retailer's licenses by dated letter to the Supervisor, Tax Management Section, requesting such approval and agreeing to perform deliveries of beer or wine shipped, maintain records, and submit reports in accordance with the requirements of this section. The board may refuse, suspend or revoke approval if it shall have reasonable cause to believe that a carrier does not possess all necessary licenses or permits, that a carrier has failed to comply with the regulations of the board, or that a cause exists with respect to the carrier that would authorize the board to refuse, suspend or revoke a license pursuant to Title 4.1 of the Code of Virginia. Before refusing, suspending, or revoking such approval, the board shall follow the same administrative procedures accorded an applicant or licensee under Title 4.1 of the Code of Virginia and regulations of the board.

H. When attempting to deliver wine or beer shipped by a wine shipper's ~~or~~ licensee, beer shipper's licensee, or Internet wine retailer's licensee, an approved common carrier shall require:

1. The recipient to demonstrate, upon delivery, that he is at least 21 years of age; and
2. The recipient to sign an electronic or paper form or other acknowledgement of receipt that allows the maintenance of the records required by this section.

The approved common carrier shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification. All licensees shipping wine or beer pursuant to this section shall affix a conspicuous notice in 16-point type or larger to the outside of

each package of wine or beer shipped within or into the Commonwealth, in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY." Such notice shall also contain the wine shipper's ~~or~~, beer shipper's, or Internet wine retailer's license number of the shipping licensee. No approved common carrier shall accept for shipment any wine or beer to be shipped to anyone other than a licensee of the board unless the package bears the information required by this subsection.

I. Approved common carriers shall maintain for two years complete and accurate records of all shipments of wine or beer received from and delivered for wine or beer shipper's licensees, or Internet wine retailer's licensees, including for each shipment:

1. Date of shipment and delivery;
2. Number of items shipped and delivered;
3. Weight of items shipped and delivered;
4. Acknowledgement signed by recipient; and
5. Names and addresses of shippers and recipients.

The records required by this subsection shall be made available for inspection and copying by any member of the board or its special agents upon request.

J. On or before the 15th day of each January, April, July, and October, each approved common carrier shall file with the Supervisor, Tax Management Section, a report of activity for the previous calendar quarter. Such report shall include:

1. Whether any shipments were delivered during the quarter; and
2. If shipments were made, the following information for each shipment:
  - a. Dates of each delivery; and
  - b. Names and address of shippers and recipients for each delivery.

VA.R. Doc. No. R08-927; Filed February 27, 2008, 10:59 a.m.



## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Fast-Track Regulation

**Title of Regulation: 13VAC5-21. Virginia Certification Standards (amending 13VAC5-21-10, 13VAC5-21-20, 13VAC5-21-31, 13VAC5-21-41, 13VAC5-21-45, 13VAC5-21-51, 13VAC5-21-61).**

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

**Public Hearing Information:** No public hearings are scheduled.

**Public Comments:** Public comments may be submitted until 5 p.m. on April 16, 2008.

**Effective Date:** May 1, 2008.

**Agency Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

**Basis:** The statutory authority for these regulatory changes is contained in §36-137 of the Code of Virginia, which provides that the board shall "make such rules and regulations as may be necessary to carry out its responsibilities." The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the building and fire regulations of the department, which state law requires keeping up to date, the board updates this regulation whenever updating the building and fire regulations.

**Purpose:** The rationale and justification for these regulatory changes to the Virginia Certification Standards from the standpoint of the public's health, safety and welfare is to assure that the regulations are written in the plainest understandable language possible and that the regulations are correlated with the department's building and fire regulations thus eliminating potential conflicts in the application of the regulations.

**Rationale for Using Fast-Track Process:** As the regulatory changes to the Virginia Certification Standards do not contain substantive matters or changes and will better correlate the regulations with the department's building and fire regulations and facilitate a more uniform application and interpretation of the regulations, the fast-track regulatory changes are expected to be noncontroversial.

**Substance:** The changes to the Virginia Certification Standards do not contain substantive matters or changes.

**Issues:** The primary advantage to the public of this action is that the regulation will provide the least possible necessary regulation of persons who are required to obtain, or who choose to obtain, certificates by the Board of Housing and Community Development for performing inspections under the building and fire regulations of the board.

There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action.

There are no disadvantages to the public or to the Commonwealth resulting from this action.

#### **The Department of Planning and Budget's Economic Impact Analysis:**

**Summary of the Proposed Amendments to Regulation.** The Board of Housing and Community Development (Board) proposes to amend its Virginia Certification Standards regulation to provide greater clarity to its regulants. Specifically, the Board proposes to insert relevant Code of Virginia references, remove redundant and unnecessary references to the Board and refer, in the regulatory text, to the Department of Housing and Community Development as "the Department" rather than "DHCD." In addition to making clerical changes to Virginia Certification Standards, the Board is taking this regulatory action so that the public can comment on whether further changes are needed to make this regulation consistent with concurrently promulgated Uniform Statewide Building Code (USBC) regulations.

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

**Estimated Economic Impact.** Individuals and businesses that are subject to this regulation are unlikely to incur any costs on account of the regulatory changes currently proposed by the Board in this action. These entities, as well as other interested individuals, will likely benefit from having the opportunity to comment on how this regulation may be affected by changes to the USBC.

**Businesses and Entities Affected.** Individuals and businesses who currently hold Board issued certificates, or will hold these certificates in the future, will be affected by these regulatory changes.

**Localities Particularly Affected.** No locality will be particularly affected by these regulatory changes.

**Projected Impact on Employment.** These regulatory changes are unlikely to affect employment in the Commonwealth.

**Effects on the Use and Value of Private Property.** These regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

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Small Businesses: Costs and Other Effects. Businesses that are subject to this regulation are unlikely to incur any costs on account of these regulatory changes.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Businesses that are subject to this regulation are unlikely to incur any costs on account of these regulatory changes.

Real Estate Development Costs. Real estate development costs are unlikely to be affected by these regulatory changes.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, §2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

## Summary:

*The amendments insert relevant Code of Virginia references, remove redundant and unnecessary references to the board, and refer in the regulatory text to the Department of Housing and Community Development as "the department" rather than "DHCD."*

## **13VAC5-21-10. Definitions.**

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

"Applicant" means a person seeking a certificate ~~from the BHCD~~.

"BCAAC" means the Building Code Academy Advisory Committee appointed ~~by the BHCD under~~ pursuant to subdivision 7 of §36-137 of the Code of Virginia.

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

"Certificate" means a certificate of competence issued pursuant to subdivision 6 of §36-137 of the Code of Virginia concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the BHCD and issued to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§36-97 et seq.) of Title 36 of the Code of Virginia, Chapter 9 (§27-94 et seq.) of Title 27 of the Code of Virginia, and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.

"Certificate holder" means a person to whom ~~the BHCD has issued~~ a certificate has been issued.

"Code academy" means the Virginia Building Code Academy established under subdivision 14 of §36-139 of the Code of Virginia or individual or regional training academies accredited by ~~DHCD~~ the department pursuant to subdivision 7 of §36-137 of the Code of Virginia.

"DFP" means the Virginia Department of Fire Programs.

~~"DHCD"~~ "Department" means the Virginia Department of Housing and Community Development.

"SFPC" means the Virginia Statewide Fire Prevention Code (13VAC5-51).

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

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

"VADR" means the Virginia Amusement Device Regulations (13VAC5-31).

B. Words and terms used in this chapter that are defined in the USBC, VADR or SFPC and that are not defined in this chapter shall have the meaning ascribed to them in those regulations unless the context clearly indicates otherwise.

## **13VAC5-21-20. Purpose.**

The purpose of this chapter is to establish standards for applicants for a ~~BHCD~~ certificate and standards to be used by ~~DHCD~~ the department in the evaluation and determination of a person's eligibility for the issuance of ~~BHCD~~ certificates.

**13VAC5-21-31. Qualification and examination requirements.**

A. An applicant for a ~~BHCD~~ certificate in categories associated with the USBC or the SFPC shall provide a written endorsement from the code official or the code official's supervisor in the locality in which they are employed certifying that the applicant complies with the qualification section in the USBC or the SFPC for each type of certificate sought. When the applicant for a ~~BHCD~~ certificate in categories associated with the USBC or the SFPC is a nongovernment employee, the applicant shall provide documentation that the applicant complies with the qualification section in the USBC or the SFPC as it would relate to the applicant's job responsibilities for each type of certificate sought.

B. An applicant for a ~~BHCD~~ certificate in categories associated with the VADR shall provide a written endorsement from the applicant's supervisor or a person having a similar relationship to the applicant certifying that the applicant is generally qualified to conduct activities related to the VADR.

C. Applicants for all ~~BHCD~~ certificates shall provide proof of successful completion of approved examinations for each ~~type of certificate sought~~, except as provided for in 13VAC5-21-45. ~~DHCD~~ The department shall maintain a list of approved testing agencies and examinations that meet nationally accepted standards for each ~~type of certificate offered~~. For information on approved testing agencies and examinations contact: ~~DHCD, Division of Building and Fire Regulation~~ the department's Technical Assistance Services Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7180.

**13VAC5-21-41. Certification categories and training requirements.**

A. ~~DHCD shall maintain~~ The department maintains a list of all ~~BHCD certification categories certificates offered~~ and the list ~~shall set~~ sets out the required training necessary to attend and complete to obtain a certificate. This section also contains specific training requirements for some ~~certification categories certificates offered~~ that may be duplicated on the list or that may be in addition to those ~~set out~~ on the list. Alternatives to the training requirements set out in 13VAC5-21-45 shall be permitted for all ~~categories on the list certificates offered~~ except that no alternative shall be accepted for the code academy core module.

~~For further information on BHCD certification categories and required training, contact: DHCD, Division of Building and Fire Regulation, 501 N. 2nd St., Richmond, VA 23219, (804) 371-7180.~~

B. Applicants for all ~~BHCD~~ certificates shall attend and complete the code academy core module. In addition to the

completion of the core module, applicants for the following ~~categories of BHCD certification certificates~~ are required to attend and complete the following code academy training, except as provided for in 13VAC5-21-45:

<del>Category of BHCD Certification Certificate</del>	Code Academy Training
Building official	Advanced official module
Fire official	Advanced official module and the 1031 school as administered by DFP
Building maintenance official	Advanced official module and the property maintenance module
Fire prevention inspector	The 1031 school as administered by DFP
Amusement device inspector	Amusement device inspection module

**13VAC5-21-45. Alternatives to examination and training requirements.**

A. An applicant for a ~~BHCD~~ certificate with the written endorsement or documentation required by 13VAC5-21-31 may submit a written request to ~~DHCD~~ the department to approve an equivalent examination by a testing agency not on the list of approved testing agencies ~~maintained by DHCD~~ to satisfy the examination requirements of 13VAC5-21-31. ~~DHCD may request the assistance of BCAAC~~ may be consulted with in any such consideration.

B. Upon written ~~application by any applicant for a BHCD certificate~~, ~~DHCD may approve request~~, alternative training or a combination of training, education or experience to satisfy the training requirements of 13VAC5-21-41 may be approved, provided that such alternatives or combinations are determined to be equivalent to that required. However, as provided in 13VAC5-21-41, no substitutions shall be approved for the code academy core module. The types of combinations of education and experience may include military training, college classes, technical schools or long-term work experiences, except that long-term work experiences shall not be approved as the sole substitute to satisfy the training requirements. ~~DHCD may request the assistance of BCAAC~~ may be consulted with in any such consideration.

**13VAC5-21-51. Issuance of certificates.**

A. Certificates will be issued when ~~DHCD determines~~ an applicant has complied with the applicable requirements of this chapter ~~for the certification sought~~. Certificate holders will be classified by ~~DHCD~~ as active or inactive. An active certificate holder is a person who is certified and who has attended all periodic training courses designated by ~~DHCD~~

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the department subsequent to becoming certified. An inactive certificate holder is a person who is certified but has not attended all such training courses. An inactive certificate holder may request reinstatement ~~from DHCD~~ as an active certificate holder after completing make-up training courses authorized by ~~DHCD~~ the department. ~~DHCD may also issue provisional~~ Provisional certificates may also be issued in accordance with subsection C of this section.

B. All certificates issued ~~by the BHCD~~ since June 1978 are considered to be valid unless revoked or suspended ~~by the BHCD~~, except that provisional certificates shall remain valid as set out under subsection C of this section.

C. A provisional certificate may be issued ~~by the BHCD~~ to (i) a person who has been directed by the ~~BHCD~~ department to obtain a certificate; (ii) an applicant requesting a certificate under the alternative examination or training provisions of 13VAC5-21-45; or (iii) an applicant when the required ~~DHCD or DFP~~ training has not been provided or offered.

Such a provisional certificate may be issued when the applicant has (i) provided the written endorsement or documentation required by 13VAC5-21-31, (ii) satisfactorily completed the code academy core module, and (iii) completed any training through the code academy or through other providers determined ~~by DHCD~~ to warrant the issuance of the provisional certificate.

The provisional certificate is valid for a period of one year after the date of issuance and shall only be issued once to any individual, except that a provisional certificate shall remain valid when the required ~~DHCD or DFP~~ training has not been provided or offered.

## 13VAC5-21-61. Sanctions.

When the BHCD determines a certificate holder has failed to comply with an order issued by the State Review Board or failed to meet the required training or testing requirements, ~~then~~ a warning letter may be issued ~~and kept in records by DHCD for that individual~~ to the certificate holder or a certificate ~~issued under this chapter~~ may be revoked or suspended by the BHCD. A record of any action taken pursuant to this section shall be retained in the training record of the certificate holder.

VA.R. Doc. No. R08-655; Filed February 22, 2008, 3:01 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to §36-98.3 of the Code of Virginia provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed

regulation and provides an opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

**Title of Regulation:** **13VAC5-31. Virginia Amusement Device Regulations (amending 13VAC5-31-20 through 13VAC5-31-50, 13VAC5-31-200, 13VAC5-31-210, adding 13VAC5-31-75, 13VAC5-31-85, 13VAC5-31-215 through 13VAC5-31-270; repealing 13VAC5-31-70 through 13VAC5-31-170).**

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

**Effective Date:** May 1, 2008.

**Agency Contact:** Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone 804-371-7015, FAX 804-371-7090, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

## Summary:

*The amendments (i) incorporate the newest editions of the nationally recognized standards into the regulations, (ii) add a new standard developed specifically for bumper boats, (iii) add minimum continuing education requirements for amusement device inspectors certified by the Board of Housing and Community Development, (iv) clarify that reporting of accidents involving serious injury or death is only necessary when the situation involves patrons of a ride, (v) clarify exemptions from the regulations to include new language for water slides used in community club swimming pools, (vi) combine the owner and operator responsibilities with the local building department responsibilities to provide a more logical arrangement of the requirements without any substantive changes, (vii) change the liability insurance requirements based on standard industry practice and standardize wording of the requirements, (viii) add a requirement that the local building department personnel verify that a private inspector being utilized to inspect amusement devices is properly certified under the board's amusement device inspector certification program, (ix) permit small inflatable amusement devices to be set up and operated without a permit or inspection provided a valid inspection sticker is still on the device; (x) allow for rock climbing walls that have a valid certification of inspection to be moved and set up at a different location provided the certificate of inspection was issued within the past 90 days and provide that wire ropes used with a rock climbing wall must not expire during the 90-day permit timeframe, and (xi) move the bungee jumping requirements to the end of the regulation without any substantive changes.*

**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.

**13VAC5-31-20. Definitions.**

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

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways.

"Bungee cord" means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

"Carabineer" means a shaped metal device with a gate used to connect sections of a bungee cord, jump rigging, equipment, or safety gear.

"DHCD" means the Virginia Department of Housing and Community Development.

"Gravity ride" means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

"Ground operator" means a person who assists the jump master to prepare a jumper for jumping.

"Harness" means an assembly to be worn by a bungee jumper to be attached to a bungee cord. It is designed to prevent the wearer from becoming detached from the bungee system.

"Jump master" means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

"Jump zone" means the space bounded by the maximum designed movements of the bungee jumper.

"Jumper" means the person who departs from a height attached to a bungee system.

"Landing area" means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the bungee jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

"Local building department" means the agency or agencies of the governing body of any city, county or town in this Commonwealth charged with the enforcement of the USBC.

"Operating manual" means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

"Passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or ropes, and usually supported by trestles or towers with one or more spans.

"Platform" means the equipment attached to the structure from which the bungee jumper departs.

"Private inspector" means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in an amusement device being inspected.

"Ultimate tensile strength" means the greatest amount of load applied to a bungee cord prior to failure.

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

B. Words and terms used in this chapter which are defined in the USBC shall have the meaning ascribed to them in that regulation unless the context clearly indicates otherwise.

C. Words and terms used in this chapter which are defined in the standards incorporated by reference in this chapter shall have the meaning ascribed to them in those standards unless the context clearly indicates otherwise.

**13VAC5-31-30. Exemptions.**

The following equipment or devices shall not be considered amusement devices subject to this chapter:

1. Nonmechanized playground or recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps and similar equipment where no admission fee is charged for its use or for admittance to areas where the equipment is located and three or less passenger, coin-operated ;

2. Coin-operated rides shall not be amusement devices subject to this chapter designed to accommodate three or less passengers; and

3. Water slides or similar equipment used in community association, community club or community organization swimming pools.

**13VAC5-31-40. Incorporated standards.**

A. The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. ~~B77.1-1999~~ B77.1-2006 for the regulation of passenger tramways; and

2. American Society for Testing and Materials (ASTM) Standard Nos. F698-94 ~~(2000)~~ (Reapproved 2000), ~~F747-97~~ F747-06, ~~F770-93~~ (2000) F770-06a, F846-92 ~~(2003)~~ (Reapproved 2003), ~~F853-04~~ F853-05, ~~F893-04~~ F893-05a, F1159-03a, ~~F1193-04~~ F1193-06, F1305-94 ~~(2002)~~



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(Reapproved 2002), F1950-99, F1957-99 (Reapproved 2004), ~~F2007-00 F2007-06, F2137-01 F2137-04, F2291-04 and F2374-04 F2291-06a, [ F2374-06 and F2374-07a ] F2376-06 [and F2460-06]~~ for the regulation of amusement devices.

The standards referenced above may be procured from:

ANSI	ASTM
25 W 43rd Street	100 Barr Harbor Dr.
New York, NY	West Conshohocken, PA
10036	19428-2959

B. The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

C. The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;
2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and (ii) one operator is permitted to operate two kiddie rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and
3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

## [ 13VAC5-31-50. Certification of amusement device inspectors.

A. Any person, including local building department personnel, inspecting an amusement device relative to a certificate of inspection shall possess a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development.

B. Local building department personnel enforcing this chapter and private inspectors shall attend 16 hours every two years of continuing education and periodic training courses as designated and approved or required by DHCD. ~~Additional~~

~~continuing education hours shall not be required if more than one certificate is held. ]~~

## Part II

### Owner or Operator Responsibilities Enforcement, Permits and Certificates of Inspection

#### **13VAC5-31-70. Inspections. (Repealed.)**

~~The owner or operator of an amusement device shall be permitted to engage a private inspector to provide the necessary inspections for obtaining a certificate of inspection for an amusement device. If a private inspector is to be used, the owner or operator shall notify the responsible local building department as soon as practical. If a private inspector is not to be used, the owner or operator shall give reasonable notice to the responsible local building department when an inspection for issuing a certificate of inspection is sought. The owner or operator may designate the specific day for the inspection to take place provided it is during the local building department's normal work week.~~

#### **13VAC5-31-75. Local building department.**

A. In accordance with §§36-98.3 and 36-105 of the Code of Virginia, the local building department shall be responsible for the enforcement of this chapter and may charge fees for such enforcement activity. The total amount charged for any one permit to operate an amusement device or devices or the renewal of such permit shall not exceed the following, except that when a private inspector is used, the fees shall be reduced by 50%:

1. \$25 for each kiddie ride covered by the permit;
2. \$35 for each circular ride or flat-ride less than 20 feet in height covered by the permit;
3. \$55 for each spectacular ride covered by the permit that cannot be inspected as a circular ride or flat-ride in subdivision 2 of this subsection due to complexity or height; and
4. \$150 for each coaster covered by the permit that exceeds 30 feet in height.

B. Notwithstanding the provisions of subsection A of this section, when an amusement device is constructed in whole or in part at a site for permanent operation at that site and is not intended to be disassembled and moved to another site, then the local building department may utilize permit and inspection fees established pursuant to the USBC to defray the cost of enforcement. This authorization does not apply to an amusement device that is only being reassembled, undergoing a major modification at a site or being moved to a site for operation.

C. A permit application shall be made to the local building department at least five days before the date in which the applicant intends to operate an amusement device. The application shall include the name of the owner, operator or

other person assuming responsibility for the device or devices, a general description of the device or devices including any serial or identification numbers available, the location of the property on which the device or devices will be operated and the length of time of operation. The permit application shall indicate whether a private inspector will be utilized. If a private inspector is not utilized, the applicant shall give reasonable notice when an inspection is sought and may stipulate the day such inspection is requested provided it is during the normal operating hours of the local building department. In addition to the information required on the permit application, the applicant shall provide proof of liability insurance of an amount not less than \$100,000 per person and \$1,000,000 in the aggregate for each amusement device insuring the owner or operator against liability for injury suffered by persons riding the amusement device or by persons in, on, under or near the amusement device; or proof of equivalent financial responsibility. The local building department shall be notified of any change in the liability insurance or financial responsibility during the period covered by the permit.

D. Notwithstanding the provisions of subsection C of this section, a permit application is not required for a kiddie ride in which the passenger height is 54 inches or less, the design capacity is for 12 passengers or less and that can be assembled in two hours or less, provided the kiddie ride has an unexpired certificate of inspection issued by any local building department in this Commonwealth. In such cases, the local building department shall be notified prior to the operation of the kiddie ride and the information required on a permit application as listed in subsection C of this section shall be provided to the local building department.

E. Local building department personnel shall examine the permit application within five days and issue the permit if all requirements are met. A certificate of inspection for each amusement device shall be issued when the device has been found to comply with this chapter by a private inspector or by an inspector from the local building department. It shall be the responsibility of the local building department to verify that the private inspector possesses a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development. In addition, local building department personnel shall be responsible for assuring that the certificate of inspection is posted or affixed on or in the vicinity of the device in a location visible to the public. Permits shall indicate the length of time the device or devices will be operated at the site, clearly identify the device or devices to which it applies and the date of expiration of the permit. Permits shall not be valid for longer than one year.

F. In addition to obtaining a certificate of inspection in conjunction with a permit application, a new certificate of inspection shall also be obtained prior to the operation of an

amusement device following a major modification, prior to each seasonal operation of a device and prior to resuming the operation of a device following an order from a local building department to cease operation. This requirement shall not apply to kiddie rides meeting the conditions outlined in subsection D of this section.

G. For amusement devices manufactured prior to 1978, the owner or operator shall have the information required by §§2.1 through 2.6 of ASTM F628 available at the time of inspection. In addition, the operator of any amusement device shall be responsible for obtaining all manufacturer's notifications, service bulletins and safety alerts issued pursuant to ASTM F853 and the operator shall comply with all recommendations and requirements set out in those documents. A copy of all such documents shall be made available during an inspection.

H. In the enforcement of this chapter, local building department personnel shall have authority to conduct inspections at any time an amusement device would normally be open for operation or at any other time if permission is granted by the owner or operator, to issue an order to temporarily cease operation of an amusement device upon the determination that the device may be unsafe or may otherwise endanger the public and to accept and approve or deny requests for modifications of the rules of this chapter in accordance with the modification provisions of the USBC.

### **13VAC5-31-80. ~~Owner or operator responsibilities. (Repealed.)~~**

~~In addition to other applicable requirements of this chapter, the owner or operator of an amusement device or devices shall be responsible for the following:~~

- ~~1. Submitting a permit application to the responsible local building department at least five days before a permit to operate, or renewal of a permit to operate, is sought. The permit application shall include (i) the name of the owner, operator or other person assuming responsibility; (ii) a general description of the device or devices to be permitted; (iii) any relevant serial or identification numbers; (iv) the location of the property on which the device or devices will be operated; and (v) the length of time the device or devices will be operating at the site;~~
- ~~2. Submitting an application for modification of any provision of this chapter when a modification is sought due to practical difficulties involved in complying with this chapter. The application for modification shall include documentation outlining the practical difficulties and method proposed to protect the public health, safety and welfare;~~
- ~~3. Submitting to the responsible local building department before or with the application for a permit to operate, or renewal of a permit to operate, proof of liability insurance~~

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of an amount not less than \$500,000 per occurrence or proof of equivalent financial responsibility and notifying the responsible local building department promptly of any change in the liability insurance or financial responsibility status during the period of operation to be, or which is, authorized by the permit;

4. Obtaining a permit to operate from the responsible local building department prior to operation or obtaining the renewal of a permit to operate when necessary prior to continued operation. Notwithstanding the above, a permit for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site. However, in such cases, the responsible local building department shall be notified prior to operation and such notification shall include the information required on a permit application as stipulated in subdivision 1 of this subsection;

5. Making available to the inspector at the time of inspection for a certificate of inspection the information listed in §§2.1 through 2.6 of ASTM F698 when an amusement device was manufactured prior to 1978;

6. The operator of an amusement device shall review promptly upon receipt all manufacturer's notifications, service bulletins and safety alerts relating to such amusement device issued pursuant to ASTM F853. The operator of the amusement device shall comply with all recommendations and requirements set out in such documents as required by ASTM F853. A copy of each such document shall be retained by the operator. Whenever such amusement device is inspected pursuant to these regulations, the operator of the amusement device shall present each such document to the inspector. It is the responsibility of the operator of an amusement device to maintain contact with the manufacturer to insure that the manufacturer knows which devices are operated by the operator and to insure that the manufacturer has the current address of the operator.

7. Obtaining a certificate of inspection from the responsible local building department (i) prior to initial operation; (ii) prior to operation following a major modification; (iii) prior to each seasonal operation; (iv) at least once a year if operated more than seasonally; and (v) prior to resuming operation following an order from the local building department to cease operation. Notwithstanding the above, a certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less

need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site; and

8. Ceasing operation upon receipt of a temporary order to cease operation issued by the responsible local building department.

## **13VAC5-31-85. Accidents involving serious injury or death.**

A. If an accident involving [ the ] serious injury or death [ of a patron ] occurs, the operation of an amusement device shall cease and the local building department shall be notified as soon as practicable, but in no case later than during the next working day. The operation of the device shall not resume until inspected by a private inspector or an inspector from the local building department, except where the owner or operator determines the cause was not related to malfunction or improper operation of the amusement device.

B. The owner or operator shall conduct an investigation of the accident including, at a minimum, an examination of the accident scene and interviews of any witnesses or persons involved in the accident. An accident investigation report shall be compiled which, at a minimum, shall contain a summary of the investigation and a description of the device involved, including its serial number and date of manufacture, if available. The report shall be submitted to the local building department within 24 hours of the accident except that if the local building department is closed during that period, then the report shall be submitted with four hours of the reopening of the department

C. Local building department personnel are authorized to investigate the accident and to issue an order to cease operation when warranted and to specify the conditions under which the device may resume operation. The amusement device shall be inspected prior to resuming operation either by an inspector [ ~~from~~ from ] the local building department or by a private inspector and found to comply with this chapter.

## **13VAC5-31-90. Accidents. (Repealed.)**

In the event of an accident involving serious injury or death the owner or operator shall:

1. Contact the responsible local building department as soon as practical, but not later than the next work day;

2. Cease operation until the responsible local building department approves resuming operation, except that approval from the responsible local building department for resuming operation is not required if the investigation required by subdivision 3 of this section provides reasonable evidence that the serious injury or death was not related to malfunction or improper operation;

3. Conduct an investigation to include (i) an examination of the accident scene; (ii) an interview of any witnesses or persons involved in the accident; and (iii) compiling a written report. The report shall contain a summary of the investigation and a description of the device involved, including the name of the manufacturer, the serial number and the date of manufacture, if available; and
4. Submit the investigation report to the responsible local building department within 24 hours after the time of the accident except that if its office is closed during the 24-hour period, the report shall be submitted within four hours after the office reopens.

Part III  
Enforcement

**13VAC5-31-100. Local building department. (Repealed.)**

The local building department's official or representative shall be permitted to do the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Collect fees for a permit to operate, renewal of a permit to operate and inspections conducted by staff to issue a certificate of inspection. The total for fees associated with one permit to operate and any associated inspections or one renewal of a permit to operate and any associated inspections shall not exceed the following:
  - a. \$25 for each kiddie ride under the permit;
  - b. \$35 for each circular ride or flat ride less than 20 feet in height under the permit;
  - c. \$55 for each spectacular ride under the permit that cannot be inspected as a circular ride or flat ride in subdivision 1 (b) of this section due to complexity or height; and
  - d. \$150 for coasters that exceed 30 feet in height.

Notwithstanding the above, the fee for each amusement device under the permit shall be reduced by 50% when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector;

2. In addition to the above, require permits and charge fees as appropriate under the USBC for amusement devices which are being initially constructed in whole or in part at a site within the jurisdiction for intended operation at that site. This authorization does not apply to an amusement device which is only being reassembled or undergoing a major modification at a site or being moved to a site for operation;
3. Approve modifications of this chapter upon determination that the public health, safety and welfare are assured;

4. Conduct an inspection at any time when the device would normally be open for operation, or at any other time if permission is granted by the owner or operator, for compliance with this chapter; and
5. Issue an order to temporarily cease the operation of an amusement device upon determination that it may be unsafe or otherwise endanger the public. The temporary order shall remain in effect until a new certificate of inspection is issued.

**13VAC5-31-110. Enforcement. (Repealed.)**

The local building department's official or representative shall enforce the provisions of this chapter as provided herein and as interpreted by the State Building Code Technical Review Board (TRB):

The local building department's official or representative shall be responsible for the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Approving or rejecting any application made for a permit to operate, or renewal of a permit to operate, within five days after submittal and issuing or renewing the permit when appropriate. The permit shall be issued or renewed for the length of time the device or devices will be operating at the site, except that if the length of time exceeds one year, the permit or renewal shall expire after one year. The permit to operate or renewed permit to operate shall state (i) the estimated length of time that the device or devices will be operated at the site; (ii) the name of, or otherwise identify, the device or devices covered by the permit; and (iii) the date when the permit expires;
2. When a certificate of inspection is sought by the owner or operator, conducting an inspection to assure compliance with this chapter unless the owner or operator is providing an approved private inspector. If the owner or operator has given reasonable notice that a certificate of inspection is sought and designated a specific day for the inspection, then the inspection shall be conducted on that day;
3. Accepting a written report of inspection from an approved private inspector;
4. When in receipt of a written report of inspection from an approved private inspector or after assuring compliance with this chapter through inspection, completing a certificate of inspection distributed by DHCD and causing the certificate to be posted or affixed on or in the vicinity of the device in a location visible to the public;
5. Accepting an existing certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the capacity is 12 passengers or less; and (iii) the assembly time is two hours or less, provided the existing certificate of inspection for the ride was issued

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by a local building department in this Commonwealth less than one year prior to the date for which a certificate of inspection is sought, regardless of whether disassembly has occurred. Notwithstanding the above, if the kiddie ride is determined to be in violation of this chapter, the existing certificate of inspection shall not be valid; and

~~6. Issuing an order to cease operation upon discovery or notification that an accident involving the device has caused serious injury or death, except where the owner or operator has determined that the serious injury or death was not related to malfunction or improper operation of the device. Whether or not the order to cease operation has been issued, the official or representative shall conduct an inspection, or accept an inspection report from an approved private inspector, to assure the device complies with this chapter and is safe for operation.~~

## Part IV

### Bungee Jumping

#### **13VAC5-31-120. General requirements. (Repealed.)**

~~A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.~~

~~B. Bungee jumping operations which are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.~~

~~C. Bungee jumping activities which involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.~~

#### **13VAC5-31-130. Bungee cords. (Repealed.)**

~~A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:~~

~~1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and~~

~~2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.~~

~~B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five foot lengths.~~

#### **13VAC5-31-140. Jump hardware. (Repealed.)**

~~Jump harnesses shall be either full body designed, which includes a waist harness worn in conjunction with a chest harness, or ankle designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.~~

#### **13VAC5-31-150. Structure requirements. (Repealed.)**

~~Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.~~

#### **13VAC5-31-160. Operational and site requirements. (Repealed.)**

~~A. Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.~~

~~B. The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.~~

~~C. All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.~~

~~D. A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.~~

~~E. The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.~~

~~F. An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air~~

bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

G. Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;
2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size which reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;
3. The landing vessel shall be readily available for the duration of the landing procedures;
4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;
5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and
6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

H. Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole;
2. The jump space and landing area shall be fenced to exclude the public; and
3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

I. Storage shall be provided to protect equipment from physical, chemical and ultra violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

**13VAC5-31-170. Management and personnel responsibilities. (Repealed.)**

A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

B. The site manager is responsible for the following:

1. Controlling the entire operation;
2. Site equipment and procedures;
3. Determining whether it is safe to jump;
4. Selection of, and any training of personnel;
5. Emergency procedures; and
6. Maintaining records.

C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;
3. Rescue and emergency procedures; and
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.

D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump;
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;
3. Assisting the jumper to the recovery area; and
4. Maintaining a clear view of the landing area.

E. Each site shall have an operating manual which shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and
2. An emergency rescue plan.

F. The daily operating procedures shall be conducted in accordance with ASTM F770-93.

G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

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Part ~~V~~ III  
Gravity Rides

Part ~~VI~~ IV  
Concession Go-Karts

Part ~~VII~~ V  
Inflatable Amusement Devices

## [ 13VAC5-31-200. General requirements.

In addition to other applicable requirements of this chapter, inflatable amusement devices shall be operated, maintained and inspected in accordance with ASTM F2374.

Notwithstanding any requirements of this chapter to the contrary, a permit to operate an inflatable amusement device that is less than 150 square feet and in which the height of the patron containment area is less than 10 feet need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the device has been disassembled or moved to a new site. ]

Part ~~VIII~~ VI  
Artificial Climbing Walls

## 13VAC5-31-210. General requirements.

In addition to other applicable requirements of this chapter, artificial climbing walls shall be operated, maintained and inspected in accordance with ASTM F1159.

Notwithstanding any requirements of this chapter to the contrary, an artificial climbing wall may be moved, setup and operated without obtaining a permit provided the wall has a valid certificate of inspection issued by a local building department within the prior 90 days [ and the expiration date of the wire ropes used with the device does not expire within that 90-day period ].

[ Part VII  
Bumper Boats

## 13VAC5-31-215. General requirements.

In addition to other applicable requirements of this chapter, bumper boats shall be operated, maintained and inspected in accordance with ASTM F2460. ]

Part [ ~~VII~~ VIII ]  
Bungee Jumping

## 13VAC5-31-220. General requirements.

A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.

B. Bungee jumping operations that are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other

types of structures, cranes or derricks is not permitted for public participation.

C. Bungee jumping activities that involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.

## 13VAC5-31-230. Bungee cords.

A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:

1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and

2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.

B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five-foot lengths.

## 13VAC5-31-240. Jump hardware.

Jump harnesses shall be either full body-designed, which includes a waist harness worn in conjunction with a chest harness, or ankle-designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.

## 13VAC5-31-250. Structure requirements.

Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.

## 13VAC5-31-260. Operational and site requirements.

A. Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.

B. The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation

to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.

C. All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.

D. A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.

E. The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.

F. An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

G. Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;
2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size that reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;
3. The landing vessel shall be readily available for the duration of the landing procedures;
4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;
5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and

6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

H. Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole;
2. The jump space and landing area shall be fenced to exclude the public; and
3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

I. Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

## **13VAC5-31-270. Management and personnel responsibilities.**

A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

B. The site manager is responsible for the following:

1. Controlling the entire operation;
2. Site equipment and procedures;
3. Determining whether it is safe to jump;
4. Selection of, and any training of personnel;
5. Emergency procedures; and
6. Maintaining records.

C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;
3. Rescue and emergency procedures; and
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.



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D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump;
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;
3. Assisting the jumper to the recovery area; and
4. Maintaining a clear view of the landing area.

E. Each site shall have an operating manual that shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and
2. An emergency rescue plan.

F. The daily operating procedures shall be conducted in accordance with ASTM F770.

G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

## DOCUMENTS INCORPORATED BY REFERENCE.

~~ASTM International Standards on Amusement Rides and Devices, 7th Edition, 2004.~~

F 698 – 94 (Reapproved 2000), Standard Specification for Physical Information to be Provided for Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 747 – 06, Standard Terminology Relating to Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 770 – 06a, Standard Practice for Ownership and Operation of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 846 – 92 (Reapproved 2003), Standard Guide for Testing Performance of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 853 – 05, Standard Practice for Maintenance Procedures for Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 893 – 05a, Standard Guide for Inspection of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1159 – 03a, Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion Amusement

Rides and Devices and Air-Supported Structures, ASTM International, West Conshohocken, PA 19428.

F 1193 – 06, Standard Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1305 – 94 (Reapproved 2002), Standard Guide for Classification of Amusement Rides and Device Related Injuries and Illnesses, ASTM International, West Conshohocken, PA 19428.

F 1950 – 99, Standard Specification for Physical Information to be Transferred With Used Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1957 – 99 (Reapproved 2004), Standard Test Method for Composite Foam Hardness-Durometer Hardness, ASTM International, West Conshohocken, PA 19428.

F 2007 – 06, Standard Practice for Classification, Design, Manufacture, and Operation of Concession Go-Karts and Facilities, ASTM International, West Conshohocken, PA 19428.

F 2137 – 04, Standard Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 2291 – 06a, Standard Practice for Design of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

[ ~~F 2374 – 06~~ F 2374 – 07a ], Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices, ASTM International, West Conshohocken, PA 19428.

F 2376 – 06, Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems, ASTM International, West Conshohocken, PA 19428.

[ F 2460 – 06, Standard Practice for Special Requirements for Bumper Boats, ASTM International, West Conshohocken, PA 19428. ]

VA.R. Doc. No. R07-123; Filed February 22, 2008, 3:05 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to Statewide Fire Prevention Code (§27-94 et seq.) provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed regulation and provides an

opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

**Title of Regulation:** 13VAC5-51. Virginia Statewide Fire Prevention Code (amending 13VAC5-51-21 through 13VAC5-51-51, 13VAC5-51-81, 13VAC5-51-85, 13VAC5-51-91, 13VAC5-51-130 through 13VAC5-51-135, 13VAC5-51-145, 13VAC5-51-150, 13VAC5-51-154, 13VAC5-51-155, adding 13VAC5-51-143; repealing 13VAC5-51-152).

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

**Effective Date:** May 1, 2008.

**Agency Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone 804-371-7000, FAX 804-371-7090, TTY 804-371-7089, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

**Summary:**

*The amendments may be categorized into three groups. The first group of changes is necessary to incorporate the nationally recognized model code produced by the International Code Council into the regulation. The second group of changes consists of general clarifications and correlation changes that are made to more closely match legislative language, to coordinate the application of the regulations with the other building and fire regulations of the board, and to remove provisions in the existing regulation that have been successfully added to the latest model code through the code changes process of the model code organization, thus eliminating the need for those changes in the regulation. The third group of changes consists of changes considered by committees or client groups to reach a degree of consensus enabling their inclusion in the proposed regulation. This group of changes increases fees charged by the State Fire Marshal's Office for permits for fireworks displays to more closely cover the costs associated with such permits, and permits additional time for existing stationary liquid petroleum gas tanks to be recertified in accordance with established standards.*

*Changes made since publication of the proposed regulation as a result of proposals submitted by various interest groups and the fire services industry include amendments to:*

1. Require notification to the State Fire Marshal's Office of the appointment or release of a local fire official;
2. Remove references to canopies in Table 107.2 and 13VAC5-51-85 EE to correlate with changes to 13VAC5-

*51-143, add a definition of "canopy" to correlate with other changes for canopies and membrane structures, and modify Chapter 24 of the International Fire Code to remove references to canopies to correlate with changes to the Uniform Statewide Building Code (13VAC5-63);*

*3. Permit routine inspections of bed and breakfast occupancies to correlate with a change to the Uniform Statewide Building Code;*

*4. Clarify requirements for combustible storage underneath eaves of structures;*

*5. Add 13VAC5-51-133 E to provide requirements for the maintenance of in-building emergency communication equipment to correlate with changes to the Uniform Statewide Building Code;*

*6. Require annual testing of emergency lights and exit signs;*

*7. Modify the International Fire Code to permit a limited amount of decorative materials on the walls of dormitories, depending on the type of fire protection system utilized in the building;*

*8. Change references in 13VAC5-51-150 from the Department of Housing and Community Development to the State Fire Marshal's Office for the regulation of blasting and explosives;*

*9. Update certain reference standards of the National Fire Protection Association in 13VAC5-51-155.*

**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.

**13VAC5-51-21. Section 102.0. Applicability.**

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

B. 102.1.1. Changes: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group of occupancies, unless such structure is made to comply with the requirements of this code and the USBC.

C. 102.2. Application to pre-1973 buildings and structures: Buildings and structures constructed prior to the USBC (1973) shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were provided and approved when constructed shall be maintained. Such buildings and structures, if subject to the state fire and public building regulations (Virginia Public Building Safety Regulations, VR

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394-01-05) in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations.

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

E. 102.4. Referenced codes and standards: The codes and standards referenced in the IFC shall be those listed in Chapter 45 and considered part of the requirements of the SFPC to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

F. 102.5. ~~Subsequent alteration: Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of structures shall be subject to the current USBC.~~

G. 102.6. ~~State~~ State-owned buildings and structures: The SFPC shall be applicable to all state-owned buildings and structures in the manner and extent described in §27-99 of the Code of Virginia and the State Fire Marshal shall have the authority to enforce this code in state-owned buildings and structures as is prescribed in §§27-98 and 27-99 of the Code of Virginia.

~~H. 102.7.~~ G. 102.6. Relationship to USBC: In accordance with §§27-34.4, 36-105.1 and 36-119.1 of the Code of Virginia, the USBC does not supersede the provisions of this code that prescribe standards to be complied [ ~~within~~ with in ] existing buildings and structures, provided that this code shall not impose requirements that are more restrictive than those of the USBC under which the buildings or structures were constructed. Subsequent alteration, enlargement, rehabilitation, repair or conversion of the occupancy classification of such buildings and structures shall be subject to the construction and rehabilitation provisions of the USBC. Construction inspections of structures, Inspection of buildings other than state-owned structures, buildings under construction and the review and approval of their construction documents building plans for these structures for enforcement of the USBC shall be the sole responsibility of the appropriate local building department inspectors.

~~I. 102.8.~~ Existing structures: Upon the completion of such structures, responsibility for fire safety protection shall pass to the local fire ~~official~~ marshal or official designated by the locality to enforce this code in those localities that enforce the SFPC 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~~ localities that do not enforce this code.

~~J. 102.9.~~ H. 102.7. Inspections for USBC requirements: The fire official shall require that existing structures subject to the requirements of the applicable retrofitting provisions relating to the fire protection equipment and system requirements of the USBC, Part I, Construction, Sections 103.7 and 3411, comply with the provisions located therein.

## **13VAC5-51-31. Section 103.0. Incorporation by reference.**

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

The International Fire Code -- ~~2003~~ 2006 Edition, hereinafter referred to as "IFC," published by the International Code Council, Inc., [ ~~5203 Leesburg Pike, Suite~~ ] 708 [ ~~600, Falls Church, VA 22041 3401, phone~~ ] 703- [ ~~(703) 931-4533~~ 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070, 1-888 422-7233 ] .

B. 103.1.1. Deletion: Delete IFC Chapter 1.

C. 103.1.2. Appendices: The appendices in the IFC are not considered part of the IFC for the purposes of Section 103.1.

Note: Section 101.5 references authority contained in the Code of Virginia for local fire prevention regulations that may be evaluated by localities to determine whether provisions in the IFC appendices may be considered for local fire prevention regulations.

D. 103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, unsafe notices, disputes, condemnation, inspections, scope of enforcement and all other procedural, and administrative matters are deleted and replaced by the provisions of Chapter 1 of the SFPC.

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

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

F. 103.3. International Fire Code. Retroactive fire protection system requirements contained in the IFC shall not be enforced unless specified by the USBC.

**13VAC5-51-41. Section 104.0. Enforcement.**

A. 104.1. Local enforcement: Any local government may enforce the SFPC following official action by such body. The official action shall (i) require compliance with the provisions of the SFPC in its entirety or with respect only to those provisions of the SFPC relating to open burning, fire lanes, fireworks, and hazardous materials and (ii) assign enforcement responsibility to the local agency or agencies of its choice. Any local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. If a local governing body elects to enforce only those provisions of the SFPC relating to open burning, it may do so in all or in any designated geographic areas of its jurisdiction. The terms "enforcing agency" and "fire official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been assigned. The terms "building official" or "building department" are intended to apply only to the local building official or local building department.

B. 104.1.1. Enforcement of fireworks provisions by law-enforcement officers: In accordance with §27-100.1 of the Code of Virginia, law-enforcement officers who are otherwise authorized to enforce certain provisions of this code shall not be subject to the certification requirements of Sections 105.2 or 105.3.2.

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

- ~~1. In cooperation with any local governing body;~~
- ~~2. In those jurisdictions in which the local governments do not enforce the SFPC; and~~
- ~~3. In all state owned buildings and structures. In accordance with §27-98 of the Code of Virginia, the State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce the SFPC. The State Fire Marshal shall also have authority to enforce the SFPC in those jurisdictions in which the local governments do not enforce the SFPC and may establish such procedures or requirements as may be necessary for the administration and enforcement of the SFPC in such jurisdictions.~~

D. 104.3. State structures: Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire official reasonable access to existing structures or a structure under construction or renovation, for the purpose of performing an informational and advisory fire safety inspection. The fire official is permitted to submit, subsequent to performing such inspection, his findings and recommendations, including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire, to the appropriate official of such agency,

commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the fire official of the corrective measures taken to eliminate the hazards reported by the fire official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in §27-98 of the Code of Virginia. The State Fire Marshal may enter into an agreement as is provided for in §36-139.4 of the Code of Virginia with any local enforcement agency that enforces the SFPC to enforce this section and to take immediate enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.

**[ 13VAC5-51-51. Section 105.0. Enforcing agency.**

A. 105.1. Fire official: Each enforcing agency shall have an executive official in charge, hereinafter referred to as the "fire official."

Note: Fire officials are subject to sanctions in accordance with the Virginia Certification Standards (13VAC5-21).

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

C. 105.1.2. Notification of appointment: The appointing authority of the local governing body shall notify the DHCD and the State Fire Marshal's Office (SFMO) within 30 days of the appointment or release of the permanent or acting fire official.

D. 105.1.3. Qualifications: The fire official shall have at least five years of fire-related experience as a firefighter, fire officer, licensed professional engineer or architect, fire or building inspector, contractor or superintendent of fire protection-related or building construction or at least five years of fire-related experience after obtaining a degree in architecture or engineering, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The fire official shall have general knowledge of sound engineering practice with respect to the design and construction of structures, the basic principles of fire prevention and protection, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

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E. 105.2. Certification: The permanent or acting fire official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13VAC5-21) within one year after permanent or acting appointment.

Exception: A fire official appointed prior to April 1, 1994, continuously employed by the same local governing body as the fire official shall comply with required DHCD training under the Virginia Certification Standards (13VAC5-21).

F. 105.2.1. Noncertified fire official: Except for a fire official exempt from certification under the exception to Section 105.2, any acting or permanent fire official who is not certified as a fire official in accordance with the Virginia Certification Standards (13VAC5-21) shall attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 105.2.

G. 105.3. Technical assistant: The local governing body or its designee may utilize one or more technical assistants who, in the absence of the fire official, shall have the powers and perform the duties of the fire official.

Note: Technical assistants are subject to sanctions in accordance with the Virginia Certification Standards (13VAC5-21).

H. 105.3.1. Notification: The fire official shall notify the DHCD within 60 days of the employment, contract or termination of all technical assistants for enforcement of the SFPC.

I. 105.3.2. Qualifications: A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: fire protection, firefighting, electrical, building, plumbing or mechanical trades. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.

J. 105.3.3. Certification: All technical assistants employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject area in accordance with the Virginia Certification Standards (13VAC5-21) within one and one-half years after permanent

or acting appointment. When required by a locality to have two or more certifications, the remaining certifications shall be obtained within three years from the date of such requirement.

Exception: Any technical assistant continuously employed by or continuously under contract to the same enforcing agency for enforcing the SFPC since before April 1, 1994, shall be exempt from the provisions of this section; however, such exempt technical assistant shall comply with required DHCD training under Virginia Certification Standards (13VAC5-21).

K. 105.4. Continuing education: Fire officials and technical assistants enforcing the SFPC shall attend periodic training courses as designated by the DHCD.

L. 105.5. Control of conflict of interest: The standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§2.2-3100 et seq.) of Title 2.2 of the Code of Virginia. ]

## **13VAC5-51-81. Section 107.0. Permits.**

A. 107.1. Prior notification: The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. 107.2. Permits required: Permits may be required by the fire official as permitted under the SFPC in accordance with Table 107.2, except that the fire official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. An application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by an individual certified as a blaster in accordance with Section 3301.4, or by a person who has been issued a background clearance card in accordance with Section 3301.2.3.1.1.

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

C. Add Table 107.2 as follows:

Table 107.2.  
 OPERATIONAL PERMIT REQUIREMENTS (to be filled in by local jurisdiction).

Description	Permit Required (yes or no)	Permit fee	Inspection fee
Aerosol products. An operational permit is required to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products in excess of 500 pounds (227 kg) net weight.			
Amusement buildings. An operational permit is required to operate a special amusement building.			
Aviation facilities. An operational permit is required to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to, hot work, hazardous materials and flammable or combustible finishes.			
Carnivals and fairs. An operational permit is required to conduct a carnival or fair.			
Battery systems. An operational permit is required to install stationary lead-acid battery systems having a liquid capacity of more than 50 gallons (189 L).			
Cellulose nitrate film. An operational permit is required to store, handle or use cellulose nitrate film in a Group A occupancy.			
<p>Combustible dust-producing operations. An operational permit is required to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.</p> <p>Combustible fibers. An operational permit is required for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8 m<sup>3</sup>).</p> <p>Exception: An operational permit is not required for agricultural storage.</p>			

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<p>Compressed gas. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed below.</p> <p>Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.</p>																	
<p>Permit Amounts for Compressed Gases</p> <table border="1"> <thead> <tr> <th>Type of Gas</th> <th>Amount (cubic feet at NTP)</th> </tr> </thead> <tbody> <tr> <td>Corrosive</td> <td>200</td> </tr> <tr> <td>Flammable (except cryogenic fluids and liquefied petroleum gases)</td> <td>200</td> </tr> <tr> <td>Highly toxic</td> <td>Any Amount</td> </tr> <tr> <td>Inert and simple asphyxiant</td> <td>6,000</td> </tr> <tr> <td>Oxidizing (including oxygen)</td> <td>504</td> </tr> <tr> <td>Toxic</td> <td>Any Amount</td> </tr> </tbody> </table> <p>For SI: 1 cubic foot = 0.02832 m<sup>3</sup>.</p>	Type of Gas	Amount (cubic feet at NTP)	Corrosive	200	Flammable (except cryogenic fluids and liquefied petroleum gases)	200	Highly toxic	Any Amount	Inert and simple asphyxiant	6,000	Oxidizing (including oxygen)	504	Toxic	Any Amount			
Type of Gas	Amount (cubic feet at NTP)																
Corrosive	200																
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Highly toxic	Any Amount																
Inert and simple asphyxiant	6,000																
Oxidizing (including oxygen)	504																
Toxic	Any Amount																
<p>Covered mall buildings. An operational permit is required for:</p> <ol style="list-style-type: none"> <li>1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.</li> <li>2. The display of liquid- or gas-fired equipment in the mall.</li> <li>3. The use of open-flame or flame-producing equipment in the mall.</li> </ol>																	
<p>Cryogenic fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p>																	

Permit Amounts for Cryogenic Fluids					
Type of Cryogenic Fluid	Inside Building (gallons)	Outside Building (gallons)			
Flammable	More than 1	60			
Inert	60	500			
Oxidizing (includes oxygen)	10	50			
Physical or health hazard not indicated above	Any Amount	Any Amount			
For SI: 1 gallon = 3.785 L.					
Cutting and welding. An operational permit is required to conduct cutting or welding operations within the jurisdiction.					
Dry cleaning plants. An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.					
Exhibits and trade shows. An operational permit is required to operate exhibits and trade shows.					
Explosives. An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.					
Fire hydrants and valves. An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.  Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.					
Flammable and combustible liquids. An operational permit is required:  1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This					



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requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) (see §3501.1.2) nor does it apply to piping systems (see §3503.6).

2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:

2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition.

2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.

3. To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.

4. To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.

5. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.

6. To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above-ground flammable or combustible liquid tank.

7. To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.

8. To manufacture, process, blend or refine flammable or combustible liquids.

<p>Floor finishing. An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m<sup>2</sup>) using Class I or Class II liquids.</p>																																															
<p>Fruit and crop ripening. An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.</p>																																															
<p>Fumigation and thermal insecticidal fogging. An operational permit is required to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.</p>																																															
<p>Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below.</p>																																															
<p>Permit Amounts for Hazardous Materials</p> <table border="0"> <thead> <tr> <th>Type of Material</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Combustible liquids</td> <td>See flammable and combustible liquids</td> </tr> <tr> <td>Corrosive materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td>55 gallons</td> </tr> <tr> <td>    Solids</td> <td>1000 pounds</td> </tr> <tr> <td>Explosive materials</td> <td>See explosives</td> </tr> <tr> <td>Flammable materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td>See flammable and combustible liquids</td> </tr> <tr> <td>    Solids</td> <td>100 pounds</td> </tr> <tr> <td>Highly toxic materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td>Any Amount</td> </tr> <tr> <td>    Solids</td> <td>Any Amount</td> </tr> <tr> <td>Oxidizing materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td></td> </tr> <tr> <td>    Class 4</td> <td>Any Amount</td> </tr> <tr> <td>    Class 3</td> <td>1 gallon</td> </tr> <tr> <td>    Class 2</td> <td>10 gallons</td> </tr> <tr> <td>    Class 1</td> <td>55 gallons</td> </tr> </tbody> </table>	Type of Material	Amount	Combustible liquids	See flammable and combustible liquids	Corrosive materials		Gases	See compressed gases	Liquids	55 gallons	Solids	1000 pounds	Explosive materials	See explosives	Flammable materials		Gases	See compressed gases	Liquids	See flammable and combustible liquids	Solids	100 pounds	Highly toxic materials		Gases	See compressed gases	Liquids	Any Amount	Solids	Any Amount	Oxidizing materials		Gases	See compressed gases	Liquids		Class 4	Any Amount	Class 3	1 gallon	Class 2	10 gallons	Class 1	55 gallons			
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# Regulations

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Solids				
Class 4	Any Amount			
Class 3	10 pounds			
Class 2	100 pounds			
Class 1	500 pounds			
Organic peroxides				
Liquids				
Class I	Any Amount			
Class II	Any Amount			
Class III	1 gallon			
Class IV	2 gallons			
Class V	No Permit Required			
Solids				
Class I	Any Amount			
Class II	Any Amount			
Class III	10 pounds			
Class IV	20 pounds			
Class V	No Permit Required			
Pyrophoric materials				
Gases	See compressed gases			
Liquids	Any Amount			
Solids	Any Amount			
Toxic materials				
Gases	See compressed gases			
Liquids	10 gallons			
Solids	100 pounds			
Unstable (reactive) materials				
Liquids				
Class 4	Any Amount			
Class 3	Any Amount			
Class 2	5 gallons			
Class 1	10 gallons			
Solids				
Class 4	Any Amount			
Class 3	Any Amount			
Class 2	50 pounds			
Class 1	100 pounds			
Water-reactive Materials				
Liquids				
Class 3	Any Amount			
Class 2	5 gallons			
Class 1	55 gallons			
Solids				
Class 3	Any Amount			
Class 2	50 pounds			
Class 1	500 pounds			
For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.				

<p>HPM facilities. An operational permit is required to store, handle or use hazardous production materials.</p>			
<p>High piled storage. An operational permit is required to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m<sup>2</sup>).</p>			
<p>Hot work operations. An operational permit is required for hot work including, but not limited to:</p> <ol style="list-style-type: none"> <li>1. Public exhibitions and demonstrations where hot work is conducted.</li> <li>2. Use of portable hot work equipment inside a structure.</li> </ol> <p>Exception: Work that is conducted under a construction permit.</p> <ol style="list-style-type: none"> <li>3. Fixed-site hot work equipment such as welding booths.</li> <li>4. Hot work conducted within a hazardous fire area.</li> <li>5. Application of roof coverings with the use of an open-flame device.</li> <li>6. When approved, the fire official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in this chapter. These permits shall be issued only to their employees or hot work operations under their supervision.</li> </ol>			
<p>Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 21.</p>			
<p>Lumber yards and woodworking plants. An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft<sup>3</sup>) (236 m<sup>3</sup>).</p>			
<p>Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.</p>			
<p>LP-gas. An operational permit is required for:</p> <ol style="list-style-type: none"> <li>1. Storage and use of LP-gas.</li> </ol>			

# Regulations

<p>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less serving occupancies in Group R-3.</p> <p>2. Operation of cargo tankers that transport LP-gas.</p>			
<p>Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>			
<p>Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m<sup>3</sup>) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.</p>			
<p>Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.</p> <p>Exception: Recreational fires.</p>			
<p>Open flames and candles. An operational permit is required to remove paint with a torch; use a torch or open-flame device in a hazardous fire area; or to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>			
<p>Organic coatings. An operational permit is required for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.</p>			
<p>Assembly/educational. An operational permit is required to operate a place of assembly /educational occupancy.</p>			
<p>Private fire hydrants. An operational permit is required for the removal from service, use or operation of private fire hydrants.</p> <p>Exception: An operational permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.</p>			
<p>Pyrotechnic special effects material. An operational permit is required for use and handling of pyrotechnic special effects material.</p>			

<p>Pyroxylin plastics. An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the assembly or manufacture of articles involving pyroxylin plastics.</p>			
<p>Refrigeration equipment. An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.</p>			
<p>Repair garages and service stations. An operational permit is required for operation of repair garages and automotive, marine and fleet service stations.</p>			
<p>Rooftop heliports. An operational permit is required for the operation of a rooftop heliport.</p>			
<p>Spraying or dipping. An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 15.</p>			
<p>Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m<sup>3</sup>) of total volume of scrap tires and for indoor storage of tires and tire byproducts.</p>			
<p>Temporary membrane structures [ ; <del>and</del> ] tents [ <del>and canopies</del> ]. An operational permit is required to operate an air-supported temporary membrane structure or a tent.</p> <p>Exceptions:</p> <ol style="list-style-type: none"> <li>1. Tents used exclusively for recreational camping purposes.</li> <li>2. Tents and air-supported structures that cover an area of 900 square feet (84 m<sup>2</sup>) 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.</li> </ol> <p>[ 3. <del>Fabric canopies and awnings open on all sides which comply with all of the following:</del></p> <ol style="list-style-type: none"> <li>3.1. <del>Individual canopies shall have a maximum size of 700 square feet (65 m<sup>2</sup>).</del></li> <li>3.2. <del>The aggregate area of multiple</del></li> </ol>			

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<p><del>canopies placed side by side without a fire break clearance of 12 feet (3658 mm) shall not exceed 700 square feet (65 m<sup>2</sup>) total.</del></p> <p><del>3.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided. ]</del></p>			
Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.			
Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.			
Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m <sup>3</sup> ).			

D. 107.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire official.

E. 107.4. Issuance of permits: Before a permit is issued, the fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

F. 107.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable.

G. 107.5.1. Special conditions for the State Fire Marshal's Office: Permits issued by the State Fire Marshal's Office for the use of explosives in special operations or under emergency conditions shall be valid for one week from the date of issuance and shall not be renewable.

H. 107.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC, and for the display of fireworks on state-owned property.

Exception: Such permits shall not be required for the storage of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations within areas where enforcement is provided by the State Fire Marshal's office.

I. 107.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

J. 107.8. Approved plans: Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

K. 107.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

L. 107.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

M. 107.11. Revocation of permit: The fire official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

N. 107.12. Local permit fees: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

O. 107.13. State explosives, blasting agents and fireworks permit fees: Fees for permits issued by the State Fire Marshal's office for the storage, use, sale or manufacture of explosives or blasting agents, and for the display of fireworks on state-owned property shall be as follows:

1. \$100 per year per magazine to store explosives and blasting agents.
2. \$150 per year per city or county to use explosives and blasting agents.
3. \$150 per year to sell explosives and blasting agents.

4. \$200 per year to manufacture explosives, blasting agents and fireworks.

5. ~~\$250~~ \$300 per day for fireworks, pyrotechnics or proximate audience displays conducted ~~indoor of in~~ any state-owned ~~buildings~~ building and ~~\$75~~ \$150 per day for each subsequent day.

6. ~~\$150~~ \$200 per day for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property and ~~\$75~~ \$150 per day for each subsequent day.

7. \$75 per event for the use of explosives in special operations or emergency conditions.

P. 107.14 State annual inspection permit fees. Annual fees for inspection permits issued by the State Fire Marshal's office for the inspection of buildings shall be as follows:

1. Nightclubs.

1.1. \$350 for occupant load of 100 or less.

1.2. \$450 for occupant load of 101 to 200.

1.3. \$500 for occupant load of 201 to 300.

1.4. \$500 plus \$50 for each 100 occupants where occupant loads exceed 300.

2. Private schools (kindergarten through 12th grade) and private college dormitories with or without assembly areas. If containing assembly areas, such assembly areas are not included in the computation of square footage.

2.1. \$150 for 3500 square feet or less.

2.2. \$200 for greater than 3500 square feet up to 7000 square feet.

2.3. \$250 for greater than 7000 square feet up to 10,000 square feet.

2.4. \$250 plus \$50 for each additional 3000 square feet where square footage exceeds 10,000.

3. Assembly areas that are part of private schools (kindergarten through 12th grade) or private college dormitories.

3.1. \$50 for 10,000 square feet or less provided the assembly area is within or attached to a school or dormitory building.

3.2. \$100 for greater than 10,000 square feet up to 25,000 square feet provided the assembly area is within or attached to a school or dormitory building, such as gymnasiums, auditoriums or cafeterias.

3.3. \$100 for up to 25,000 square feet provided the assembly area is in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.

3.4. \$150 for greater than 25,000 square feet for assembly areas within or attached to a school or dormitory building or in a separate or separate buildings such as gymnasiums, auditoriums or cafeterias.

4. Hospitals.

4.1. \$300 for 1 to 50 beds.

4.2. \$400 for 51 to 100 beds.

4.3. \$500 for 101 to 150 beds.

4.4. \$600 for 151 to 200 beds.

4.5. \$600 plus \$100 for each additional 100 beds where the number of beds exceeds 200.

Exception: Annual inspection permits for any building or groups of buildings on the same site may not exceed \$2500.

Q. 107.15. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

R. 107.16. Payment of fees: A permit shall not be issued until the designated fees have been paid.

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

[ **13VAC5-51-85. Section 108.0. Operational permits.**

A. 108.1. General. Operational permits shall be in accordance with Section 108. The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. 108.1.1. Permits required. Operational permits may be required by the fire official in accordance with Table 107.2. The fire official shall require operational permits for the manufacturing, storage, handling, use and sale of explosives. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

Exceptions:

1. Operational 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.

2. Operational permits will not be required for the manufacturing, storage, handling or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire official is made annually by the Chief Arson Investigator listing all storage locations.



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C. 108.1.2. Types of permits. There shall be two types of permits as follows:

1. Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section 108.1.1 for either:

1.1. A prescribed period.

1.2. Until renewed or revoked.

2. Construction permit. A construction permit is required, and shall be issued in accordance with the USBC and shall be issued by the building official. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by section 108.5.

D. 108.1.3. Operational permits for the same location. When more than one operational permit is required for the same location, the fire official is authorized to consolidate such permits into a single permit provided that each provision is listed in the permit.

E. 108.2. Application. Application for an operational permit required by this code shall be made to the fire official in such form and detail as prescribed by the fire official. Applications for permits shall be accompanied by such plans as prescribed by the fire official.

F. 108.2.1. Refusal to issue permit. If the application for an operational permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the fire official shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for refusal.

G. 108.2.2. Inspection authorized. Before a new operational permit is approved, the fire official is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

H. 108.2.3. Time limitation of application. An application for an operational permit for any proposed work or operation shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the fire official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause.

I. 108.2.4. Action on application. The fire official shall examine or cause to be examined applications for operational permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements of pertinent laws, the fire official shall reject such application in writing, stating the reasons. If the fire official is satisfied that the proposed work or operation conforms to the requirements of this code and laws and

ordinances applicable thereto, the fire official shall issue a permit as soon as practicable.

J. 108.3. Conditions of a permit. An operational permit shall constitute permission to maintain, 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. The building official shall issue permits to install equipment utilized in connection with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this code where a permit is required by section 108.5. Such permission shall not be construed as authority to omit or amend any of the provisions of this code.

K. 108.3.1. Expiration. An operational permit shall remain in effect until reissued, renewed, or revoked for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

L. 108.3.2. Extensions. A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The fire official is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be requested by the permit holder in writing and justifiable cause demonstrated.

M. 108.3.3. Annual. The enforcing agency may issue annual operational permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

N. 108.3.4. Suspension of permit. An operational 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.

O. 108.3.5. Posting. Issued operational permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

P. 108.3.6. Compliance with code. The issuance or granting of an operational permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Operational permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on other data shall not prevent the fire official from requiring the correction of errors in the provided documents and other data. Any addition to or alteration of approved provided documents shall be approved in advance by the fire official, as evidenced by the issuance of a new or amended permit.

Q. 108.3.7. Information on the permit. The fire official shall issue all operational permits required by this code on an approved form furnished for that purpose. The operational permit shall contain a general description of the operation or occupancy and its location and any other information required by the fire official. Issued permits shall bear the signature of the fire official.

R. 108.4. Revocation. The fire official is authorized to revoke an operational permit issued under the provisions of this code when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or documents on which the permit or approval was based including, but not limited to, any one of the following:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations set forth in the permit have been violated.
4. Inclusion of any false statements or misrepresentations as to a material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm than the person or firm for which it was issued.
6. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.
7. The permit was issued in error or in violation of an ordinance, regulation or this code.

S. 108.5. Required construction permits. The building official is authorized to issue construction permits in accordance with the USBC for work as set forth in Sections 108.5.1 through 108.5.12.

T. 108.5.1. Automatic fire-extinguishing systems. A construction permit is required for installation of or modification to an automatic fire-extinguishing system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

U. 108.5.2. Compressed gases. When the compressed gases in use or storage exceed the amounts listed in Table 107.2, a construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.

Exceptions:

1. Routine maintenance.

2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

The permit applicant shall apply for approval to close storage, use or handling facilities at least 30 days prior to the termination of the storage, use or handling of compressed or liquefied gases. Such application shall include any change or alteration of the facility closure plan filed pursuant to §2701.5.3 of the Code of Virginia. The 30-day period is not applicable when approved based on special circumstances requiring such waiver.

V. 108.5.3. Fire alarm and detection systems and related equipment. A construction permit is required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

W. 108.5.4. Fire pumps and related equipment. A construction permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

X. 108.5.5. Flammable and combustible liquids. A construction permit is required:

1. To repair or modify a pipeline for the transportation of flammable or combustible liquids.
2. To install, construct or alter tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
3. To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.

Y. 108.5.6. Hazardous materials. A construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a storage facility or other area regulated by Chapter 27 when the hazardous materials in use or storage exceed the amounts listed in Table 107.2.

Exceptions:

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

Z. 108.5.7. Industrial ovens. A construction permit is required for installation of industrial ovens covered by Chapter 21.

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## Exceptions:

1. Routine maintenance.
  2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.
- AA. 108.5.8. LP-gas. A construction permit is required for installation of or modification to an LP-gas system.
- BB. 108.5.9. Private fire hydrants. A construction permit is required for the installation or modification of private fire hydrants.
- CC. 108.5.10. Spraying or dipping. A construction permit is required to install or modify a spray room, dip tank or booth.
- DD. 108.5.11. Standpipe systems. A construction permit is required for the installation, modification, or removal from service of a standpipe system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.
- EE. 108.5.12. ~~Temporary membrane~~ Membrane structures, air-supported structures and tents and canopies . A construction permit is required to erect ~~an air-supported temporary~~ all membrane structure structures or a any tent having or air-supported structure that covers an area in excess of greater than 900 square feet (84 m<sup>2</sup>), or a canopy in excess of 700 square feet (65 m<sup>2</sup>) including within that area all connecting areas or spaces with a common means of egress or entrance, provided such tents or structures have an occupant load of greater than 50 persons. Tents used exclusively for recreational camping shall not be required to obtain a construction permit .

## Exceptions:

- ~~1. Tents used exclusively for recreational camping purposes.~~
- ~~2. Tents and air supported structures that cover an area of 900 square feet (84 m<sup>2</sup>) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.~~
- ~~3. Funeral tents and curtains or extensions attached thereto, when used for funeral services.~~
- ~~4. Fabric canopies and awnings open on all sides that comply with all of the following:~~
  - ~~4.1. Individual canopies shall have a maximum size of 700 square feet (65 m<sup>2</sup>).~~
  - ~~4.2. The aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet shall not exceed 700 square feet (65 m<sup>2</sup>) total.~~
  - ~~4.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be maintained. ]~~

## 13VAC5-51-91. Section 109.0. Inspection.

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

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the fire official from [ conducting routine inspections in Group R-3 or Group R-5 occupancies operating as a commercial bed and breakfast as outlined in Section 310.1 of the USBC or ] inspecting under §27-98.2 of the Code of Virginia for hazardous conditions relating to explosives, flammable and combustible conditions, and hazardous materials.

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

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

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

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

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

E. 109.3. Other inspections: ~~The~~ In accordance with §36-139.3 of the Code of Virginia, the State Fire Marshal, upon presenting proper credentials, shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency; (ii) ~~adult care residences~~ assisted living facilities licensed or subject to licensure ~~under pursuant to Chapter 9 18 (§63.1-172 (§63.2-1800 et seq.) of Title 63.1 63.2~~ of the Code of Virginia which are not inspected by a local fire marshal; (iii) ~~student residence~~ 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 to be nonconforming to the

SFPC, the State Fire Marshal or local fire marshal may petition any court of competent jurisdiction for the issuance of an injunction.

**13VAC5-51-130. IFC Section 202.0. Definitions.**

A. Add the following definitions:

Background clearance card: See Section [ ~~3301.0~~ 3302.1 ] .

Blaster, restricted: See Section [ ~~3301.0~~ 3302.1 ] .

Blaster, unrestricted: See Section [ ~~3301.0~~ 3302.1 ] .

DHCD: The Virginia Department of Housing and Community Development.

Local government, local governing body or locality: The governing body of any county, city, or town, other political subdivision and state agency in this Commonwealth charged with the enforcement of the SFPC under state law.

Night club: Any building or portion thereof in which the main use is a place of public assembly that provides exhibition, performance or other forms or entertainment; serves alcoholic beverages; and provides music and space for dancing.

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

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Groups R-2, R-3, R-4 and R-5).

Technical Assistant: Any person employed by or under an extended contract to a local enforcing agency for enforcing the SFPC. For the purposes of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13VAC5-63).

B. Add the following definition under the term "Occupancy Classification--Residential Group R":

R-5 Detached one and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures. The terms "R-5" and "one and two-family dwelling" where used in this code shall be interchangeable.

C. Change the following [ ~~definition~~ definitions ] to read:

[ Canopy: A structure or architectural projection of rigid construction over which a covering is attached that provides weather protection, identity or decoration and may be structurally independent or supported by attachment to a building on one end by not less than one stanchion on the outer end. ]

~~Code official, fire official or fire~~ 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 terms~~ "code official," and "fire official," or "fire code official" shall have the same meaning as ~~used~~ the term "fire code official" and, in addition, such official shall have the powers outlined in §27-98.1 of the Code of Virginia.

**[ 13VAC5-51-131. IFC Chapter 3. Precautions Against Fire.**

A. Add Section 301.3 to read:

301.3. Occupancy. The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the USBC without the approval of the building official.

B. Change Section 304.3.2 to read:

304.3.2. Capacity exceeding 5.88 cubic feet. Containers with a capacity exceeding 5.88 cubic feet (44 gallons) (0.17 m<sup>3</sup>) shall be provided with lids. Containers and lids shall be constructed of noncombustible materials or approved combustible materials.

C. Change Section 314.1 to read:

314.1. General. Indoor displays constructed within any building or structure shall comply with Sections 314.2 through 314.5.

D. Add Section 314.5 to read:

314.5. Smokeless powder and small arms primers. Venders shall not store, display or sell smokeless powder or small arms primers during trade shows inside exhibition halls except as follows:

1. The amount of smokeless powder displayed by each vender is limited to the amount established in Section 3306.5.1.1.
2. The amount of smokeless powder each vender may store is limited to the storage arrangements and storage amounts established in Section 3306.5.2.1. Smokeless powder shall remain in the manufacturer's original sealed container and the container shall remain sealed while inside the building. The repackaging of smokeless powder shall not be performed inside the building. Damaged containers shall

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not be repackaged inside the building and shall be immediately removed from the building in such manner to avoid spilling any powder.

3. There shall be at least 50 feet separation between vendors and 20 feet from any exit.

4. Small arms primers shall be displayed and stored in the manufacturer's original packaging and in accordance with the requirements of Section 3306.5.2.3.

E. Change Section 315.3 to read:

315.3. Outside storage. Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a property line or other building on the site.

Exceptions:

1. The separation distance is allowed to be reduced to 3 feet (914 mm) for storage not exceeding 6 feet (1829 mm) in height.

2. The separation distance is allowed to be reduced when the fire official determines that no hazard to the adjoining property exists.

F. Change Section 315.3.1 to read:

315.3.1. Storage beneath overhead projections from buildings. To the extent required by the code the building was constructed under, when buildings are required to be protected by automatic sprinklers, the outdoor storage, display and handling of combustible materials under eaves, canopies or other projections or overhangs is prohibited except where automatic sprinklers are installed under such eaves, canopies or other projections or overhangs. ]

## **13VAC5-51-132. IFC Chapter 4. Emergency Planning and Preparedness.**

A. Add Section 401.1.1 to read:

401.1.1. State Regulated Care Facilities: when a state license is required by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice to operate, SRCF shall comply with this section and the provisions of Section 404.0.

B. Add item ~~12~~ 14 to Section 404.2 to read:

~~12~~ 14. SRCF.

C. Add exception to Section 405.1 to read:

Exception: Emergency evacuation drills shall not be conducted in school buildings during periods of mandatory testing required by the Virginia Board of Education.

D. Add the following category to Table 405.2 to read:

Group or occupancy	Frequency	Participation
SRCF	Monthly	All occupants

E. Add Section 405.2.1 to read:

405.2.1. High-rise buildings. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

F. Add Section 408.1.1 to read:

408.1.1. Maintaining occupant load posting. Occupant load postings required by the building code are required to be maintained.

G. Change Section 408.2 to read:

408.2. Group A occupancies. Group A occupancies shall comply with applicable requirements of Sections 408.2.1 through 408.2.3 and 401 through 406.

H. Add Sections 408.2.3, 408.2.3.1 and 408.2.3.2 to read:

408.2.3. Night clubs. Night clubs shall comply with Sections 408.2.3.1 and 408.2.3.2.

408.2.3.1. Audible announcements. Audible announcements shall be made to the occupants no longer than 10 minutes prior to the start of the entertainment and at each intermission to notify the occupants of the location of the exits to be used in the event of a fire or other emergency.

408.2.3.2. Occupant load count. Upon request of the fire code official, the owner or operator, or both, will be required to keep a running count of the occupant load to provide to the fire code official during performance hours of operation, entertainment hours of operation, or both.

## **[ 13VAC5-51-133. IFC Chapter 5. Fire Service Features.**

A. Delete Section 501.4.

B. Add exceptions to Section 503.1 to read:

Exceptions:

1. Fire apparatus access roads shall be permitted to be provided and maintained in accordance with written policy that establish fire apparatus access road requirements and such requirements shall be identified to the owner or his agent prior to the building official's approval of the building permit.

2. On construction and demolition sites fire apparatus access roads shall be permitted to be provided and maintained in accordance with Section 1410.1.

C. Change Section 508.5.1 to read:

508.5.1. Where required. Fire hydrant systems shall be located and installed as directed by the fire department. Fire

hydrant systems shall conform to the written standards of the jurisdiction and the fire department.

D. Add Section 503.7 to read:

503.7. Fire lanes for existing buildings. The fire code official is authorized to designate public and private fire lanes as deemed necessary for the efficient and effective operation of fire apparatus. Fire lanes shall comply with Sections 503.2 through 503.6.

E. Add Section 511 to read:

Section 511.

Maintenance of In-Building Emergency Communication Equipment.

511.1. General. In-building emergency communication equipment shall be maintained in accordance with USBC and the provisions of this section.

511.2. Additional in-building emergency communications installations. If it is determined by the locality that increased amplification of their emergency communication system is needed, the building owner shall allow the locality access as well as provide appropriate space within the building to install and maintain necessary additional communication equipment by the locality. If the building owner denies the locality access or appropriate space, or both, the building owner shall be responsible for the installation and maintenance of these additional systems.

511.3. Field tests. After providing reasonable notice to the owner or their representative, the fire official, police chief, or their agents shall have the right during normal business hours, or other mutually agreed upon time, to enter onto the property to conduct field tests to verify that the required level of radio coverage is present at no cost to the owner. ]

**13VAC5-51-133.5. IFC Chapter 6. Building Services and Systems.**

A. Change Section 603.5.2 to read:

~~603.5.2. Heating appliance installation and maintenance. Heating appliances shall be installed and maintained in accordance with the manufacturer's instructions, the International Building Code, the International Mechanical Code, the International Fuel Gas Code and the ICC Electrical Code.~~

B. [ A. ] Add a note to Section 603.7 to read:

Note: The fire code official may request a copy of the latest certificate of inspection from the Virginia Department of Labor and Industry for boilers and pressure vessels subject to such requirements. When the certificate is not available, the fire code official shall notify the Department of Labor and Industry to ensure that the required maintenance and testing is performed in accordance with the Virginia Boiler and Pressure Vessel Regulations (16VAC25-50).

[ B. Add Section 604.6 to read:

604.6. Testing of Battery Powered Emergency Lights and Exit Signs. Required emergency lighting utilizing battery powered emergency lights or exit signs, or both, shall be tested annually. The emergency lights and exit signs shall be tested for proper operation for the time period established in the building code in effect when the equipment was installed. Written records of tests shall be retained by the owner of the building for a minimum of two years after the test is conducted and shall be made available to the fire code official upon request. ]

**13VAC5-51-134. IFC Chapter 8. Interior Finish, Decorative Materials and Furnishings.**

Change [ A. ] Add exception 3 to Section ~~804.1.1~~ 806.1.1 to read:

~~804.1.1. Restricted occupancies. Natural cut trees shall be prohibited in Group A, E, I 1, I2, I 3, I 4, M, R 1, R 2 and R-4 occupancies.~~

Exceptions:

- ~~1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 shall not be prohibited in Groups A, E, M, R 1 and R 2.~~
- ~~2. Trees shall be permitted within dwelling units in Group R-2 occupancies.~~
3. Trees shall be permitted in places of worship in Group A occupancies.

[ B. Change Section 807.1 to read:

807.1. General requirements. In occupancies in Groups A, E, I and R-1 and dormitories in Group R-2, curtains, draperies, hangings and other decorative materials suspended from walls or ceilings shall meet the flame propagation performance criteria of NFPA 701 in accordance with Section 806.2 or be noncombustible.

Exception: In dwelling units or sleeping rooms in Group R-2 dormitories, the permissible amount of decorative material suspended from or attached to the walls shall not exceed 50% of the aggregate area of the walls where the building has an approved automatic sprinkler system or 20% of the aggregate area of the walls where approved smoke alarms are provided and in the corridors of such buildings, the permissible amount of decorative material suspended from or attached to the walls shall not exceed 10% of the aggregate area of the walls.

In Groups I-1 and I-2, combustibles decorative materials shall meet the flame propagation criteria of NFPA 701 unless the decorative materials, including, but not limited to, photographs and paintings, are of such limited quantities that a hazard of fire development or spread is not present. In Group I-3, combustibles decorative materials are prohibited.

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Fixed or movable walls and partitions, paneling, wall pads and crash pads, applied structurally or for decoration, acoustical correction, surface insulation or other purposes, shall be considered interior finish if they cover 10% or more of the wall or of the ceiling area, and shall not be considered decorative materials or furnishings.

In Group B and M occupancies, fabric partitions suspended from the ceiling and not supported by the floor shall meet the flame propagation performance criteria in accordance with Section 807.2 and NFPA 701 or shall be noncombustible. ]

## **13VAC5-51-135. IFC Chapter 9. Fire Protection Systems.**

A. Change Section 901.4.2 to read:

901.4.2. Nonrequired fire protection systems. Nonrequired fire protection systems shall be maintained to function as originally installed. If any such systems are to be reduced in function or discontinued, approval shall be obtained from the building official in accordance with Section 103.8.1 of Part I of the USBC.

B. Delete Section 901.4.3.

C. Change Section 901.6 to read:

901.6. Inspection, testing and maintenance. To the extent that equipment, systems, devices, and safeguards, such as fire detection, alarm and extinguishing systems, which were provided and approved by the building official when constructed, shall be maintained in an operative condition at all times. And where such equipment, systems, devices, and safeguards are found not to be in an operative condition, the fire official shall order all such equipment to be rendered safe in accordance with the USBC.

~~Exception:~~ D. Add Section 901.10 to read:

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

~~D.~~ E. Change the following definition in Section 902 to read:

Automatic fire-extinguishing system. An approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire. Such system shall include an automatic sprinkler system, unless otherwise expressly stated.

~~E.~~ F. Change item 1 in Section 906.1 to read:

1. In Group A, B, E, F, H, I, M, R-1, R-4 and S occupancies.

~~F.~~ G. Add a note to Section 906.1 to read:

Note: In existing buildings, whether fire extinguishers are needed is determined by the USBC or other code in effect when such buildings were constructed.

G. Change Section 906.2 to read:

~~906.2. General requirements. Fire extinguishers shall be selected, installed and maintained in accordance with this section and NFPA 10.~~

~~Exceptions:~~

- ~~1. The travel distance to reach an extinguisher shall not apply to the spectator seating portions of Group A-5 occupancies.~~
- ~~2. The use of a supervised, listed electronic monitoring device shall be allowed in lieu of 30 day interval inspections, when approved.~~

H. Change Section 907.20.2 to read:

907.20.2. Testing. Testing shall be performed in accordance with the schedules in Chapter [ ~~7~~ 10 ] of NFPA 72 or more frequently where required by the fire code official. Where automatic testing is performed at least weekly by a remotely monitored fire alarm control unit specifically listed for the application, the manual testing frequency shall be permitted to be extended to annual. In Group R-1 occupancies, battery-powered single station smoke detectors shall be tested and inspected at one-month intervals.

Exception: Devices or equipment that are inaccessible for safety considerations shall be tested during scheduled shutdowns where approved by the fire code official, but not less than every 18 months.

## **[ 13VAC5-51-143. IFC Chapter 24. Tents, Canopies and Other Membrane Structures.**

A. Change the title of Chapter 24 to read "Tents and Membrane Structures."

B. Change Section 2401.1 to read:

2401.1. Scope. Tents and membrane structures shall comply with this chapter. The provisions of Section 2403 are applicable only to temporary membrane structures. The provisions of Section 2404 are applicable to temporary and permanent membrane structures.

C. Delete the definition of the term "Canopy" in Section 2402.1 and change the definition of the term "Tent" in Section 2402.1 to read:

Tent: Any structure, enclosure or shelter, other than a canopy, with or without sidewalls or drops constructed of fabric or pliable material supported by any manner except by air or the contents it protects.

D. Change the title of Section 2403 to read "Temporary Tents and Membrane Structures."

E. Change Section 2403.1 to read:

2403.1. General. All temporary tents and membrane structures shall comply with this section.

F. Change Section 2403.2 to read:

2403.2. Approval required. Tents and membrane structures having an area in excess of 200 square feet (19 m<sup>2</sup>) shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official.

Exception: Tents used exclusively for recreational camping purposes.

G. Change Section 2403.5 to read:

2403.5. Use period. Temporary tents and air-supported, air-inflated or tensioned membrane structures shall not be erected for a period of more than 180 days within a 12-month period on a single premises.

H. Change Section 2403.6 to read:

2403.6. Construction documents. A detailed site and floor plan for tents or membrane structures with an occupant load of 50 or more shall be provided with each application for approval. The tent or membrane structure floor plan shall indicate details of the means of egress facilities, seating capacity, arrangement of the seating and location and type of heating and electrical equipment.

I. Change Sections 2403.8, 2403.8.2 and 2403.8.5 to read:

2403.8. Access, location and parking. Access location and parking for temporary tents and membrane structures shall be in accordance with this section.

2403.8.2. Location. Tents or membrane structures shall not be located within 20 feet (6096 mm) of lot lines, buildings, other tents or membrane structures, parked vehicles or internal combustion engines. For the purpose of determining required distances, support ropes and guy wires shall be considered as part of the temporary membrane structure or tent.

Exceptions:

1. Separation distance between membrane structures and tents not used for cooking, is not required when the aggregate floor area does not exceed 15,000 square feet (1394 m<sup>2</sup>).

2. Membrane structures or tents need not be separated from buildings when all of the following conditions are met:

2.1. The aggregate floor area of the membrane structure or tent shall not exceed 10,000 square feet (929 m<sup>2</sup>).

2.2. The aggregate floor area of the building and membrane structure or tent shall not exceed the allowable floor area including increases as indicated in the International Building Code.

2.3. Required means of egress provisions are provided for both the building and the membrane structure or tent, including travel distances.

2.4. Fire apparatus access roads are provided in accordance with Section 503.

2403.8.5. Fire break. An unobstructed fire break passageway or fire road not less than 12 feet (3658 mm) wide and free from guy ropes or other obstructions shall be maintained on all sides of all tents and membrane structures unless otherwise approved by the fire code official.

J. Change Section 2403.9 to read:

2403.9. Anchorage required. Tents or membrane structures and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished to the fire code official on request.

K. Change Section 2403.11 to read:

2403.11. Seating arrangements. Seating in tents or membrane structures shall be in accordance with Chapter 10.

L. Change Sections 2403.12, 2403.12.1, 2403.12.2 and Table 2403.2 to read:

2403.12. Means of egress. Means of egress for temporary tents and membrane structures shall be in accordance with Sections 2403.12.1 through 2403.12.8.

2403.12.1. Distribution. Exits shall be spaced at approximately equal intervals around the perimeter of the tent or membrane structure, and shall be located such that all points are 100 feet (30 480 mm) or less from an exit.

2403.12.2. Number. Tents or membrane structures or a usable portion thereof shall have at least one exit and not less than the number of exits required by Table 2403.12.2. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by a means of egress multiplied by 0.2 inches (5 mm) per person.



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Table 2403.12.2.

Minimum Number of Means of Egress and Means of Egress Widths from Temporary Membrane Structures and Tents.

<u>Occupant Load</u>	<u>Minimum Number of Means of Egress</u>	<u>Minimum Width of Each Means of Egress (inches)</u>	<u>Minimum Width of Each Means of Egress (inches)</u>
		<u>Tent</u>	<u>Membrane Structure</u>
<u>10 to 199</u>	<u>2</u>	<u>72</u>	<u>36</u>
<u>200 to 499</u>	<u>3</u>	<u>72</u>	<u>72</u>
<u>500 to 999</u>	<u>4</u>	<u>96</u>	<u>72</u>
<u>1,000 to 1,999</u>	<u>5</u>	<u>120</u>	<u>96</u>
<u>2,000 to 2,999</u>	<u>6</u>	<u>120</u>	<u>96</u>
<u>Over 3,000<sup>a</sup></u>	<u>7</u>	<u>120</u>	<u>96</u>

For SI: 1 inch = 25.4 mm

<sup>a</sup> When the occupant load exceeds 3,000, the total width of means of egress (in inches) shall not be less than the total occupant load multiplied by 0.2 inches per person.

M. Change the title of Section 2404 to read "Temporary and Permanent Tents and Membrane Structures."

N. Change Section 2404.1 to read:

2404.1. General. All tents and membrane structures, both temporary and permanent, shall be in accordance with this section. Permanent tents and membrane structures shall also comply with the International Building Code.

O. Change Section 2404.2 to read:

2404.2. Flame propagation performance treatment. Before a permit is granted, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory certifying that the tents and membrane structures and their appurtenances; sidewalls, drops and tarpaulins; floor coverings, bunting and combustible decorative materials and effects, including sawdust when used on floors or passageways, shall be composed of material meeting the flame propagation performance criteria of NFPA 701 or shall be treated with a flame retardant in an approved manner and meet the flame propagation performance criteria of NFPA 701, and that such flame propagation performance criteria are effective for the period specified by the permit.

P. Change Section 2404.3 to read:

2404.3. Label. Membrane structures or tents shall have a permanently affixed label bearing the identification of size and fabric or material type.

Q. Change Section 2404.4 to read:

2404.4. Certification. An affidavit or affirmation shall be submitted to the fire code official and a copy retained on the premises on which the tent or air-supported structure is located. The affidavit shall attest to the following information relative to the flame propagation performance criteria of the fabric:

1. Names and address of the owners of the tent or air-supported structure.
2. Date the fabric was last treated with flame-retardant solution.
3. Trade name or kind of chemical used in treatment.
4. Name of person or firm treating the material.
5. Name of testing agency and test standard by which the fabric was tested.

R. Change Section 2404.5 to read:

2404.5. Combustible materials. Hay, straw, shavings or similar combustible materials shall not be located within any tent or membrane structure containing an assembly occupancy, except the materials necessary for the daily feeding and care of animals. Sawdust and shavings utilized for a public performance or exhibit shall not be prohibited provided the sawdust and shavings are kept damp. Combustible materials shall not be permitted under stands or seats at any time. The areas within and adjacent to the tent or air-supported structure shall be maintained clear of all combustible materials or vegetation that could create a fire hazard within 20 feet (6096 mm) of the structure. Combustible trash shall be removed at least once a day from the structure during the period the structure is occupied by the public.

S. Change Section 2404.6 to read:

2404.6. Smoking. Smoking shall not be permitted in tents or membrane structures. Approved "No Smoking" signs shall be conspicuously posted in accordance with Section 310.

T. Change Section 2404.7 to read:

2404.7. Open or exposed flame. Open flame or other devices emitting flame, fire or heat or any flammable or combustible liquids, gas, charcoal or other cooking device or any other unapproved devices shall not be permitted inside or located within 20 feet (6096 mm) of the tent or membrane structures while open to the public unless approved by the fire code official.

U. Change Section 2404.8 to read:

2404.8. Fireworks. Fireworks shall not be used within 100 feet (30 480 mm) of tents or membrane structures.

V. Change Section 2404.10 to read:

2404.10. Safety film. Motion pictures shall not be displayed in tents or membrane structures unless the motion picture film is safety film.

W. Change Sections 2404.15.2, 2404.15.5 and 2404.15.6 to read:

2404.15.2. Venting. Gas, liquid and solid fuel-burning equipment designed to be vented shall be vented to the outside air as specified in the International Fuel Gas Code and the International Mechanical Code. Such vents shall be equipped with approved spark arresters when required. Where vents or flues are used, all portions of the tent or membrane structure shall be not less than 12 inches (305 mm) from the flue or vent.

2404.15.5. Cooking tents. Tents where cooking is performed shall be separated from other tents or membrane structures by a minimum of 20 feet (6096 mm).

2404.15.6. Outdoor cooking. Outdoor cooking that produces sparks or grease-laden vapors shall not be performed within 20 feet (6096 mm) of a tent or membrane structure.

X. Change Sections 2404.16.2 and 2404.16.3 to read:

2404.16.2. Location of containers. LP-gas containers shall be located outside. Safety release valves shall be pointed away from the tent or membrane structure.

2404.16.3. Protection and security. Portable LP-gas containers, piping, valves and fittings which are located outside and are being used to fuel equipment inside a tent or membrane structure shall be adequately protected to prevent tampering, damage by vehicles or other hazards and shall be located in an approved location. Portable LP-gas containers shall be securely fastened in place to prevent unauthorized movement.

Y. Change Sections 2404.17.1, 2404.17.2 and 2404.17.3 to read:

2404.17.1. Use. Flammable-liquid-fueled equipment shall not be used in tents or membrane structures.

2404.17.2. Flammable and combustible liquid storage. Flammable and combustible liquids shall be stored outside in an approved manner not less than 50 feet (15 240 mm) from tents or membrane structures. Storage shall be in accordance with Chapter 34.

2404.17.3. Refueling. Refueling shall be performed in an approved location not less than 20 feet (6096 mm) from tents or membrane structures.

Z. Change Sections 2404.18, 2404.18.2 and 2404.18.5 to read:

2404.18. Display of motor vehicles. Liquid- and gas-fueled vehicles and equipment used for display within tents or membrane structures shall be in accordance with Sections 2404.18.1 through 2404.18.5.3.

2404.18.2. Fuel systems. Vehicles or equipment shall not be fueled or defueled within the tent or membrane structure.

2404.18.5. Competitions and demonstrations. Liquid and gas-fueled vehicles and equipment used for competition or demonstration within a tent or membrane structure shall comply with Sections 2404.18.5.1 through 2404.18.5.3.

AA. Change Section 2404.19 to read:

2404.19. Separation of generators. Generators and other internal combustion power sources shall be separated from tents or membrane structures by a minimum of 20 feet (6096 mm) and shall be isolated from contact with the public by fencing, enclosure or other approved means.

BB. Change Section 2404.20 to read:

2404.20. Standby personnel. When, in the opinion of the fire code official, it is essential for public safety in a tent or membrane structure used as a place of assembly or any other use where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest or activity, the owner, agent or lessee shall employ one or more qualified persons, as required and approved, to remain on duty during the times such places are open to the public, or when such activity is being conducted.

Before each performance or the start of such activity, standby personnel shall keep diligent watch for fires during the time such place is open to the public or such activity is being conducted and take prompt measures for extinguishment of fires that occur and assist in the evacuation of the public from the structure.

There shall be trained crowd managers or crowd manager supervisors at a ratio of one crowd manager/supervisor for every 250 occupants, as approved.

CC. Change Section 2404.21 to read:

2404.21. Vegetation removal. Combustible vegetation shall be removed from the area occupied by a tent or membrane structure, and from areas within 30 feet (9144 mm) of such structures.

DD. Change Section 2404.22 to read:

2404.22. Waste material. The floor surface inside tents or membrane structures and the grounds outside and within a 30-foot (9144 mm) perimeter shall be kept clear of combustible waste. Such waste shall be stored in approved containers until removed from the premises. ]

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## 13VAC5-51-145. IFC Chapter 27. Hazardous Materials - General Provisions.

~~A.~~ Add exception 10 to Section 2701.1 to read:

~~10. The use of wall mounted dispensers containing nonaerosol alcohol-based hand rubs classified as Class I or Class II liquids when in accordance with Section 3405.5.~~

~~B.~~ A. Change Section 2701.5.1 to read:

2701.5.1. Hazardous Materials Management Plan. Where required by the fire code official, each application for a permit shall include a Hazardous Materials Management Plan (HMMP). The HMMP shall be maintained onsite for use by emergency responders, and shall be updated not less than annually. The HMMP shall include a facility site plan designating the following:

1. Storage and use areas.
2. Maximum amount of each material stored or used in each area.
3. Range of container sizes.
4. Locations of emergency isolation and mitigation valves and devices.
5. Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines.
6. On and off positions of valves for valves that are of the self-indicating type.
7. Storage plan showing the intended storage arrangement, including the location and dimensions of aisles.
8. The location and type of emergency equipment. The plans shall be legible and drawn approximately to scale. Separate distribution systems are allowed to be shown on separate pages.

~~C.~~ B. Change Section 2701.5.2 to read:

2701.5.2. Hazardous Materials Inventory Statement (HMIS). Where required by the fire code official, an application for a permit shall include an HMIS, such as SARA (Superfund Amendments and Reauthorization Act of 1986) Title III, Tier II Report, or other approved statement. The HMIS shall be maintained onsite or readily available through another means where approved by the fire code official for use by temporary responders, and shall be updated not less than annually. The HMIS shall include the following information:

1. Manufacturer's name.
2. Chemical name, trade names, hazardous ingredients.
3. Hazard classification.
4. MSDS or equivalent.

5. United Nations (UN), North America (NA) or the Chemical Abstract Service (CAS) identification number.

6. Maximum quantity stored or used on-site at one time.

7. Storage conditions related to the storage type, temperature and pressure.

~~D.~~ C. Add Sections 2701.5.3, 2701.5.3.1 and 2701.5.3.2 to read:

2701.5.3. Repository container. When a HMMP or HMIS is required, the owner or operator shall provide a repository container (lock box) or other approved means for the storage of items required in Sections 2701.5.1 and 2701.5.2 so as to be readily available to emergency response personnel.

2701.5.3.1. Location and identification. The repository container (lock box) shall be located, installed and identified in an approved manner.

2701.5.3.2. Keying. All repository containers (lock boxes) shall be keyed as required by the fire code official.

~~E.~~ D. Change Section 2703.3.1.4 to read:

2703.3.1.4. Responsibility for cleanup. The person, firm or corporation responsible for an unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. The fire code official may require records and receipts to verify cleanup and proper disposal of unauthorized discharges. When deemed necessary by the fire code official, cleanup may be initiated by the fire department or by an authorized individual or firm. Costs associated with such cleanup shall be borne by the owner, operator or other person responsible for the unauthorized discharge.

## 13VAC5-51-150. IFC Chapter 33. Explosives and Fireworks.

A. Change exception 4 in Section 3301.1 to read:

4. The possession, storage, and use of not more than 15 pounds (6.81 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and any amount of small arms primers for hand loading of small arms ammunition for personal consumption.

B. Add exceptions 10, 11 and 12 to Section 3301.1 to read:

10. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

11. The display of small arms primers in Group M when in the original manufacturer's packaging.

12. The possession, storage and use of not more than 50 pounds (23 kg) of commercially manufactured sporting black powder, 100 pounds (45 kg) of smokeless powder, and small arms primers for hand loading of small arms

ammunition for personal consumption in Group R-3 or R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5.

C. Change exception 4 in Section 3301.1.3 to read:

4. The possession, storage, sale, handling and use of permissible fireworks where allowed by applicable local or state laws, ordinances and regulations provided such fireworks comply with CPSC 16 CFR, Parts 1500-1507, and DOTn 49 CFR, Parts 100-178, for consumer fireworks.

D. Add exception 5 to Section 3301.1.3 to read:

5. The sale or use of materials or equipment when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.

E. Change entire Section 3301.2 to read:

3301.2. Permit required. Permits shall be required as set forth in Section 107.2 and regulated in accordance with this section. The manufacture, storage, possession, sale and use of fireworks or explosives shall not take place without first applying for and obtaining a permit.

3301.2.1. Residential uses. No person shall keep or store, nor shall any permit be issued to keep, possess or store, any fireworks or explosives at any place of habitation, or within 100 feet (30,480 mm) thereof.

Exception: Storage of smokeless propellant, black powder, and small arms primers for personal use and not for resale in accordance with Section 3306.

3301.2.2. Sale and retail display. Except for the Armed Forces of the United States, Coast Guard, National Guard, federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities, explosives shall not be sold, given, delivered or transferred to any person or company not in possession of a valid permit. The holder of a permit to sell explosives shall make a record of all transactions involving explosives in conformance with Section 3303.2 and include the signature of any receiver of the explosives. No person shall construct a retail display nor offer for sale explosives, explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies.

3301.2.3. Permit restrictions. The fire official is authorized to limit the quantity of explosives, explosive materials, or fireworks permitted at a given location. No person, possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such

permit. Only the kind of explosive specified in such a permit shall be kept or stored.

3301.2.3.1. Permit applicants. The fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the [ ~~DHCD~~ SFMO ] as a blaster in accordance with Section 3301.4.1, or who is not in the possession of a background clearance card or to designated persons representing an applicant that is not an individual and who is not in possession of a background clearance card issued in accordance with Section 3301.2.3.1.1. The [ ~~DHCD~~ SFMO ] shall process all applications for a background clearance card for compliance with §27-97.2 of the Code of Virginia and will be the sole provider of background clearance cards.

3301.2.3.1.1. Background clearance card: A background clearance card may be issued upon completion of the following requirements:

1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.

2. Using a form provided by the [ ~~DHCD~~ SFMO ], all individual applicants and all designated persons representing an applicant that is not an individual, shall submit to a background investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.

3. Each such applicant shall submit fingerprints and provide personal descriptive information to the [ ~~DHCD~~ SFMO ] to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.

3301.2.3.1.2. Issuance of a background clearance card: The issuance of a background clearance card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.2.3.1.3. Fee for background clearance card: The fee for obtaining or renewing a background clearance card from [ ~~DHCD~~ SFMO ] shall be \$150 plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central

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Criminal Records Exchange to the Federal Bureau of Investigation.

3301.2.3.1.4. Revocation of a background clearance card: After issuance of a background clearance card, subsequent conviction of a felony will be grounds for immediate revocation of a background clearance card, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The card shall be returned to the [ ~~DHCD~~ SFMO ] immediately. An individual may reapply for his background clearance card if his civil rights have been restored by the Governor or other appropriate authority.

3301.2.4. Financial responsibility. Before a permit is issued, as required by Section 3301.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$500,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The legal department of the jurisdiction may specify a greater amount when conditions at the location of use indicate a greater amount is required. Government entities shall be exempt from this bond requirement.

3301.2.4.1. Blasting. Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount, and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting but in no case shall the value of the coverage be less than \$500,000.

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

3301.2.4.2. Fireworks display. The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the legal department of the jurisdiction for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.

F. Change entire Section 3301.4 to read:

3301.4. Qualifications. Persons in charge of magazines, blasting, fireworks display, or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age and possess knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks.

3301.4.1. Certification of blasters. Certificates as a restricted or unrestricted blaster will be issued upon proof of successful completion of an examination approved by the [ ~~DHCD~~ SFMO ] and a background investigation for compliance with §27-97.2 of the Code of Virginia. The applicant for certification shall submit proof to the [ ~~DHCD~~ SFMO ] of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person(s) approved by the [ ~~DHCD~~ SFMO ].
2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person or persons approved by the [ ~~DHCD~~ SFMO ].

The [ ~~DHCD~~ SFMO ] shall process all certification applicants for compliance with §27-97.2 of the Code of Virginia and will be the sole provider of blaster certifications.

Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in §58.1-3230 of the Code of Virginia when blasting on such real estate.

3301.4.2. Certification issuance. The issuance of a certification as a blaster shall be denied if the applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.4.3. Fee for certification. The fee for obtaining or renewing a blaster certificate from [ ~~DHCD~~ SFMO ] shall be \$150 plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

3301.4.4. Revocation of a blaster certification. After issuance of a blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a blaster certification, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The certification shall be returned to [ ~~DHCD~~ the SFMO ] immediately. An individual may subsequently reapply for his blaster certification if his civil rights have been restored by the Governor or other appropriate authority.

3301.4.5. Expiration and renewal of a blaster certification. A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A background clearance card shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will

be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with §27-97.2 of the Code of Virginia. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with §27-97.2 of the Code of Virginia. The continued training or education required for renewal of a blaster certificate shall be obtained during the three years immediately prior to the certificate's published expiration date. Failure to renew a blaster certificate in accordance with this section shall cause an individual to obtain another blaster certificate upon compliance with Section 3301.4.1 to continue engaging in the unsupervised use of explosives.

G. Change Section 3301.7 to read:

3301.7. Seizure. The fire official is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, fireworks offered or exposed for sale, stored, possessed or used in violation of this chapter.

H. Add the following definitions to Section 3302.1 to read:

Background clearance card. An identification card issued to an individual who is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the purpose of submitting an application to the fire official for a permit to manufacture, use, handle, store, or sell explosive materials.

Blaster, restricted. Any person engaging in the use of explosives or blasting agents utilizing five pounds (2.25 kg) or less per blasting operation and using instantaneous detonators.

Blaster, unrestricted. Any person engaging in the use of explosives or blasting agents without limit to the amount of explosives or blasting agents or type of detonator.

Permissible fireworks. Any sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies.

I. Change the following definitions in Section 3302.1 to read:

Fireworks. Any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and that explodes, rises into the air or travels laterally, or fires projectiles into the air. Fireworks shall not include automobile flares, paper caps containing not more than an average of 0.25 grain (16 mg) of explosive content per cap or toy pistols, toy canes, toy guns or other devices utilizing such caps and items commonly known as party poppers, pop rocks

and snap-n-pops. Fireworks may be further delineated and referred to as:

Fireworks, 1.4G. (Formerly known as Class C, Common Fireworks.) Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks that comply with the construction, chemical composition, and labeling regulations of the DOTn for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of this code.

Fireworks, 1.3G. (Formerly Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces that exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN0335 by the DOTn.

Smokeless propellants. Solid propellants, commonly referred to as smokeless powders or any propellant classified by DOTn as a smokeless propellant in accordance with "NA3178, Smokeless Powder for Small Arms," used in small arms ammunition, firearms, cannons, rockets, propellant-actuated devices, and similar articles.

J. Change Section 3305.1 to read:

3305.1. General. The manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall comply with the requirements of this section, Title 59.1, Chapter 11 of the Code of Virginia, and NFPA 495 or NFPA 1124.

Exceptions:

1. The hand loading of small arms ammunition prepared for personal use and not offered for resale.
2. The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495.
3. The use of binary explosives or phosphoric materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126.

K. Add Section 3305.1.1 to read:

3305.1.1. Permits. Permits for the manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall be required as set forth in Section 107.2 and regulated in accordance with this section. A permit to manufacture any explosive material in any quantity shall be prohibited unless such manufacture is authorized by a federal

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license and conducted in accordance with recognized safety practices.

L. Change Section 3306.4 to read:

3306.4. Storage in residences. Propellants for personal use in quantities not exceeding 50 pounds (23 kg) of black powder or 100 pounds (45 kg) of smokeless powder shall be stored in original containers in occupancies limited to Group R-3 and R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures that are at least 10 feet from inhabited buildings and are accessory to Group R-3 or R-5. In other than Group R-3 or R-5, smokeless powder in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) shall be kept in a wooden box or cabinet having walls of at least one inch (25 mm) nominal thickness or equivalent.

M. Delete Sections 3306.4.1 and 3306.4.2.

N. Change Section 3306.5.1.1 to read:

3306.5.1.1. Smokeless propellant. No more than 100 pounds (45 kg) of smokeless propellants, in containers of 8 pounds (3.6 kg) or less capacity, shall be displayed in Group M occupancies.

O. Delete Section 3306.5.1.3.

P. Change Section 3306.5.2.1 to read:

3306.5.2.1 Smokeless propellant. Commercial stocks of smokeless propellants shall be stored as follows:

1. Quantities exceeding 20 pounds (9 kg), but not exceeding 100 pounds (45 kg) shall be stored in portable wooden boxes having walls of at least one inch (25 mm) nominal thickness or equivalent.
2. Quantities exceeding 100 pounds (45 kg), but not exceeding 800 pounds (363 kg), shall be stored in storage cabinets having walls at least one inch (25 mm) nominal thickness or equivalent. Not more than 400 pounds (182 kg) shall be stored in any one cabinet, and cabinets shall be separated by a distance of at least 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of at least one hour.
3. Storage of quantities exceeding 800 pounds (363 kg), but not exceeding 5,000 pounds (2270 kg) in a building shall comply with all of the following:
  - 3.1. The storage is inaccessible to unauthorized personnel.
  - 3.2. Smokeless propellant shall be stored in nonportable storage cabinets having wood walls at least one inch (25 mm) nominal thickness or equivalent and having shelves with no more than three feet (914 mm) of vertical separation between shelves.

3.3. No more than 400 pounds (182 kg) is stored in any one cabinet.

3.4. Cabinets shall be located against walls with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades must extend a minimum of 10 feet (3048 mm) outward, be firmly attached to the wall, and be constructed of steel not less than 0.25 inch thick (6.4 mm), two-inch (51 mm) nominal thickness wood, brick, or concrete block.

3.5. Smokeless propellant shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of one hour.

3.6. The building shall be equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.

4. Smokeless propellants not stored according to Item 1, 2, or 3 above shall be stored in a Type 2 or 4 magazine in accordance with Section 3304 and NFPA 495.

~~Q. Change Section 3306.5.2.3 to read:~~

~~3306.5.2.3 Small arms primers. Commercial stocks of small arms primers shall be stored as follows:~~

- ~~1. Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile and piles are at least 15 feet (4572 mm) apart.~~
- ~~2. Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:
  - ~~2.1. The warehouse or storage building shall not be accessible to unauthorized personnel.~~
  - ~~2.2. Small arms primers shall be stored in cabinets. No more than 200,000 small arms primers shall be stored in any one cabinet.~~
  - ~~2.3. Shelves in cabinets shall have vertical separation of at least two feet (610 mm).~~
  - ~~2.4. Cabinets shall be located against walls of the warehouse or storage room with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall, and shall be constructed of steel not less than 0.25 inch thick (6.4 mm), two inch (51 mm) nominal thickness wood, brick, or concrete block.~~~~

~~2.5. Small arms primers shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of one hour.~~

~~2.6. The building shall be protected throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.~~

~~3. Small arms primers not stored in accordance with Item 1 or 2 of this section shall be stored in a magazine meeting the requirements of Section 3304 and NFPA 495.~~

~~R. Q.~~ Change Section 3307.1 to read:

3307.1. General. Blasting operations shall be conducted only by persons certified by the [ ~~DHCD~~ SFMO ] as a restricted or unrestricted blaster or shall be supervised on-site by a person properly certified by the [ ~~DHCD~~ SFMO ] as [ a ] restricted or unrestricted blaster.

~~S. R.~~ Add Section 3307.16 to read:

3307.16. Blast records. A record of each blast shall be kept and retained for at least five years and shall be available for inspection by the code official. The record shall contain the following minimum data:

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

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

~~T. S.~~ Add exception to Section 3308.2 to read:

Exception: Permits are not required for the supervised use or display of permissible fireworks on private property with the consent of the owner of such property.

~~U. T.~~ Delete Section 3308.11.

**13VAC5-51-152. IFC Chapter 34. Flammable and Combustible Liquids. (Repealed.)**

A. Add the following definition to Section 3402.1 to read:

Alcohol-based hand rub. An alcohol-containing preparation designed for application to the hands for reducing the number of viable microorganisms on the hands and containing ethanol or isopropanol in an amount not exceeding 70% by volume.

B. Add Section 3405.5 to read:

~~3405.5. Alcohol based hand rubs classified as Class I or Class II liquids. The use of wall mounted dispensers containing nonaerosol, alcohol based hand rubs classified as Class I or Class II liquids shall be in accordance with the following:~~

- ~~1. When located in a corridor, the minimum corridor width shall be 72 inches (1829 mm).~~
- ~~2. The maximum capacity of each dispenser shall be 41 ounces (1.2 L).~~
- ~~3. The minimum separation between dispensers shall be 48 inches (1219 mm).~~
- ~~4. The dispensers shall not be installed directly adjacent to, directly above or below an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor shall remain clear and unobstructed.~~
- ~~5. Dispensers shall be mounted so that the bottom of the dispenser is a minimum of 42 inches (1067 mm) and a maximum of 48 inches (1219 mm) above finished floor.~~
- ~~6. Dispensers shall not release their contents except when the dispenser is manually activated.~~
- ~~7. Dispensers installed in occupancies with carpeted flooring shall only be allowed in smoke compartments or fire areas equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.~~
- ~~8. Projections into a corridor shall be in accordance with Section 1003.3.3.~~
- ~~9. Storage of alcohol based hand rubs shall be in accordance with the applicable provisions of Section 3404.~~

**13VAC5-51-154. IFC Chapter 38. Liquefied Petroleum Gases.**

A. Change Section 3801.2 to read:



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3801.2. Permits. Permits shall be required as set forth in Section 107.2. Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the fire code official, except when the container is for temporary use on construction sites.

~~B. Change Section 3806.2 to read:~~

~~3806.2. Overfilling. Liquefied petroleum gas containers shall not be filled or maintained with LP gas in excess of either the volume determined using the fixed liquid level gauge installed by the manufacturer, or the weight determined by the required percentage of the water capacity marked on the container. Portable containers shall not be refilled unless equipped with an overfilling prevention device (OPD) in accordance with NFPA 58.~~

~~C. B. Add Section 3806.4 to read:~~

~~3806.4. DOT cylinders filled on site. DOT cylinders in stationary service that are filled on site and therefore are not under the jurisdiction of DOT either shall be requalified in accordance with DOT requirements or shall be visually inspected within 12 years of the date of manufacture or within five years from [ (the effective date of this code) May 1, 2008 ] , whichever is later, and within every five years thereafter, in accordance with the following:~~

1. Any cylinder that fails one or more of the criteria in Item 3 shall not be refilled or continued in service until the condition is corrected.
2. Personnel shall be trained and qualified to perform inspections.
3. Visual inspection shall be performed in accordance with the following:
  - 3.1. The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, except that paragraph 4.2.1(1) of that standard (which requires tare weight certification), shall not be part of the required inspection criteria.
  - 3.2. The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.
  - 3.3. The cylinder is painted or coated to retard corrosion.
  - 3.4. The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.
  - 3.5. There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.
  - 3.6. The cylinder is installed on a firm foundation and is not in contact with the soil.

3.7. A cylinder that passed the visual inspection shall be marked with the month and year of the examination followed by the letter "E" (example: 10-01E, indicating requalification in October 2001 by the external inspection method).

3.8. The results of the visual inspection shall be documented, and a record of the inspection shall be retained for a five-year period.

Exception: Any inspection procedure outlined in Items 3.1 through 3.8 that would require a cylinder be moved in such a manner that disconnection from the piping system would be necessary shall be omitted, provided the other inspection results do not indicate further inspection is warranted.

~~D. Change Section 3809.12 to read:~~

~~3809.12. Location of storage outside of buildings. Storage outside of buildings, for containers awaiting use, resale or part of a cylinder exchange program shall be located not less than 10 feet (3048 mm) from openings into buildings, 20 feet (6096 mm) from any motor vehicle fuel dispenser and 10 feet (3048 mm) from any combustible material and in accordance with Table 3809.12.~~

~~E. Change Table 3809.12 to read:~~

Table 3809.12 Location of Containers Awaiting Use or Resale Stored Outside of Buildings	
Quantity of LP Gas Stored	Distances to a Building or Group of Buildings, Public Way or Lot Line of Property That Can Be Built Upon (feet)
2500 pounds or less	0
2,501 to 6,000 pounds	10 <sup>a</sup>
6,001 to 10,000 pounds	20
Over 10,000 pounds	25
For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.	
<sup>a</sup> Containers are allowed to be located a lesser distance.	

~~F. Change Section 3809.14 to read:~~

~~3809.14. Separation from means of egress for permanent containers located outside of buildings. Permanent containers located outside of buildings shall not be located within 10 feet (3048 mm) of any exit access doors, exits, stairways or in areas normally used, or intended to be used, as a means of egress.~~

~~G. C. Change Section 3811.2 to read:~~

3811.2. Unattended parking. The unattended parking of LP-gas tank vehicles shall be in accordance with Sections 3811.2.1 and 3811.2.2.

Exception: The unattended outdoor parking of LP-gas tank vehicles may also be in accordance with Section ~~6.6.2.1~~ 9.7.2 of NFPA 58.

**[ 13VAC5-51-155. IFC Chapter 45. Referenced Standards.**

~~Add new~~ Change the referenced standards as follows (standards not shown remain the same):

Standard reference number	Title	Referenced in code section number
CGA C-6 (2001)	Standards for Visual Inspection of Steel Compressed Gas Cylinders	3806.4
<u>NFPA 10-07</u>	<u>Portable Fire Extinguishers</u>	<u>Table 901.6.1, 906.2, 906.3, Table 906.3(1), Table 906.3(2), 2106.3</u>
<u>NFPA 13-07</u>	<u>Installation of Sprinkler Systems</u>	<u>Table 704.1, 903.3.1.1, 903.3.2, 903.3.5.1.1, 903.3.5.2, 904.11, 905.3.4, 907.9, 2301.1, 2304.2, Table 2306.2, 2306.9, 2307.2, 2307.2.1, 2308.2.2, 2308.2.2.1, 2310.1, 2501.1, 2804.1, 2806.5.7, 3404.3.3.9, Table 3404.3.6.3(7), 3404.3.7.5.1, 3404.3.8.4</u>
<u>NFPA 13D-07</u>	<u>Installation of Sprinkler Systems in One- and Two-Family</u>	<u>903.3.1.3, 903.3.5.1.1</u>

	<u>Dwellings and Manufactured Homes</u>	
<u>NFPA 13R-07</u>	<u>Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height</u>	<u>903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4</u>
<u>NFPA 14-07</u>	<u>Installation of Standpipe and Hose Systems</u>	<u>905.2, 905.3.4, 905.4.2, 905.8</u>
<u>NFPA 20-07</u>	<u>Installation of Stationary Pumps for Fire Protection</u>	<u>913.1, 913.2, 913.5.1</u>
<u>NFPA 24-07</u>	<u>Installation of Private Fire Service Mains and their Appurtenances</u>	<u>508.2.1, 1909.5</u>
<u>NFPA 25-07</u>	<u>Inspection, Testing and Maintenance of Water-based Fire Protection Systems</u>	<u>508.5.3, Table 901.6.1, 904.7.1, 912.6, 913.5</u>
<u>NFPA 30B-07</u>	<u>Manufacture and Storage of Aerosol Products</u>	<u>2801.1, 2803.1, 2804.1, Table 2804.3.1, Table 2804.3.2, Table 2804.3.2.2, 2804.4.1, 2804.5.2, 2804.6, Table 2806.2, 2806.2.3, 2806.3.2, Table 2806.4, 2806.5.1, 2806.5.6, 2807.1</u>
<u>NFPA 33-07</u>	<u>Spray Application Using Flammable or Combustible Materials</u>	<u>1504.3.2</u>

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<p>NFPA 72-07</p>	<p>National Fire Alarm Code</p>	<p><u>509.1, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.1.1, 907.2.10, 907.2.10.4, 907.2.11.2, 907.2.11.3, 907.2.12.2.3, 907.2.12.3, 907.3, 907.5, 907.6, 907.10.2, 907.11, 907.15, 907.17, 907.18, 907.20, 907.20.2, 907.20.5</u></p>
<p>NFPA 704-07</p>	<p>Identification of the Hazards of Materials for Emergency Response</p>	<p><u>606.7, 1802.1, 2404.2, 2703.2.2.1, 2703.2.2.2, 2703.5, 2703.10.2, 2705.1.1.0, 2705.2.1.1, 2705.4.4, 3203.4.1, 3404.2.3.2 ]</u></p>

Height, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 14-07, Installation of Standpipe and Hose Systems, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 20-07, Installation of Stationary Pumps for Fire Protection, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 24-07, Installation of Private Fire Service Mains and their Appurtenances, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 25-07, Inspection, Testing and Maintenance of Water-based Fire Protection Systems, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 30B-07, Manufacture and Storage of Aerosol Products, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 33-07, Spray Application Using Flammable or Combustible Materials, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. ]

NFPA 58—04 NFPA 58 – 04 , Liquefied Petroleum Gas Code, ~~2004~~ 2004 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

[ NFPA 72, 07, National Fire Alarm Code, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 704-07, Identification of the Hazards of Materials for Emergency Response, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. ]

CGA C-6 – 2001, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Eighth Edition, Compressed Gas Association, 1725 Jefferson Davis Highway, 5th Floor, Arlington, VA 22202-4102.

VA.R. Doc. No. R07-124; Filed February 22, 2008, 2:55 p.m.

## DOCUMENTS INCORPORATED BY REFERENCE

The International Fire Code – ~~2003~~ 2006 Edition, International Code Council, Inc., [ ~~5203 Leesburg Pike, Suite ] 708 [ ~~600, Falls Church, VA 22041~~ 3401 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070 ] .~~

~~NFPA 10—98, Standard for Portable Fire Extinguishers, 1998 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

[ NFPA 10-07, Portable Fire Extinguishers, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 13-07, Installation of Sprinkler Systems, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 13D-07, Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

NFPA 13R-07, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the Uniform Statewide Building Code (§36-97 et seq.) provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as

provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

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Due to its length, the following regulatory action filed by the Board of Housing and Community Development (13VAC5-63) is not being published. However, in accordance with §2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Board of Housing and Community Development (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://register.state.va.us/vol24/Welcome.htm>.

**Title of Regulation:** 13VAC5-63. Virginia Uniform Statewide Building Code (amending 13VAC5-63-10 through 13VAC5-63-50, 13VAC5-63-70, 13VAC5-63-80, 13VAC5-63-100 through 13VAC5-63-130, 13VAC5-63-150, 13VAC5-63-160, 13VAC5-63-190 through 13VAC5-63-260, 13VAC5-63-270, 13VAC5-63-280, 13VAC5-63-300 through 13VAC5-63-360, 13VAC5-63-400, 13VAC5-63-430, 13VAC5-63-434 through 13VAC5-63-450, 13VAC5-63-470 through 13VAC5-63-500, 13VAC5-63-520; adding 13VAC5-63-267, 13VAC5-63-335, 13VAC5-63-525; repealing 13VAC5-63-225, 13VAC5-63-265, 13VAC5-63-432, 13VAC5-63-550).

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

**Effective Date:** May 1, 2008.

**Agency Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone 804-371-7000, FAX 804-371-7090, TTY 804-371-7089, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

**Summary:**

*The amendments to the regulation are categorized into three groups. The first group consists of amendments necessary to incorporate the newest editions of the nationally recognized model codes and standards into the regulation.*

*The second group of amendments consists of general clarifications and correlation changes that are made to more closely match legislative language, to coordinate the application of the regulations with the other building and fire regulations of the board, and to remove provisions in the existing Uniform Statewide Building Code (USBC) that have been successfully added to the latest model codes through the code changes process of the model code organization, thus eliminating the need for those changes in the USBC.*

*The third group of amendments consists of changes considered by committees or client groups to reach a degree of consensus enabling their inclusion in the proposed regulation. This group of amendments (i) limits the instances where building permits can be withheld to the functional design requirements of other departments or agencies (13VAC5-63-30 L), (ii) establishes minimum criteria for third-party inspector policies of the local building departments (13VAC5-63-130 J), (iii) requires the building owner to request documentation of the existence of violations after the statute of limitations time period expires (13VAC5-63-150 C), (iv) changes the time frame for filing an appeal of the local building department's application of the code to 30 days for construction issues and 14 days for maintenance issues (13VAC5-63-190 E and 13VAC5-63-500 E), (v) permits bed and breakfast-type occupancies having up to 10 occupants total to be classified as a single-family dwelling (13VAC5-63-210 F), (vi) maintains the standards for concrete and masonry foundation walls for single-family dwellings consistent with the existing provisions instead of using the newest model code provisions (13VAC5-63-210 K 22), (vii) establishes standards for wall bracing in single-family dwelling construction (13VAC5-63-210 K 28), (viii) removes a prohibition from the use of plumbing drainage piping in exposed ceiling areas in food service establishments (13VAC5-63-320 B), and (ix) establishes standards for the construction of public swimming pools.*

*Changes in the final regulation are the result of proposals submitted at the public hearing and during the comment periods established by the Board of Housing and Community Development. Proposals were received from numerous client groups and interested parties including the Virginia Building and Code Officials Association, the Virginia Plumbing and Mechanical Inspectors Association, the Virginia Chapter of the International Association of Electrical Inspectors, the Home Builders Association of Virginia, the Virginia Chapter of the American Institute of Architects, the Building and Office Managers Association, the National Apartment Managers Association, the Virginia Fire Prevention Association and many trade associations. The Board of Housing and Community Development established a number of work groups to analyze the proposals and determine the degree of consensus each proposal achieved among the interest groups.*

*Substantial changes made in the final regulation are as follows:*

*1. Clarify the requirements for when permits are necessary for alterations to existing buildings, including an allowance for building officials to require permits for replacement siding, roofing and windows in historic districts (13VAC5-63-80 A and B);*

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2. Provide criteria for classifying small bed and breakfasts in the same occupancy classification as single family dwellings (13VAC5-63-210 E);

3. Amend the requirements for wall bracing in the proposed regulation with requirements developed at the national level that will be contained in the 2009 International Residential Code (13VAC5-63-210 J 36);

4. Modify the 2006 International Residential Code requirement for the height of window sills from a minimum of 24 inches above the floor to a minimum of 18 inches above the floor (13VAC5-63-210 J 37);

5. Modify the International Residential Code requirements for the installation of a specialized type of gas piping known as CSST, which has been shown to be susceptible to lightning strikes and add a new requirement for the isolation of liquefied petroleum gas piping where entering a building (13VAC5-63-210 J 42 and 43);

6. Establish new minimum requirements for in-building emergency communication equipment in buildings of construction types that may block transmission of signals (13VAC5-63-240 N, O, P and Q);

7. Clarify the site requirements for installation of manufactured homes in parks to mirror federal requirements (13VAC5-63-270 B);

8. Establish criteria for the use of special inspectors for more critical types of construction to provide guidance to local building officials in approving such inspections (13VAC5-63-280 A, B, C and E);

9. Clarify that emergency generators installed to meet requirements for assisted living facilities may be considered optional standby systems instead of having to meet provisions for legally required systems (13VAC5-63-300 D);

10. Replace the mechanical ventilation requirements of the International Mechanical Code (IMC) with requirements based on a national standard for heating and air-conditioning approved at the national level for the 2009 IMC (13VAC5-63-310 E 2 and 3);

11. Add a requirement for tracer wire to be installed with sewer piping (13VAC5-63-320 B 5);

12. Add minimum requirements for the installation of machine-room-less elevators to assure the maintenance of the units can be conducted without structural modifications and to provide for safe installations (13VAC5-63-330 B);

13. Clarify that an owner may choose to demolish an unsafe building rather than correcting the deficiencies (3VAC5-63-490 A); and

14. Retain requirements of the 2003 International Property Maintenance Code for the numbers of occupants permitted in residential occupancies (13VAC5-63-525 B and C).

**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.

VA.R. Doc. No. R07-125; Filed February 22, 2008, 2:53 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the Industrialized Building Safety Law (§36-70 et seq.) provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

**Title of Regulation:** 13VAC5-91. Virginia Industrialized Building Safety Regulations (amending 13VAC5-91-20, 13VAC5-91-100, 13VAC5-91-120, 13VAC5-91-160, 13VAC5-91-270; adding 13VAC5-91-115, repealing 13VAC5-91-110).

**Statutory Authority:** §36-73 of the Code of Virginia.

**Effective Date:** May 1, 2008.

**Agency Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, VA 23219-1321, telephone 804-371-7000, FAX 804-371-7090, TTY 804-371-7089, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

**Summary:**

Changes in the proposed regulation may be categorized into two groups. The first are changes necessary to incorporate the newest editions of the nationally recognized model codes and standards into the regulations. The newest editions of the model codes are the 2006 editions.

The second group of changes consists of general clarifications and correlation changes. These changes are simply to more closely match legislative language and to coordinate the application of the regulations with the USBC and with the Virginia Manufactured Home Safety Regulations (13VAC5-95).

*The final regulation incorporates two changes resulting from proposals submitted by the Modular Building Institute. 13VAC5-91-115 is added to establish standards for permitting an existing industrialized building to be approved for use as a different occupancy. The standards include disassembly of the unit if necessary to determine substantial compliance with the regulation and the issuance of a new manufacturer's data plate. 13VAC5-91-120 C is added to establish standards for an existing unregistered industrialized building, such as one from another state, to be evaluated for compliance with the regulation and a registration seal issued if substantial compliance is achieved.*

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.

### **13VAC5-91-20. Application and compliance.**

A. This chapter shall apply to industrialized buildings. The following provisions are in accordance with §36-81 of the Code of Virginia [ :registered . Registered ] industrialized buildings shall be acceptable in all localities as meeting the requirements of the Industrialized Building Safety Law (Chapter 4 (§36-70 et seq.) of Title 36 of the Code of Virginia), which shall supersede the building codes and regulations of the counties, municipalities and state agencies. Local requirements affecting industrialized buildings, including zoning, utility connections, preparation of the site and maintenance of the unit shall remain in full force and effect. All building officials are authorized to and shall enforce the provisions of this law, and the rules and regulations made in pursuance thereof.

B. No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building ~~produced after the effective date of~~ subject to any provision provisions of this chapter unless it conforms with such provision if the industrialized building is not in compliance with any such provisions.

C. ~~Industrialized buildings subject to any edition of this chapter when constructed shall be maintained in compliance with the applicable edition by the owners or occupants, or both~~ In accordance with subsection A of this section, the provisions of the USBC shall not be applicable to the design and construction of registered industrialized buildings. However, the provisions of this chapter do not prohibit the administrative provisions of the USBC for permits, inspections, certificates of occupancy and other matters from being applicable to the extent they are not addressed by the requirements of this chapter. Additionally, the provisions of this chapter do not prohibit alterations and additions to existing industrialized buildings from being regulated by the USBC or building officials from requiring the submission of

plans and specifications for the model involved in electronic or other available format to aid in the evaluation of the proposed addition or alteration.

D. Industrialized buildings constructed prior to January 1, 1972, shall ~~be remain~~ remain subject to the ordinances, laws or regulations in effect at the time such industrialized building was constructed. Additionally, the provisions of this chapter do not prohibit pertinent provisions of the USBC from being applicable when such industrialized buildings are relocated.

### **13VAC5-91-100. Responsibility Duties and responsibilities of building officials in the installation or erection of a registered industrialized building.**

~~Every building official is authorized to and shall enforce the provisions of this chapter within the limits of his jurisdiction. The building official shall not permit the use of any industrialized building that does not comply with this chapter.~~

A. Building officials shall carry out the following functions provided such functions do not involve disassembly of the registered building or a change in its design or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.

1. Verify through inspection that the registered industrialized building displays the required state registration seal and the proper label of the compliance assurance agency and has not been damaged in transit to a degree that would render it unsafe. If the building has been damaged, then the building official is authorized to require tests for tightness of plumbing systems and gas piping and tests for damaged or loose wires, or both, in the electrical system.

2. Verify through inspection that (i) supplemental components required by the data plate or by the installation instructions are properly provided and properly installed, (ii) the construction work associated with the installation of the building and the instructions from the manufacturer for the installation and erection of the building are followed, and (iii) any special conditions or limitations of use for the building that are stipulated in the manufacturer's instructions or by the data plate and authorized by this chapter are followed.

B. Building officials are authorized to require submission of plans and specifications for details of items needed to comprise the finished building that are not included or specified in the manufacturer's installation instructions such as footings, foundations, supporting structures and proper anchorage. They may require such architectural and engineering services as may be necessary to assure that the footings, foundations and supporting structures, proper anchorage and other components necessary to comprise the finished building are designed in accordance with the applicable provisions of this chapter.

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C. When a building official determines that a violation of any provision of this section is present, the responsible person shall be notified and given a reasonable time to correct the violation. If the violation is not corrected, the building official shall institute the appropriate proceedings to require correction or abatement of the violation and may prohibit the occupancy of the building until the violation is corrected. In accordance with 13VAC5-91-60, the administrator shall also have the authority to compel correction of violations of this section and may be contacted by the building official for assistance.

## **13VAC5-91-110.—Registered industrialized buildings. (Repealed.)**

Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, building officials are authorized to carry out the following functions that apply to registered industrialized buildings provided such functions do not involve disassembly of the registered building or a change in its design or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.

1. Building officials shall verify that the registered industrialized building has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for damaged or loose wires, or both, in the electrical system.
2. Building officials shall verify that supplemental components required by the label or by this chapter are properly provided.
3. Building officials shall verify that the instructions of the label for installation and erection are observed.
4. Building officials shall verify that any special conditions or limitations of use that are stipulated by the label and authorized by this chapter are observed.
5. Building officials may require submission and approval of plans and specifications for items not included or specified in the manufacturer's installation instructions such as the supporting structures, foundations and anchorage and all other components necessary to form the completed building. They may require such architectural and engineering services as may be specifically authorized by this chapter to assure that the supporting structures, foundations and anchorage and other components necessary to form the completed building are designed in accordance with this chapter.
6. Building officials shall enforce applicable requirements of this chapter and the USBC for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the

unit. Such plans and specifications may be furnished on approved microfilm.

7. Building officials shall enforce the requirements of the USBC applicable to utility connections, site preparation, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.

8. Building officials shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.

## **[ 13VAC5-91-115. Change of occupancy classification.**

When the occupancy classification of a registered industrialized building is proposed to be changed, a compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether compliance may be achieved for a change of occupancy classification in accordance with the USBC. If factory plans are available, then disassembly is not required to the extent that the factory plans can be reasonably verified to reflect the actual construction. Once any necessary work is completed, the compliance assurance agency shall prepare a report documenting the method utilized for the change of occupancy and any alterations to the building to achieve compliance. When the report is complete, the compliance assurance agency shall (i) mark the building with a new compliance assurance agency label in accordance with 13VAC5-91-210, which replaces the existing label; (ii) place a new manufacturer's data plate on the building in accordance with 13VAC5-91-245, which replaces the existing manufacturer's data plate and reflects the new occupancy classification; and (iii) forward a copy of the report and new data plate to the SBCAO.

## **13VAC5-91-120. Unregistered industrialized buildings.**

A. The building official shall determine whether any unregistered industrialized building complies with this chapter and shall require any noncomplying unregistered building to be brought into compliance with this chapter. The building official shall enforce all applicable requirements of this chapter including those relating to the sale, rental and disposition of noncomplying buildings. The building official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. The building official may also accept reports of inspections and tests from individuals or agencies deemed acceptable to the building official.

B. Unregistered industrialized buildings offered for sale in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with this chapter and must be inspected and

approved by the building official. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

C. An existing unregistered industrialized building may be registered in accordance with the following:

1. Where an unregistered building was constructed under an industrialized building program of another state and approved under such program, a compliance assurance agency shall prepare a report based on review of the plans and specifications and inspection of the building to determine whether there is compliance with the construction requirements of this chapter that were in effect on the date of manufacture of the building. If compliance is determined, the compliance assurance agency shall (i) mark the building with a compliance assurance agency label in accordance with 13VAC5-91-210, (ii) place a new manufacturer's data plate on the building in accordance with 13VAC5-91-245, (iii) mark the building with a registration seal in accordance with 13VAC5-91-260, and (iv) forward a copy of the report and new data plate to the SBCAO.

2. Where an unregistered building was not approved under an industrialized building program of another state, the compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether there is compliance with the construction requirements of this chapter that were in effect on the date of manufacture of the building. When factory plans are available, then disassembly is not required to the extent that the factory plans can be verified to reflect the actual construction of the building. When compliance with the construction requirements of this chapter that were in effect on the date of manufacture of the building is achieved, the compliance assurance agency shall prepare a report documenting compliance, outlining any changes made to the building, and certifying the building in accordance with clauses (i) through (iv) of subdivision 1 of this subsection.

3. When the date of manufacture of the existing unregistered building cannot be verified, the building shall be evaluated for compliance with the codes and standards specified in 13VAC5-91-160. The compliance assurance agency shall inspect the building, including any disassembly necessary, to determine whether there is compliance with these construction requirements. If compliance is achieved, the compliance assurance agency shall prepare a report documenting compliance, outlining any changes made to the building, and certifying the building in accordance with clauses (i) through (iv) of subdivision 1 of this subsection. ]

## **13VAC5-91-160. Use of model codes and standards.**

A. Industrialized buildings produced after ~~November 16, 2005~~ [ ~~(effective date of final regulation to be inserted)~~ May 1, 2008 ], shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the following codes and standards, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision:

The following codes and standards may be used until ~~February 16, 2006~~ [ ~~(date three months after above date to be inserted)~~ August 1, 2008 ]:

1. ICC International Building Code — ~~2000~~ 2003 Edition
2. ICC International Plumbing Code — ~~2000~~ 2003 Edition
3. ICC International Mechanical Code — ~~2000~~ 2003 Edition
4. National Fire Protection Association Standard Number 70 (National Electrical Code) — ~~1999~~ 2002 Edition
5. ICC International Residential Code — ~~2000~~ 2003 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of this chapter:

1. ICC International Building Code — ~~2003~~ 2006 Edition
2. ICC International Plumbing Code — ~~2003~~ 2006 Edition
3. ICC International Mechanical Code — ~~2003~~ 2006 Edition
4. National Electrical Code — ~~2002~~ 2005 Edition
5. ICC International Residential Code — ~~2003~~ 2006 Edition

The codes and standards referenced above may be procured from:

International Code Council, Inc.  
[ ~~5203 Leesburg Pike, Suite 600~~  
~~Falls Church, VA 22041~~  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001-2070 ]

## **13VAC5-91-270. Manufacturer's installation instructions and responsibilities of installers.**

A. The manufacturer of each industrialized building shall provide specifications or instructions, or both, with each building for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.



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B. Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.

C. Where the installation or erection of an industrialized building utilizes components that are to be concealed, the installer shall notify and obtain approval from the building official prior to concealment of such components unless the building official has agreed to an alternative method of verification.

## DOCUMENTS INCORPORATED BY REFERENCE

ICC International Plumbing Code — ~~2000~~ and 2003 and 2006 Editions, International Code Council.

ICC International Mechanical Code — ~~2000~~ and 2003 and 2006 Editions, International Code Council.

National Fire Protection Association Standard Number 70 (National Electrical Code) — ~~1999~~ and 2002 and 2005 Editions.

ICC International Building Code — ~~2000~~ and 2003 and 2006 Editions, International Code Council.

ICC International Residential Code — ~~2000~~ and 2003 and 2006 Editions, International Code Council.

ASTM Standard Number E541-01 — Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, American Society for Testing and Materials.

VA.R. Doc. No. R07-126; Filed February 22, 2008, 3:04 p.m.

## Fast-Track Regulation

**Title of Regulation:** **13VAC5-95. Virginia Manufactured Home Safety Regulations (amending 13VAC5-95-10, 13VAC5-95-30).**

**Statutory Authority:** §36-85.7 of the Code of Virginia.

**Public Hearing Information:** No public hearings are scheduled.

**Public Comments:** Public comments may be submitted until 5 p.m. on April 16, 2008.

**Effective Date:** May 1, 2008.

**Agency Contact:** Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, VA 23219-1321, telephone (804) 371-7015, FAX (804) 371-7090, TTY (804) 371-7089, or email [steve.calhoun@dhcd.virginia.gov](mailto:steve.calhoun@dhcd.virginia.gov).

**Basis:** The statutory authority for these regulations is contained in §36-85.7 of the Code of Virginia, which provides that the board shall adopt, amend, or repeal such rules and regulations as are necessary to implement the

Virginia Manufactured Housing Construction and Safety Standards Law, Chapter 4.1 (§36-85.2 et seq.) of Title 36 of the Code of Virginia, in compliance with the federal act and the federal standards and regulations enacted by the United States Department of Housing and Urban Development. The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the building and fire regulations of the department, which state law requires keeping up to date, the board updates this regulation whenever updating the building and fire regulations.

**Purpose:** The rationale and justification for these regulatory changes from the standpoint of the public's health, safety and welfare is to assure that the regulations are written in the plainest understandable language possible and that the regulations are correlated with the department's building and fire regulations thus eliminating potential conflicts in the application of the regulations.

**Rationale for Using Fast-Track Process:** As the regulatory changes do not contain substantive matters or changes and will better correlate the regulations with the department's building and fire regulations and facilitate a more uniform application and interpretation of the regulations, the fast-track regulatory changes will be noncontroversial.

**Substance:** The regulatory changes do not contain substantive matters or changes.

**Issues:** The primary advantage to the public of this action is that the regulation will provide the least possible necessary regulation for the installation of manufactured homes and eliminate confusion concerning the role of the local building departments in the approval of the installed homes.

There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action.

There are no disadvantages to the public or to the Commonwealth resulting from this action.

**The Department of Planning and Budget's Economic Impact Analysis:**

Summary of the Proposed Amendments to Regulation. The Board of Housing and Community Development (Board) proposes to amend its Virginia Manufactured Home Safety Standards regulation to provide greater clarity to its regulants. Specifically, the Board proposes to insert relevant Code of Virginia references, change references to other Board regulations if those regulations now have a different chapter number and add language that clarifies already existing rules. In addition to making clerical changes to the Virginia Manufactured Home Safety Standards, the Board is taking this regulatory action so that the public can comment on whether further changes are needed to make this regulation

consistent with concurrently promulgated Uniform Statewide Building Code (USBC) regulations.

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

**Estimated Economic Impact.** Currently, this regulation contains a reference to a regulation that has been repealed and re-promulgated under a different chapter number and does not specifically state the Code of Virginia sections that also contain rules that deal with manufactured homes. The Board proposes to update and/or add Code of Virginia and Virginia Administrative Code references so that this regulation accurately directs readers to other materials with relevant legally binding rules. Individuals and businesses that are subject to this regulation are unlikely to incur any costs on account of the regulatory changes and will likely benefit since the regulation will now better inform readers on other rules that are in effect.

In addition to correcting (or adding) Code of Virginia and Virginia Administrative Code references, the Board proposes to add or change regulatory language so that rules are clearer for the regulated public and other interested entities. For example, in several sections of this chapter, current language requires local code officials to verify that code is being followed. The Board proposes to insert "through inspection" after "verify" to add clarity to these sections. As officials have always "verified through inspection," adding the proposed language will not require any additional actions on the part of officials. None of these instances where the Board proposes to add clarifying language will likely increase costs for individuals and businesses that are subject to this regulation.

The Board's regulants, as well as other interested individuals, will likely also benefit from having the opportunity to comment on how this regulation may be affected by changes to the USBC.

**Businesses and Entities Affected.** Manufacturers and, to a lesser extent, sellers of manufactured homes will be affected by these regulatory changes. There are 41 manufacturers that are licensed by the Board and whose homes are sold in Virginia.

**Localities Particularly Affected.** No locality will be particularly affected by these regulatory changes.

**Projected Impact on Employment.** These regulatory changes are unlikely to affect employment in the Commonwealth.

**Effects on the Use and Value of Private Property.** These regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

**Small Businesses: Costs and Other Effects.** Businesses that are subject to this regulation are unlikely to incur any costs on account of these regulatory changes.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** Businesses that are subject to this regulation are unlikely to incur any costs on account of these regulatory changes.

**Real Estate Development Costs.** Real estate development costs are unlikely to be affected by these regulatory changes.

**Legal Mandate.** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with §2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, §2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

**Summary:**

*The amendments (i) insert relevant Code of Virginia references, (ii) update references to other board regulations, and (iii) add language that clarifies already existing provisions.*

**13VAC5-95-10. Definitions.**

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

"Act" or "the Act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 USC §5401 et seq.).

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"Administrator" means the Director of DHCD or his designee.

"DHCD" means the Virginia Department of Housing and Community Development.

"Dealer" means any person engaged in the sale, lease, or distribution of manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

"Defect" means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

"Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.

"Federal regulation" means the federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by §625 of the Act, and designated as Part 3282, Chapter XX, Title 24 of HUD's regulations (24 CFR Part 3282). (Part 3282 consists of subparts A through L, with sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

"Label" or "certification label" means the approved form of certification by the manufacturer that, under 24 CFR 3282.362(c)(2)(i) of the Manufactured Home Procedural and Enforcement Regulations, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

"Local code official" means the officer or other designated authority charged with the administration and enforcement of USBC, or duly authorized representative.

"Manufactured home" means 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.

"Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"Noncompliance" means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

"Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"Secretary" means the Secretary of HUD.

"Serious defect" means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

"Standards" or "federal standards" means the federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) adopted by HUD, in accordance with authority in the Act. The standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

"State administrative agency" or "SAA" means DHCD which is responsible for the administration and enforcement of Chapter 4.1 (§36-85.2 et seq.) of Title 36 of the Code of Virginia throughout Virginia and of the plan authorized by §36-85.5 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code (~~13VAC5-61-10 et seq.~~) (13VAC 5-63).

B. Terms defined within the federal regulations and standards shall have the same meanings in this chapter.

## **13VAC5-95-30. Effect of label.**

~~Manufactured~~ A. In accordance with §36-85.11 of the Code of Virginia, manufactured homes displaying the HUD certification label as prescribed in the federal standards shall be accepted in all localities as meeting the requirements of this chapter the Manufactured Housing Construction and Safety Standards Law (Chapter 4.1 (§36-85.2 et seq.) of Title 36 of the Code of Virginia), which shall supersede the building codes of the counties, municipalities and state agencies. Notwithstanding this provision In addition, as a requirement of this chapter, local code officials are authorized to shall carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the homes or parts of the homes, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations.

~~1. Local code officials shall verify~~ Verify through inspection that the manufactured home has not been damaged in transit to a degree that would render it unsafe. ~~When determined necessary by the local code official~~ If the manufactured home has been damaged, then the local code official is authorized to require tests ~~may be required~~ for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.

~~2. Local code officials shall verify~~ Verify through inspection that (i) supplemental components required by the ~~label~~ manufacturer's installation instructions or this chapter are properly provided. ~~3. Local code officials shall verify that~~ (ii) manufacturer's installation or erection instructions are followed. ~~4. Local code officials shall verify that~~, and (iii) any special conditions or limitations of use stipulated by the manufacturer's installation instructions or the label in accordance with the standards or this chapter are followed.

~~5. B. Local code officials shall~~ are required by the USBC to enforce applicable requirements of this chapter and the USBC for alterations and additions to manufactured homes, and may enforce the USBC for maintenance of the homes. ~~6. Local code officials shall enforce the requirements of the USBC applicable to~~ for utility connections, site preparation, foundations, stoops, decks, porches, alterations and additions to existing manufactured homes, building permits, skirting, certificates of use and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units. ~~7. Local~~ In addition, local code officials may shall verify that a manufactured home displays the required HUD label.

~~8. Local code officials may verify that nonconforming items have been corrected.~~

VA.R. Doc. No. R08-656; Filed February 22, 2008, 3:02 p.m.

**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**BOARD OF DENTISTRY**

**Final Regulation**

**Title of Regulation: 18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18VAC60-20-108, 18VAC60-20-190, 18VAC60-20-220; adding 18VAC60-20-81).**

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

Effective Date: April 16, 2008.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone 804-367-4538, FAX 804-527-4428, or email sandra.reen@dhp.virginia.gov.

Summary:

*The amendments are intended to comply with a statutory mandate as set forth in Chapter 858 of the 2006 Acts of Assembly. The amendments establish education and examination requirements for a dental hygienist to demonstrate competency in the administration of local anesthesia and nitrous oxide under the direction of a licensed dentist, including a minimum of eight didactic and clinical hours for administration of nitrous oxide and 36 hours for administration of both nitrous and local anesthesia.*

*Amendments made to the final regulation clarify certain patient monitoring requirements.*

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.

**18VAC60-20-81. Administration of local anesthesia and/or nitrous oxide by dental hygienists.**

A. A dental hygienist who meets the qualifications set forth in this section and who is under the direction of a dentist may administer nitrous oxide/inhalation analgesia or, to patients 18 years of age or older, local anesthesia. Local anesthesia shall not include topical Schedule VI medicinal agents that may be administered under general supervision pursuant to 18VAC60-20-220 B.

B. To be eligible to administer only nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of nitrous oxide offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, which includes a minimum of eight hours in didactic and clinical in the following topics:

- a. Patient physical and psychological assessment;
- b. Medical history evaluation;
- c. Equipment and techniques used for administration of nitrous oxide;
- d. Neurophysiology of nitrous oxide administration;
- e. Pharmacology of nitrous oxide;
- f. Recordkeeping, medical and legal aspects of nitrous oxide;

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g. Adjunctive uses of nitrous oxide for dental patients; and

h. Clinical experiences in administering nitrous oxide, including training with live patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia given by the accredited program.

C. To be eligible to administer both local anesthesia and nitrous oxide/inhalation analgesia, a dental hygienist shall:

1. Successfully complete a didactic and clinical course leading to certification in administration of local anesthesia and nitrous oxide/inhalation analgesia that is offered by a dental or dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association, which includes a minimum of 36 didactic and clinical hours in the following topics:

a. Patient physical and psychological assessment;

b. Medical history evaluation and recordkeeping;

c. Neurophysiology of local anesthesia;

d. Pharmacology of local anesthetics and vasoconstrictors;

e. Anatomical considerations for local anesthesia;

f. Techniques for maxillary infiltration and block anesthesia;

g. Techniques for mandibular infiltration and block anesthesia;

h. Local and systemic anesthetic complications;

i. Management of medical emergencies;

j. Clinical experiences in maxillary and mandibular infiltration and block injections;

k. Pharmacology of nitrous oxide;

l. Adjunctive uses of nitrous oxide for dental patients; and

m. Clinical experiences in administering nitrous oxide and local anesthesia injections on patients.

2. Successfully complete an examination with a minimum score of 75% in the administration of nitrous oxide/inhalation analgesia and local anesthesia given by the accredited program.

D. A dental hygienist who holds a certificate or credential issued by the licensing board of another U.S. jurisdiction that authorizes the administration of nitrous oxide/inhalation analgesia or local anesthesia may be authorized for such administration in Virginia if:

1. The qualifications on which the credential or certificate was issued were substantially equivalent in hours of instruction and course content to those set forth in subsections B and C of this section; or

2. If the certificate or credential issued by another jurisdiction was not substantially equivalent, the hygienist can document experience in such administration for at least 24 of the past 48 months preceding application for licensure in Virginia.

E. A dentist who provides direction for the administration of nitrous oxide/inhalation analgesia or local anesthesia shall ensure that the dental hygienist has met the qualifications for such administration as set forth in this section.

## **18VAC60-20-108. Administration of anxiolysis or inhalation analgesia.**

A. Education and training requirements. A dentist who utilizes anxiolysis or inhalation analgesia shall have training in and knowledge of:

1. Medications used, the appropriate dosages and the potential complications of administration.

2. Physiological effects of nitrous oxide and potential complications of administration.

B. Equipment requirements. A dentist who utilizes anxiolysis or inhalation analgesia or who directs the administration of inhalation analgesia by a dental hygienist shall maintain the following equipment in his office and be trained in its use:

1. Blood pressure monitoring equipment.

2. Positive pressure oxygen.

3. Mechanical (hand) respiratory bag.

C. Monitoring requirements.

1. The treatment team for anxiolysis shall consist of the dentist and a second person in the operatory with the patient to assist, monitor and observe the patient. ~~[ One member of the team shall be in the operatory monitoring the patient at all times once the administration has begun. A dentist who utilizes anxiolysis shall ensure that there is continuous visual monitoring of the patient to determine the level of consciousness. Once the administration of anxiolysis has begun, the dentist shall ensure that a person qualified in accordance with 18VAC60-20-135 is present with the patient at all times to determine the level of consciousness by continuous visual monitoring of the patient. ]~~

2. A dentist ~~who utilizes anxiolysis or inhalation analgesia shall ensure that there is continuous visual monitoring of the patient to determine the level of consciousness~~ or a dental hygienist who utilizes inhalation analgesia shall

ensure that there is continuous visual monitoring of the patient to determine the level of consciousness.

3. If inhalation analgesia is used, monitoring shall include making the proper adjustments of nitrous oxide machines at the request of or by the dentist or a dental hygienist qualified in accordance with requirements of 18VAC60-20-81 to administer nitrous oxide during administration of the sedation and observing the patient's vital signs.

D. Discharge requirement. The dentist shall ensure that the patient is not discharged to his own care until he exhibits normal responses.

**18VAC60-20-190. Nondelegable duties; dentists.**

Only licensed dentists shall perform the following duties:

1. Final diagnosis and treatment planning;
2. Performing surgical or cutting procedures on hard or soft tissue;
3. Prescribing or parenterally administering drugs or medicaments;
4. Authorization of work orders for any appliance or prosthetic device or restoration to be inserted into a patient's mouth;
5. Operation of high speed rotary instruments in the mouth;
6. Performing pulp capping procedures;
7. Administering and monitoring general anesthetics and conscious sedation except as provided for in §54.1-2701 of the Code of Virginia and 18VAC60-20-108 C, 18VAC60-20-110 F, and 18VAC60-20-120 F;
- ~~8. Administering nitrous oxide or oxygen inhalation analgesia;~~
- ~~9. 8.~~ Condensing, contouring or adjusting any final, fixed or removable prosthodontic appliance or restoration in the mouth;
- ~~10. 9.~~ Final positioning and attachment of orthodontic bonds and bands;
- ~~11. 10.~~ Taking impressions for master casts to be used for prosthetic restoration of teeth or oral structures;
- ~~12. 11.~~ Final cementation of crowns and bridges; and
- ~~13. 12.~~ Placement of retraction cord.

**18VAC60-20-220. Dental hygienists.**

A. The following duties shall only be delegated to dental hygienists under direction with the dentist being present:

1. Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices under anesthesia administered by the dentist.

2. Performing an initial examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for assisting the dentist in the diagnosis.

3. Administering nitrous oxide or local anesthesia by dental hygienists qualified in accordance with the requirements of 18VAC60-20-81.

B. The following duties shall only be delegated to dental hygienists and may be delegated by written order in accordance with §54.1-3408 of the Code of Virginia to be performed under general supervision without the dentist being present:

1. Scaling and root planing of natural and restored teeth using hand instruments, rotary instruments and ultrasonic devices.
2. Polishing of natural and restored teeth using air polishers.
3. Performing a clinical examination of teeth and surrounding tissues including the charting of carious lesions, periodontal pockets or other abnormal conditions for further evaluation and diagnosis by the dentist.
4. Subgingival irrigation or subgingival application of topical Schedule VI medicinal agents.
5. Duties appropriate to the education and experience of the dental hygienist and the practice of the supervising dentist, with the exception of those listed in subsection A of this section and those listed as nondelegable in 18VAC60-20-190.

C. Nothing in this section shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

VA.R. Doc. No. R06-295; Filed February 27, 2008, 9:40 a.m.

**BOARD OF MEDICINE**

**Final Regulation**

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with §2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board of Medicine will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

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# Regulations

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**Titles of Regulations: 18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18VAC85-20-22).**

**18VAC85-130. Regulations Governing the Practice of Licensed Midwives (amending 18VAC85-130-30).**

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

Effective Date: April 16, 2008.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone 804-367-4621, FAX 804-527-4429, or email william.harp@dhp.virginia.gov.

Summary:

*The amendment to the regulation establishing fees for reinstatement of lapsed licenses for doctors of medicine, osteopathic medicine, podiatry and chiropractic and licensed midwives eliminates the additional late fees for someone who is attempting to reinstate a license after one biennium.*

**18VAC85-20-22. Required fees.**

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

C. The application fee for licensure in medicine, osteopathic medicine, and podiatry shall be \$302, and the fee for licensure in chiropractic shall be \$277.

D. The fee for a temporary authorization to practice medicine pursuant to §54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$25.

E. The application fee for a limited professorial or fellow license issued pursuant to 18VAC85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18VAC85-20-220 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be \$337 for licensure in medicine, osteopathic medicine and podiatry and \$312 for licensure in chiropractic, due in each even-numbered year in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be \$115 for licensure in medicine, osteopathic medicine and podiatry and \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to §54.1-2408.2 of the Code of Virginia or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to §54.1-2904 of the Code of Virginia that has expired for a period of two years or more shall be \$382 for licensure in medicine, osteopathic medicine and podiatry and \$367 for licensure in chiropractic in addition to the late fee ~~for each year in which the license has been lapsed, not to exceed a total of four years.~~ The fee shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of verification of licensure to another jurisdiction shall be \$10, and the fee for certification of grades to another jurisdiction by the board shall be \$25. Fees shall be due and payable upon submitting a request for verification or certification to the board.

L. The fee for biennial renewal of an inactive license shall be \$168, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$55 for each renewal cycle.

M. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$75, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

N. The fee for a returned check shall be \$35.

**18VAC85-130-30. Fees.**

Unless otherwise provided, the following fees shall not be refundable:

1. The application fee for a license to practice as a midwife shall be \$277.

2. The fee for biennial active license renewal shall be \$312; the additional fee for late renewal of an active license within one renewal cycle shall be \$105.

3. The fee for biennial inactive license renewal shall be \$168; the additional fee for late renewal of an inactive license within one renewal cycle shall be \$55.

4. The fee for reinstatement of a license that has expired for a period of two years or more shall be \$367 in addition to the late fee ~~for each year in which the license has been lapsed, not to exceed a total of four years.~~ The fee shall be submitted with an application for licensure reinstatement.

5. The fee for a letter of good standing/verification of a license to another jurisdiction shall be \$10.

6. The fee for an application for reinstatement if a license has been revoked or if an application for reinstatement has been previously denied shall be \$2,000.

- 7. The fee for a duplicate wall certificate shall be \$15.
- 8. The fee for a duplicate renewal license shall be \$5.
- 9. The fee for a returned check shall be \$35.

VA.R. Doc. No. R08-1141; Filed February 27, 2008, 9:39 a.m.

**BOARD OF COUNSELING**

**Final Regulation**

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

**Title of Regulation:** 18VAC115-30. Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling (amending 18VAC115-30-150, 18VAC115-30-160).

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

**Effective Date:** April 16, 2008.

**Agency Contact:** Evelyn B. Brown, Executive Director, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone 804-367-4488, FAX 804-527-4435, or email evelyn.brown@dhp.virginia.gov.

**Summary:**

*The amendments conform the regulations to the Code of Virginia by providing authority in 18VAC115-30-150 to restrict or decline to issue a certificate as provided in §54.1-2400 and amending 18VAC115-30-160 to require a three-year period after revocation of a license before a person can apply to a health regulatory board for reinstatement as provided in §54.1-2408.2.*

**18VAC115-30-150. Grounds for revocation, suspension, probation, reprimand, censure restriction or denial of renewal of certificate; petition for rehearing.**

A. In accordance with §54.1-2400(7) of the Code of Virginia, the board may revoke, suspend, restrict or decline to issue or renew a certificate based upon the following conduct:

- 1. Conviction of a felony or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of substance abuse counseling, or any provision of this chapter;

- 2. Procuring a certificate by fraud or misrepresentation;
- 3. Conducting one's practice in such a manner so as to make it a danger to the health and welfare of one's clients or to the public; or if one is unable to practice substance abuse counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
- 4. Negligence in professional conduct or nonconformance with the standards of practice outlined in 18VAC115-30-140; or
- 5. Performance of functions outside the board-certified area of competency.

B. Petition for rehearing. A petition may be made to the board for a rehearing upon good cause shown or as a result of substantial new evidence having been obtained which would alter the determination reached in subsection A of this section.

**18VAC115-30-160. Reinstatement following disciplinary action.**

A. Any person whose certificate has been ~~revoked~~, suspended or denied renewal by the board under the provisions of 18VAC115-30-150 may, two years subsequent to such board action, submit a new application for reinstatement of certification. Any person whose certificate has been revoked by the board under the provisions of 18VAC115-30-150 may, three years subsequent to such board action, submit a new application to the board for certification to the board.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.

VA.R. Doc. No. R08-1154; Filed February 21, 2008, 10:57 a.m.

**TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS**

**STATE CORPORATION COMMISSION**

**Proposed Regulation**

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with §2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and



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any agency that by the Constitution is expressly granted any of the powers of a court of record.

**Title of Regulation:** 20VAC5-314. **Regulations Governing Interconnection of Small Electrical Generators (adding 20VAC5-314-10 through 20VAC5-314-170).**

**Statutory Authority:** §§12.1-13 and 56-578 of the Code of Virginia.

**Public Hearing Information:** A public hearing will be scheduled upon request.

**Public Comments:** Public comments may be submitted until 5 p.m. on May 19, 2008.

**Agency Contact:** Mike Martin, Senior Utilities Engineer, Energy Division, P.O. Box 1197, 1300 East Main Street, Richmond, VA 23218, telephone (804) 371-9336, FAX (804) 371-9350, or email mike.martin@scc.virginia.gov.

**Summary:**

*Pursuant to §56-578 A of the Virginia Electric Utility Restructuring Act, Chapter 23 (§56-576 et seq.) of Title 56 of the Code of Virginia (Restructuring Act), all electric energy distributors have the obligation to connect any retail customer, including those using distributed generation, located within its service territory to the distributor's facilities used for delivery of retail electric energy, subject to State Corporation Commission rules and regulations and approved tariff provisions relating to connection of service. In accordance with §56-578 C of the Restructuring Act, the commission proposes interconnection standards, not inconsistent with nationally recognized standards, to ensure transmission and distribution safety and reliability.*

*The interconnection regulations establish standardized interconnection and operating requirements for the safe operation of electric generating facilities with a rated capacity of 20 MW or less connected to the distribution systems of electric utilities under the jurisdiction of the Virginia State Corporation Commission. These requirements apply to retail electric customers, independently owned generators or any other parties operating or intending to operate a distributed generation facility. The regulations establish three interconnection review paths for interconnection of customer-sited generation in Virginia - Level 1, Level 2 and Level 3. Level 1 interconnections must include a request to interconnect a certified inverter-based generating facility no larger than 500 kW. To qualify for a Level 2 interconnection request, the generating facility can be no larger than 2 MW and the proposed generator must meet certain specified codes, standards, and certification requirements. Level 3 interconnection requests apply to generating facilities larger than 2 MW*

*but no larger than 20 MW or a generating facility that does not pass the Level 1 or Level 2 process.*

AT RICHMOND, FEBRUARY 26, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2008-00004

**Ex Parte:** In the matter of establishing interconnection standards for distributed electric generation

**ORDER ESTABLISHING PROCEEDING**

Pursuant to §56-578 A of the Virginia Electric Utility Restructuring Act, Chapter 23 (§56-576 et seq.) of Title 56 of the Code of Virginia ("Restructuring Act"), all electric energy distributors have the obligation to connect any retail customer, including those using distributed generation, located within its service territory to the distributor's facilities used for delivery of retail electric energy, subject to State Corporation Commission ("Commission") rules and regulations and approved tariff provisions relating to connection of service.

In accordance with §56-578 C of the Restructuring Act, the Commission shall establish interconnection standards, not inconsistent with nationally recognized standards acceptable to the Commission, to ensure transmission and distribution safety and reliability. In adopting the interconnection standards, the Commission shall seek to prevent barriers to new technology and shall not make compliance unduly burdensome and expensive.

NOW THE COMMISSION, upon consideration of the matter, is of the opinion and finds that a proceeding should be established to consider interconnection standards for distributed generation for the Commonwealth in accordance with §56-578 C of the Restructuring Act. The Staff of the Commission ("Staff") has developed proposed rules to meet the requirements of §56-578 C of the Restructuring Act, Chapter 314 Regulations Governing Interconnection of Small Electrical Generators, which is attached hereto as Appendix A. We will direct that notice be given to the public<sup>1</sup> and that interested persons have an opportunity to comment on Staff's proposed rules (Appendix A) and other issues raised herein.

We note that the Federal Energy Regulatory Commission ("FERC") has asserted jurisdiction over certain generator interconnections.<sup>2</sup> The extent of the FERC's authority and other Virginia statutes may bear on the degree to which the Commission develops interconnection standards for distributed generation facilities. Interested persons are asked to include in their comments a discussion of the Commission's jurisdiction and authority to develop interconnection standards for distributed generation as

contemplated in Appendix A. Where submitting that the FERC Small Generator Interconnection Rules in general or a certain provision therein are preemptive of this Commission's rulemaking as proposed in Appendix A or any portion therein, interested persons must provide specific justification as to why such proposed standard need not be addressed in the Commission's rulemaking or provide a clear alternative for consideration.

Finally, we invite interested persons to comment on any specific issues not addressed by Staff in its proposed rules (Appendix A), which would require additional rules or consideration. Such comments may discuss matters beyond the point of actual interconnection of the generating facility with the utility's electric distribution system that may need to be addressed in this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUE-2008-00004.
- (2) The Commission's Division of Information Resources shall forward a copy of this Order including Appendix A to the Registrar of Regulations for publication in the Virginia Register.
- (3) Within five (5) business days of the filing of this Order with the Clerk of the Commission, the Staff shall transmit electronically or mail copies of this Order including Appendix A to interested persons identified by Staff. Staff shall file with the Clerk of the Commission a certificate of transmission or mailing and include a list of the names and addresses to whom the Order was transmitted or mailed.
- (4) On or before May 19, 2008, interested persons may file an original and fifteen (15) copies of comments with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Comments shall refer to Case No. PUE-2008-00004 and address Staff's proposed rules (Appendix A) and the specific issues raised herein. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>.
- (5) This matter shall remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Economics and Finance and Energy Regulation.

<sup>1</sup> The Staff has developed a list of persons that may be interested in this proceeding and is directed to provide copies of this Order by electronic transmission or, where necessary, by mail to the persons on this list. We also direct that a copy of this Order be forwarded to the Registrar of Regulations for publication in the Virginia Register.

<sup>2</sup> The FERC has adopted two sets of rules to standardize the terms and conditions governing interconnection with a utility's transmission system subject to FERC jurisdiction — one for facilities generating more than 20 MW and one for those generating less. See Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 FR 49845 (August 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), order on reh'g, Order No. 2003-A, 69 FR 15932 (March 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), order on reh'g, Order No. 2003-B, 70 FR 265 (January 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), order on reh'g, Order No. 2003-C, 70 FR 37661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005); Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, 70 FR 34190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005), order on clarification, Order No. 2006-A, 70 FR 71760 (November 30, 2005), FERC Stats. & Regs. ¶ 31,196 (2005), Order on Clarification, Order No. 2006-B, 71 FR 42587 (July 27, 2006) ("FERC Small Generator Interconnection Standards"). In the FERC Small Generator Interconnection Standards, the FERC indicated that the standards would not apply to the local distribution facility used to deliver energy to an unbundled retail customer. Order No. 2006 at 4-5 and fn. 8.

CHAPTER 314  
REGULATIONS GOVERNING INTERCONNECTION OF  
SMALL ELECTRICAL GENERATORS

**20VAC5-314-10. Applicability and scope.**

These regulations are promulgated pursuant to §56-578 of the Virginia Electric Utility Restructuring Act (§56-576 et seq. of the Code of Virginia). They establish standardized interconnection and operating requirements for the safe operation of electric generating facilities with a rated capacity of 20 megawatts (MW) or less connected to distribution companies' distribution systems in Virginia. These requirements apply to retail electric customers, independently owned generators or any other parties operating or intending to operate a distributed generation facility. Interconnections that fall under the jurisdiction of the Federal Energy Regulatory Commission are not subject to these regulations.

There are three interconnection review paths for interconnection of customer-sited generation in Virginia:

Level 1 - A request to interconnect a certified inverter-based small generating facility no larger than 500 kilowatts (kW) shall be evaluated under the Level 1 process.

Level 2 - A request to interconnect a certified small generating facility larger than 500 kW but no larger than 2 MW shall be evaluated under the Level 2 process.

Level 3 - A request to interconnect a small generating facility larger than 2 MW but no larger than 20 MW or a small generating facility that does not pass the Level 1 or Level 2 process, shall be evaluated under the Level 3 process.

The utility shall designate an employee or office from which information on the application process can be obtained through informal requests from the interconnection customer presenting a proposed project for a specific site. The name,

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telephone number, and email address of such contact employee or office shall be made available on the utility's Internet web site. Electric system information for specific locations, feeders, or small areas shall be provided to the interconnection customer upon request and may include relevant system studies, interconnection studies, and other materials useful to an understanding of an interconnection at a particular point on the utility's system, to the extent such provision does not violate confidentiality provisions of prior agreements or critical infrastructure requirements. The utility shall comply with reasonable requests for such information unless the information is proprietary or confidential and cannot be provided pursuant to a confidentiality agreement.

The utility shall make reasonable efforts to meet all time frames provided in these procedures unless the utility and the interconnection customer agree to a different schedule. If the utility cannot meet a deadline provided herein, it shall notify the interconnection customer, explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable interconnection procedure in the process.

## **20VAC5-314-20. Definitions.**

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

"Affected system" means an electric system other than the utility's distribution system that may be affected by the proposed interconnection.

"Business day" means Monday through Friday, excluding federal holidays.

"Commission" means the Virginia State Corporation Commission.

"Distribution company" means the utility that owns and/or operates the distribution system located in Virginia to which the small generation facility proposes to interconnect its small generating facility.

"Distribution system" means a utility's facilities and equipment generally delivering electricity to ultimate customers from substations supplied by higher voltages (usually at transmission level). For purposes of these interconnection rules, all portions of the distribution company's transmission system regulated by the commission for which interconnections are not within Federal Energy Regulatory Commission (FERC) jurisdiction are considered to be part of these interconnection rules.

"Distribution upgrades" means the additions, modifications, and upgrades to the utility's distribution system at or beyond the point of interconnection to facilitate interconnection of the small generating facility and to render the service necessary to effect the interconnection customer's operation of on-site

generation. Distribution upgrades do not include interconnection facilities.

"Energy service provider" means any entity supplying electric energy to the producer, either as tariffed, competitive, or default service pursuant to §56-585 of the Code of Virginia.

"Interconnection customer" or "IC" means any entity, including the utility, any affiliates or subsidiaries of either, proposing to interconnect a new small generating facility with the utility's system under this chapter.

"Interconnection facilities" means the utility's interconnection facilities and the interconnection customer's interconnection facilities. Collectively, interconnection facilities include all facilities and equipment between the small generating facility and the point of interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the small generating facility to the utility's distribution system. Interconnection facilities are sole use facilities and shall not include distribution upgrades.

"Interconnection request" means the interconnection customer's request, in accordance with the tariff, to interconnect a new small generating facility, or to increase the capacity of, or make a material modification to the operating characteristics of, an existing small generating facility that is interconnected with the utility's system.

"Interconnection study" means the study that is undertaken by the company, or a mutually agreed upon third party agreed to by the company and the producer, in order to determine the interaction of the small generating facility and the distribution system, and to specify any modification to the small generating facility or the distribution system needed to ensure safe and reliable operation of the small generating facility in parallel with the distribution system.

"Party" or "parties" means the utility, interconnection customer, or any combination thereof.

"Point of interconnection" means the point where the interconnection facilities connect with the utility's system.

"Producer" means a person operating a small generating facility interconnected to the distribution system of a utility for the purpose of parallel operation.

"Small generating facility" means the interconnection customer's device for the production of electricity identified in the interconnection request, but shall not include the interconnection facilities not owned by the interconnection customer.

"Study process" means the procedure for evaluating an interconnection request that includes the Level 3 scoping meeting, feasibility study, system impact study, and facilities study.

"System" means the facilities owned, controlled, or operated by the utility that are used to provide electric service under the tariff.

"Tariff" means the rates, terms and conditions filed by the utility with the commission for the purpose of providing commission-regulated electric service to retail customers.

"Utility" means the public utility company subject to regulation by the commission pursuant to Chapter 10 (§56-232 et seq.) of Title 56 of the Code of Virginia with regard to rates and/or service quality.

### **20VAC5-314-30. Siting of distributed generation facilities.**

Prior to installing a small generating facility, the IC must ensure compliance with local, state and federal laws and regulations, including siting. If the producer has satisfied the requirements of this chapter and has submitted a copy of his interconnection notification form to the commission's Division of Energy Regulation, the statutory requirements of §56-580 D of the Code of Virginia shall be deemed to have been met.

### **20VAC5-314-40. Level 1 interconnection process.**

The Level 1 interconnection path is available to any IC proposing to interconnect a small generating facility with the utility's distribution system if the small generating facility is no larger than 500 kW. In order to interconnect under this path, the small generating facility shall complete the streamlined Interconnection Request Form contained in 20VAC5-314-170 as Schedule 1. The utility shall follow the same time line established by the commission in 20VAC5-315-30 of the Net Metering Regulations.

### **20VAC5-314-50. Levels 1 and 2 interconnection request general requirements.**

A. The interconnection customer shall submit its Interconnection Request Form contained in 20VAC5-314-170 (Schedule 4) to the utility, with the processing fee or deposit specified in the Interconnection Request Form. The utility shall provide a copy of the Interconnection Request Form to the commission's Division of Energy Regulation. The Interconnection Request Form shall be date- and time-stamped upon receipt by the utility, which shall be used as the qualifying date- and time-stamp for the purposes of any timetable in these procedures. The interconnection customer shall be notified of receipt by the utility within three business days of receiving the interconnection request, which notification may be to an email address or fax number provided by the IC.

The utility shall notify the interconnection customer within 10 business days of the receipt of the Interconnection Request Form as to whether the Interconnection Request Form is complete or incomplete. If the Interconnection Request Form is incomplete, the utility shall provide, along with the notice

that the Interconnection Request Form is incomplete, a written list detailing all information that must be provided to complete the Interconnection Request Form.

The interconnection customer will have 10 business days after receipt of the notice to submit the listed information or to request an extension of time to provide such information. If the interconnection customer does not provide the listed information or a request for an extension of time within the deadline, the Interconnection Request Form will be deemed withdrawn. An Interconnection Request Form will be deemed complete upon submission of the listed information to the utility.

B. Any modification to machine data or equipment configuration or to the interconnection site of the small generating facility as specified in the Interconnection Request Form but not agreed to in writing by the utility and the interconnection customer may be deemed a withdrawal of the Interconnection Request Form and may require submission of a new Interconnection Request Form, unless proper notification of each party by the other and a reasonable time to cure the problems created by the changes are undertaken.

C. Site control documentation must be submitted with the interconnection request. Site control may be demonstrated through:

1. Ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the small generating facility;
2. An option to purchase or acquire a leasehold site for such purpose;
3. An exclusivity or other business relationship between the interconnection customer and the entity having the right to sell, lease, or grant the interconnection customer the right to possess or occupy a site for such purpose.

D. The utility shall place interconnection requests in a first come, first served order per feeder and per substation based upon the date- and time-stamp of the Interconnection Request Form. The order of each Interconnection Request Form will be used to determine the cost responsibility for the upgrades necessary to accommodate the interconnection. At the utility's option, interconnection requests may be studied serially or in clusters for the purpose of the system impact study.

### **20VAC5-314-60. Level 2 interconnection process.**

A. The Level 2 interconnection process is available to an interconnection customer proposing to interconnect a small generating facility with the utility's distribution system if the small generating facility is no larger than 2 MW and if the interconnection customer's proposed small generating facility meets the codes, standards, and certification requirements of Schedules 2 and 3 in 20VAC5-314-170.

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B. Within 15 business days after the utility notifies the interconnection customer it has received a complete interconnection request, the utility shall perform an initial review using the screens set forth below and shall notify the interconnection customer of the results including copies of the analysis and data underlying the utility's determinations under the screens.

1. The proposed small generating facility's point of interconnection must be on a portion of the utility's distribution system that is subject to the tariff.

2. For interconnection of a proposed small generating facility to a radial distribution circuit, the aggregated generation, including the proposed small generating facility, on the circuit shall not exceed 15% of the line section's annual peak load as most recently measured at the substation or calculated for the line segment. A line section is that portion of a utility's electric system connected to a customer bounded by automatic sectionalizing devices or the end of the distribution line.

3. The proposed small generating facility, in aggregation with other generation on the distribution circuit, shall not contribute more than 10% to the distribution circuit's maximum fault current at the point on the distribution feeder voltage (primary) level nearest the proposed point of change of ownership.

4. The proposed small generating facility, in aggregate with other generation on the distribution circuit, shall not cause any distribution protective devices and equipment (including, but not limited to, substation breakers, fuse cutouts, and line reclosers), or interconnection customer equipment on the system to exceed 87.5% of the short circuit interrupting capability; nor shall the interconnection be proposed for a circuit that already exceeds 87.5% of the short circuit interrupting capability.

5. Using the table below, determine the type of interconnection to a primary distribution line. This screen includes a review of the type of electrical service provided to the interconnection customer, including line configuration and the transformer connection to limit the potential for creating over-voltages on the utility's electric power system due to a loss of ground during the operating time of any anti-islanding function.

<u>Primary Distribution Line Type</u>	<u>Type of Interconnection to Primary Distribution Line</u>	<u>Result/Criteria</u>
<u>Three-phase, three wire</u>	<u>Three-phase or single phase, phase-to-phase</u>	<u>Pass screen</u>

<u>Three-phase, four wire</u>	<u>Effectively-grounded three phase or single-phase, line-to-neutral</u>	<u>Pass screen</u>
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6. If the proposed small generating facility is to be interconnected on single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the proposed small generating facility, shall not exceed 20 kW.

7. If the proposed small generating facility is single-phase and is to be interconnected on a center tap neutral of a 240 volt service, its addition shall not create an imbalance between the two sides of the 240 volt service of more than 20% of the nameplate rating of the service transformer.

8. The small generating facility, in aggregate with other generation interconnected to the transmission side of a substation transformer feeding the circuit where the small generating facility proposes to interconnect shall not exceed 10 MW in an area where there are known, or posted, transient stability limitations to generating units located in the general electrical vicinity (e.g., three or four transmission busses from the point of interconnection).

9. No construction of facilities by the utility on its own system shall be required to accommodate the small generating facility.

## C. Interconnections to distribution systems.

1. For interconnection of a proposed small generating facility to the load side of spot network protectors serving more than a single customer, the proposed small generating facility must utilize an inverter-based equipment package and, together with the aggregated other inverter-based generation, shall not exceed the smaller of 5.0% of a spot network's maximum load or 300 kW. For spot networks serving a single customer, the small generating facility must use inverter-based equipment package and either meet the requirements above or shall use a protection scheme or operate the generator so as not to exceed on-site load or otherwise prevent nuisance operation of the spot network protectors.

2. For interconnection of a proposed small generating facility to the load side of area network protectors, the proposed small generating facility must utilize an inverter-based equipment package and, together with the aggregated other inverter-based generation, shall not exceed the smaller of 10% of an area network's minimum load or 500 kW.

3. Notwithstanding subdivision 1 or 2 of this subsection, each utility may incorporate into its interconnection standards any change in interconnection guidelines related to networks pursuant to standards developed under IEEE

1547 for interconnections to networks. To the extent the new IEEE standards conflict with this chapter, the new standards shall apply. In addition, and with the consent of the utility, a small generating facility may be interconnected to a spot or area network provided the facility utilizes a protection scheme that will prevent any power export from the customer's site including inadvertent export under fault conditions or otherwise prevent nuisance operation of the network protectors.

D. If the proposed interconnection passes the screens, the interconnection request shall be approved and the utility will provide the interconnection customer an executable interconnection agreement within 10 business days after the determination.

E. If the proposed interconnection fails any screens, but the utility determines that the small generating facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards, the utility shall provide the interconnection customer an executable interconnection agreement within five business days after the determination.

F. If the proposed interconnection fails the screens, but the utility does not or cannot determine from the initial review that the small generating facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards unless the interconnection customer is willing to consider minor modifications or further study, the utility shall provide the interconnection customer with the opportunity to attend a customer options meeting.

G. If the utility determines the Interconnection Request Form cannot be approved without minor modifications at minimal cost; a supplemental study or other additional studies or actions; or at significant cost to address safety, reliability, or power quality problems, within the five business day period after the determination, the utility shall notify the interconnection customer and provide copies of the data and analyses underlying its conclusion. Within 10 business days of the utility's determination, the utility shall offer to convene a customer options meeting with the utility to review possible interconnection customer facility modifications or the screen analysis and related results, to determine what further steps are needed to permit the small generating facility to be connected safely and reliably. At the time of notification of the utility's determination, or at the customer options meeting, the utility shall:

1. Offer to perform facility modifications or minor modifications to the utility's electric system (e.g., changing meters, fuses, relay settings) and provide a nonbinding good faith estimate of the limited cost to make such modifications to the utility's electric system;
2. Offer to perform a supplemental review if the utility concludes that the supplemental review might determine

that the small generating facility could continue to qualify for interconnection pursuant to the fast track process, and provide a nonbinding good faith estimate of the costs and time of such review; or

3. Obtain the interconnection customer's agreement to continue evaluating the interconnection request under the Level 3 study process.

H. If the interconnection customer agrees to a supplemental review, the interconnection customer shall agree in writing within 15 business days of the offer and submit a deposit for the estimated costs provided in subdivision G 2 of this section. The interconnection customer shall be responsible for the utility's actual costs for conducting the supplemental review. The interconnection customer shall pay any review costs that exceed the deposit within 20 business days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced costs, the utility will return such excess within 20 business days of the invoice without interest.

Within 10 business days following receipt of the deposit for a supplemental review, the utility will determine if the small generating facility can be interconnected safely and reliably.

1. If so, the utility shall forward an executable interconnection agreement to the interconnection customer within five business days.

2. If so, and interconnection customer facility modifications are required to allow the small generating facility to be interconnected consistent with safety, reliability, and power quality standards under these procedures, the utility shall forward an executable interconnection agreement to the interconnection customer within five business days after confirmation that the interconnection customer has agreed to make the necessary changes at the interconnection customer's cost.

3. If so, and minor modifications to the utility's electric system are required to allow the small generating facility to be interconnected consistent with safety, reliability, and power quality standards under the Level 2 process, the utility shall forward an executable interconnection agreement to the interconnection customer within 10 business days that requires the interconnection customer to pay the costs of such system modifications prior to interconnection.

4. If not, the interconnection request will continue to be evaluated under the Level 3 study process.

### **20VAC5-314-70. Level 3 interconnection process.**

A. The Level 3 interconnection process shall be used by an IC proposing to interconnect a small generating facility with the utility's distribution system if the small generating facility is (i) larger than 2 MW but no larger than 20 MW, (ii) not certified, or (iii) certified but did not pass the Level 1 or Level

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2. interconnection process. A study process consisting of scoping, feasibility, system impact, and facilities shall precede the preparation of an interconnection agreement. Feasibility studies, scoping studies, and facility studies may be combined for simpler projects by mutual agreement of the utility and the parties.

### B. Scoping study.

1. A scoping meeting will be held within 10 business days after the interconnection request is deemed complete, or as otherwise mutually agreed to by the parties. The utility and the interconnection customer shall bring to the meeting personnel, including system engineers and other resources as may be reasonably required to accomplish the purpose of the meeting.

2. The purpose of the scoping meeting is to discuss the interconnection request. The parties shall further discuss whether the utility should perform a feasibility study or proceed directly to a system impact study, or a facilities study, or an interconnection agreement. If the parties agree that a feasibility study should be performed, the utility shall provide the interconnection customer, as soon as possible, but not later than five business days after the scoping meeting, a feasibility study agreement including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study.

3. The scoping meeting may be omitted by mutual agreement. In order to remain in consideration for interconnection, an interconnection customer who has requested a feasibility study must return the executed feasibility study agreement within 15 business days. If the parties agree not to perform a feasibility study, the utility shall provide the interconnection customer, no later than five business days after the scoping meeting, a system impact study agreement including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study.

### C. Feasibility study.

1. A feasibility study shall identify any potential adverse system impacts that would result from the interconnection of the small generating facility.

2. A deposit of the lesser of 50% of the good faith estimated feasibility study costs or earnest money of \$1,000 may be required from the interconnection customer.

a. Any study fees shall be based on the distribution company's actual costs and will be invoiced to the interconnection customer after the study is completed and delivered and will include a summary of professional time.

b. The interconnection customer must pay any study costs that exceed the deposit without interest within 30

calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the distribution company shall refund such excess within 30 calendar days of the invoice without interest.

3. The feasibility study shall be based on the technical information provided by the interconnection customer in the interconnection request, as may be modified as the result of the scoping meeting. The distribution company reserves the right to request additional technical information from the interconnection customer as may reasonably become necessary consistent with good utility practice during the course of the feasibility study and as designated in accordance with the standard small generator interconnection procedures. If the interconnection customer modifies its interconnection request, the time to complete the feasibility study may be extended by agreement of the parties.

4. In performing the study, the distribution company shall rely, to the extent reasonably practicable, on recent studies. The interconnection customer shall not be charged for such existing studies; however, the interconnection customer shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

5. The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the small generating facility as proposed:

a. Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

b. Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

c. Initial review of grounding requirements and electric system protection; and

d. Description and nonbonding estimated cost of facilities required to interconnect the proposed small generating facility and to address the identified short circuit and power flow issues.

6. The feasibility study shall model the impact of the small generating facility regardless of purpose in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the interconnection customer later changes the purpose for which the small generating facility is being installed.

7. The study shall include the feasibility of any interconnection at a proposed project site where there could be multiple potential points of interconnection, as requested by the interconnection customer and at the interconnection customer's cost.

8. Once the feasibility study is completed, a feasibility study report shall be prepared and transmitted to the interconnection customer. Barring unusual circumstances, the feasibility study must be completed and the feasibility study report transmitted within 30 business days of the interconnection customer's agreement to conduct a feasibility study.

9. If the feasibility study shows no potential for adverse system impacts, the utility shall send the interconnection customer a facilities study agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study.

10. If the feasibility study shows the potential for adverse system impacts, the review process shall proceed to the appropriate system impact study or studies.

#### D. System impact study.

1. A system impact study shall identify and detail the electric system impacts that would result if the proposed small generating facility were interconnected without project modifications or electric system modifications, focusing on the adverse system impacts identified in the feasibility study, or to study potential impacts, including but not limited to those identified in the scoping meeting. A system impact study shall evaluate the impact of the proposed interconnection on the reliability of the electric system.

2. A system impact study will be based upon the results of the feasibility study and the technical information provided by the interconnection customer in the interconnection request. The distribution company reserves the right to request additional technical information from the interconnection customer as may reasonably become necessary consistent with good utility practice during the course of the system impact study. If the interconnection customer modifies its designated point of interconnection, interconnection request, or the technical information provided therein is modified, the time to complete the system impact study may be extended.

3. A system impact study shall consist of a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, protection and set point coordination studies, and grounding reviews, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities that are required as a result of the interconnection request and

nonbinding good faith estimates of cost responsibility and time to construct.

4. A distribution system impact study shall incorporate a distribution load flow study, an analysis of equipment interrupting ratings, protection coordination study, voltage drop and flicker studies, protection and set point coordination studies, grounding reviews, and the impact on electric system operation, as necessary.

5. Affected systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All affected systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the distribution company has 20 additional business days to complete a system impact study requiring review by affected systems.

6. If the utility uses a queuing procedure for sorting or prioritizing projects and their associated cost responsibilities for any required network upgrades, the system impact study shall consider all generating facilities (and with respect to clause iii below, any identified upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced are: (i) directly interconnected with the distribution company's electric system; or (ii) interconnected with affected systems and may have an impact on the proposed interconnection; and (iii) have a pending higher queued interconnection request to interconnect with the utility's electric system.

7. A distribution system impact study, if required, shall be completed and the results transmitted to the interconnection customer within 30 business days after an agreement is signed by the parties. A transmission system impact study, if required, shall be completed and the results transmitted to the interconnection customer within 45 business days after an agreement is signed by the parties, or in accordance with the utility's queuing procedures.

8. A deposit of the equivalent of the good faith estimated cost of a distribution system impact study and one-half of the good faith estimated cost of a transmission system impact study may be required from the interconnection customer.

9. Any study fees shall be based on the utility's actual costs and will be invoiced to the interconnection customer after the study is completed and delivered and will include a summary of professional time.

10. The interconnection customer shall pay any study costs that exceed the deposit within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the utility shall refund such



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excess within 30 calendar days of the invoice. Interest shall not apply.

11. If no transmission system impact study is required, adverse distribution system impacts are identified in the scoping meeting or shown in the feasibility study, a distribution system impact study shall be performed. The utility shall send the interconnection customer a distribution system impact study agreement within 15 business days of transmittal of the feasibility study report, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study, or following the scoping meeting if no feasibility study is to be performed.

12. In instances where the feasibility study or the distribution system impact study shows potential for transmission system adverse system impacts, within five business days following transmittal of the feasibility study report, the utility shall send the interconnection customer a transmission system impact study agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study, if such a study is required.

13. If a transmission system impact study is not required, but adverse distribution system impacts are shown by the feasibility study to be possible and no distribution system impact study has been conducted, the utility shall send the interconnection customer a distribution system impact study agreement.

14. If the feasibility study shows no potential for transmission system or distribution system adverse impacts, the utility shall send the interconnection customer either an executable Small Generator Interconnection Agreement (SGIA) included in this chapter as Schedule 5 in 20VAC5-314-170, or a facilities study agreement, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the study, as applicable.

15. In order to remain under consideration for interconnection, the interconnection customer shall return executed system impact study agreements, if applicable, within 30 business days.

## E. Facilities study.

1. Once the required system impact study (or studies) is completed, a system impact study report shall be prepared and transmitted to the interconnection customer along with a facilities study agreement within five business days, including an outline of the scope of the study and a nonbinding good faith estimate of the cost to perform the facilities study. In the case where one or both impact studies are determined to be unnecessary, a notice of the fact shall be transmitted to the interconnection customer within the same timeframe.

2. In order to remain under consideration for interconnection, or, as appropriate, in the utility's interconnection queue, the interconnection customer shall provide the following information, or a request for an extension of time within 30 business days, and the facilities study shall be based on the responses of the IC to the following queries:

a. Provide a location plan and simplified one-line diagram of the plant and station facilities. For staged projects, please indicate future generation, transmission circuits, etc. On the one-line diagram, indicate the generation capacity attached at each metering location. (Maximum load on CT (current transformer)/PT (partial transformer) On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT) Amps

b. One set of metering is required for each generation connection to the new ring bus or existing distribution company station. Number of generation connections:  
\_\_\_\_\_

c. Will an alternate source of auxiliary power be available during CT/PT maintenance? Yes \_\_\_\_\_ No \_\_\_\_\_

d. Will a transfer bus on the generation side of the metering require that each meter set be designed for the total plant generation? Yes \_\_\_\_\_ No \_\_\_\_\_ (Please indicate on the one-line diagram).

e. What type of control system or Programmable Logic Controller (PLC) will be located at the small generating facility?  
\_\_\_\_\_

f. What protocol does the control system or PLC use?  
\_\_\_\_\_

g. Provide a 7.5-minute quadrangle map of the site. Indicate the plant, station, transmission line, and property lines.

h. Physical dimensions of the proposed interconnection station:  
\_\_\_\_\_

i. Bus length from generation to interconnection station:  
\_\_\_\_\_

j. Line length from interconnection station to utility's transmission system.  
\_\_\_\_\_

k. Tower number observed in the field. (Painted on tower leg)\*:  
\_\_\_\_\_

l. Number of third party easements required for transmission lines\*:  
\_\_\_\_\_

\* To be completed in coordination with distribution company.

m. Is the small generating facility located in utility's service area? Yes \_\_\_\_\_ No \_\_\_\_\_ ;  
If No, please provide name of local provider:  
\_\_\_\_\_

n. Please provide the following proposed schedule dates:

Begin Construction Date: \_\_\_\_\_

Generator step-up transformers receive back feed power date: \_\_\_\_\_

Generation Testing Date: \_\_\_\_\_

Commercial Operation Date: \_\_\_\_\_

3. The facilities study shall specify and estimate the cost of the equipment, engineering, procurement, and construction work (including overheads) needed to implement the conclusions of the system impact study or studies.

4. A deposit of the good faith estimated facilities study costs may be required from the interconnection customer.

5. Any study fees shall be based on the distribution company's actual costs and will be invoiced to the interconnection customer after the study is completed and delivered and will include a summary of professional time.

6. The interconnection customer shall pay any study costs that exceed the deposit within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the distribution company shall refund such excess within 30 calendar days of the invoice. Interest shall not apply.

7. Design for any required interconnection facilities and/or upgrades shall be performed under the facilities study agreement. The utility may contract with consultants to perform activities required under the facilities study agreement. The interconnection customer and the utility may agree to allow the interconnection customer to separately arrange for the design of some of the interconnection facilities. In such cases, facilities design will be reviewed and/or modified prior to acceptance by the utility, under the provisions of the facilities study agreement. If the parties agree to separately arrange for design and construction, and provided security and confidentiality requirements can be met, the utility shall make sufficient information available to the interconnection customer in accordance with confidentiality and critical infrastructure requirements to permit the interconnection customer to obtain an independent design and cost estimate for any necessary facilities.

8. The facilities study shall specify and estimate the cost of the equipment, engineering, procurement and construction work (including overheads) needed to implement the conclusions of the system impact study or studies. The facilities study shall also identify (i) the electrical switching configuration of the equipment, including, without limitation, transformer, switchgear, meters, and other station equipment, (ii) the nature and estimated cost of the utility's interconnection facilities and upgrades necessary to accomplish the interconnection, and (iii) an estimate of the time required to complete the construction and installation of such facilities.

9. The utility may propose to group facilities required for more than one interconnection customer in order to minimize facilities costs through economies of scale, but any interconnection customer may require the installation of facilities required for its own small generating facility if it is willing to pay the costs of those facilities.

10. Once the facilities study is completed, a facilities study report shall be prepared and transmitted to the interconnection customer. Barring unusual circumstances, the facilities study must be completed and the facilities study report transmitted within 30 business days of the interconnection customer's agreement to conduct a facilities study.

11. In cases where upgrades are required, the facilities study must be completed within 45 business days of the receipt of this facilities study agreement. In cases where no upgrades are necessary, and the required facilities are limited to interconnection facilities, the facilities study must be completed within 30 business days.

#### F. Interconnection agreement.

1. Upon completion of the facilities study, and with the agreement of the interconnection customer to pay for interconnection facilities and upgrades identified in the facilities study, the utility shall provide the interconnection customer an executable SGIA within five business days.

2. After receiving an interconnection agreement from the utility, the interconnection customer shall have 30 business days or another mutually agreeable time frame to sign and return the interconnection agreement, or request that the utility file an unexecuted interconnection agreement with the commission. If the interconnection customer does not sign the interconnection agreement, or ask that it be filed unexecuted by the utility within 30 business days, the interconnection request shall be deemed withdrawn. After the interconnection agreement is signed by the parties, the interconnection of the small generating facility shall proceed under the provisions of the SGIA.

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## **20VAC5-314-80. Interconnection metering.**

Any metering necessitated by the use of the small generating facility shall be installed at the interconnection customer's expense in accordance with commission requirements or the utility's specifications.

## **20VAC5-314-90. Commissioning tests.**

Commissioning tests of the interconnection customer's installed equipment shall be performed pursuant to applicable codes and standards, including IEEE 1547.1 2005 "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems." The utility shall be given at least five business days written notice, or notice as otherwise mutually agreed to by the parties, of the tests and may be present to witness the commissioning tests. The utility shall be compensated by the interconnection customer for its expense in witnessing Level 2 and Level 3 commissioning tests.

## **20VAC5-314-100. Disputes.**

A. The parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this section.

B. In the event of a dispute, either party shall provide the other party with a written notice of dispute. The notice shall describe in detail the nature of the dispute. If the dispute has not been resolved within five business days after receipt of the notice, either party may contact a mutually agreed upon third party dispute resolution service for assistance in resolving the dispute.

C. The dispute resolution service will assist the parties in either resolving the dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the parties in resolving their dispute.

D. Each party agrees to conduct all negotiations in good faith and will be responsible for 1/2 of any costs paid to neutral third parties.

E. If neither party elects to seek assistance from the dispute resolution service, or if the attempted dispute resolution fails, then either party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of the agreements between the parties or it may seek resolution at the commission.

## **20VAC5-314-110. Confidential information.**

A. Confidential information shall mean any confidential and/or proprietary information provided by one party to the other party that is clearly marked or otherwise designated "Confidential." All design, operating specifications, and metering data provided by the interconnection customer shall be deemed confidential information regardless of whether it is clearly marked or otherwise designated as such.

B. Confidential information does not include information previously in the public domain, required to be publicly submitted or divulged by governmental authorities (after notice to the other party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce an agreement between the parties. Each party receiving confidential information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the party providing that information, except to fulfill obligations under agreements between the parties, or to fulfill legal or regulatory requirements.

1. Each party shall employ at least the same standard of care to protect confidential information obtained from the other party as it employs to protect its own confidential information.

2. Each party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this section to prevent the release of confidential information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

C. Notwithstanding anything in this chapter to the contrary, if the commission, during the course of an investigation or otherwise, requests information from one of the parties that is otherwise required to be maintained in confidence, the party shall provide the requested information to the commission, within the time provided for in the request for information. In providing the information to the commission, the party may request that the information be treated as confidential and nonpublic by the commission and that the information be withheld from public disclosure. Parties are prohibited from notifying the other party prior to the release of the confidential information to the commission. The party shall notify the other party when it is notified by the commission that a request to release confidential information has been received by the commission, at which time either of the parties may respond before such information would be made public.

## **20VAC5-314-120. Comparability.**

The utility shall receive, process, and analyze all interconnection requests in a timely manner as set forth in this chapter. The utility shall use the same reasonable efforts in processing and analyzing interconnection requests from all Interconnection customers, whether the small generating facility is owned or operated by the utility, its subsidiaries or affiliates, or others.

## **20VAC5-314-130. Record retention.**

The utility shall maintain, subject to audit, records for three years of (i) all interconnection requests received pursuant to this chapter, (ii) the times required to complete interconnection request approvals and disapprovals, and (iii)

justification for the actions taken on the interconnection requests.

## **20VAC5-314-140. Coordination with affected systems.**

The utility shall coordinate the conduct of any studies required to determine the impact of the interconnection request on affected systems with affected system operators and, if possible, include those results (if available) in its applicable interconnection study within the time frame specified in this chapter. The utility will include such affected system operators in all meetings held with the interconnection customer as required by this chapter. The interconnection customer shall cooperate with the utility in all matters related to the conduct of studies and the determination of modifications to affected systems. A utility which may be an affected system shall cooperate with the utility with whom interconnection has been requested in all matters related to the conduct of studies and the determination of modifications to affected systems.

## **20VAC5-314-150. Capacity of the small generating facility.**

A. If the interconnection request is for an increase in capacity for an existing small generating facility, the interconnection request shall be evaluated on the basis of the new total capacity of the small generating facility.

B. If the interconnection request is for a small generating facility that includes multiple energy production devices at a site for which the interconnection customer seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate capacity of the multiple devices.

C. The interconnection request shall be evaluated using the maximum rated capacity of the small generating facility.

## **20VAC5-314-160. Insurance.**

A. For systems of 500 kW or less, the IC, at its own expense, shall secure and maintain in effect during the term of the agreement liability insurance with a combined single limit

for bodily injury and property damage of not less than \$300,000 for each occurrence.

For systems greater than 500 kW but smaller than 2 MW, the IC, at its own expense, shall secure and maintain in effect during the term of the agreement liability insurance with a combined single limit for bodily injury and property damage of not less than \$2 million for each occurrence. Insurance coverage for systems greater than 2 MW shall be determined on a case-by-case basis by the utility and shall reflect the size of the installation and the potential for system damage.

B. Except for those photovoltaic systems installed on a residential premise that have a design capacity of 500 kW or less, the utility shall be named as an additional insured by endorsement to the insurance policy and the policy shall provide that written notice be given to the utility at least 30 days prior to any cancellation or reduction of any coverage. Such liability insurance shall provide, by endorsement to the policy, that the utility shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for the payment of premium of such insurance. For all photovoltaic systems, the liability insurance shall not exclude coverage for any incident related to the subject generator or its operation.

C. Certificates of insurance evidencing the requisite coverage and provision shall be furnished to a utility prior to the date of interconnection of the small generating facility. Utilities shall be permitted to periodically obtain proof of current insurance coverage from the producer in order to verify proper liability insurance coverage. IC will not be allowed to commence or continue interconnected operations unless evidence is provided that satisfactory insurance coverage is in effect at all times.

## **20VAC5-314-170. Schedules for Chapter 314.**

The following schedules shall be used in the administration of this chapter.

**LEVEL 1 INTERCONNECTION REQUEST FORM  
FOR SMALL GENERATING FACILITY LESS THAN 500 kW**

PURSUANT TO 20 VAC 5-314-40 OF THE COMMISSION'S REGULATIONS GOVERNING INTERCONNECTION OF SMALL ELECTRIC GENERATORS, APPLICANT HEREBY GIVES NOTICE OF INTENT TO OPERATE A GENERATING FACILITY.

**Section 1. Applicant Information**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Facility location (if different from above): \_\_\_\_\_

Distribution Company: \_\_\_\_\_

Distribution Company Account Number: \_\_\_\_\_

Energy Service Provider (ESP) (if different than electric distribution company): \_\_\_\_\_

ESP Account Number (if applicable): \_\_\_\_\_

Proposed Interconnection Date: \_\_\_\_\_

**Section 2. Generating Facility Information**

Facility owner and/or Operator name (if different from Applicant): \_\_\_\_\_

Business relationship to applicant: \_\_\_\_\_

Mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Fuel Type: \_\_\_\_\_

Generator Manufacturer and Model: \_\_\_\_\_

Rated Capacity in kilowatts: AC: \_\_\_\_\_ DC: \_\_\_\_\_

Inverter Manufacturer and Model: \_\_\_\_\_

Battery Backup (circle one): Yes No \_\_\_\_\_

**Section 3. Information for Generators with an AC capacity in excess of 25 kilowatts**

Is the proposed generator inverter based? Yes \_\_\_\_\_ No \_\_\_\_\_

Generator Type (circle one): Inverter Induction Synchronous

Frequency: \_\_\_\_\_ Hz; Number of phases (circle one): One Three

Rated Capacity: DC \_\_\_\_\_ KW; AC apparent \_\_\_\_\_ KVA; AC real \_\_\_\_\_ KW;

Power factor \_\_\_\_\_ %; AC voltage \_\_\_\_\_ ; AC amperage \_\_\_\_\_

Facility schematic and equipment layout must be attached to this form.

**Section 4. Vendor Certification**

The system hardware is listed by Underwriters Laboratories to be in compliance with UL 1741.

Signed (Vendor): \_\_\_\_\_ Date: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Company: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**Section 5. Electrician Certification**

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: \_\_\_\_\_

Name (printed): \_\_\_\_\_

License Number: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Utility signature signifies only receipt of this form, in compliance with the State Corporation Commission's net energy metering regulations, 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 Request Form is true and correct.**

**Signature of Applicant:** \_\_\_\_\_

**Date:** \_\_\_\_\_

### Certification of Small Generator Equipment Packages

Small generating facility equipment proposed for use separately or packaged with other equipment in an interconnection system shall be considered certified for interconnected operation if (i) it has been tested in accordance with industry standards for continuous utility interactive operation in compliance with the appropriate codes and standards referenced below by any Nationally Recognized Testing Laboratory (NRTL) recognized by the United States Occupational Safety and Health Administration to test and certify interconnection equipment pursuant to the relevant codes and standards listed in SGIP Schedule 3, (ii) it has been labeled and is publicly listed by such NRTL at the time of the interconnection application, and (iii) such NRTL makes readily available for verification all test standards and procedures it utilized in performing such equipment certification, and, with consumer approval, the test data itself. The NRTL may make such information available on its website and by encouraging such information to be included in the manufacturer's literature accompanying the equipment.

The interconnection customer must verify that the intended use of the equipment falls within the use or uses for which the equipment was tested, labeled, and listed by the NRTL.

Certified equipment shall not require further type-test review, testing, or additional equipment to meet the requirements of this interconnection procedure; however, nothing herein shall preclude the need for an on-site commissioning test by the parties to the interconnection nor follow up production testing by the NRTL.

If the certified equipment package includes only interface components (switchgear, inverters, or other interface devices), then an interconnection customer must show that the generator or other electric source being utilized with the equipment package is compatible with the equipment package and is consistent with the testing and listing specified for this type of interconnection equipment.

Provided the generator or electric source, when combined with the equipment package, is within the range of capabilities for which it was tested by the NRTL, and does not violate the interface components' labeling and listing performed by the NRTL, no further design review, testing or additional equipment on the customer side of the point of common coupling shall be required to meet the requirements of this interconnection procedure.

An equipment package does not include equipment provided by the utility.

### Certification Codes and Standards

IEEE1547 Standard for Interconnecting Distributed Resources with Electric Power Systems (including use of IEEE 1547.1 testing protocols to establish conformity)

UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems

IEEE Std 929-2000 IEEE Recommended Practice for Utility Interface of Photovoltaic (PV) Systems

NFPA 70 (2005), National Electrical Code

IEEE Std C37.90.1-1989 (R1994), IEEE Standard Surge Withstand Capability (SWC) Tests for Protective Relays and Relay Systems

IEEE Std C37.90.2 (1995), IEEE Standard Withstand Capability of Relay Systems to Radiated Electromagnetic Interference from Transceivers

IEEE Std C37.108-1989 (R2002), IEEE Guide for the Protection of Network Transformers

IEEE Std C57.12.44-2000, IEEE Standard Requirements for Secondary Network Protectors

IEEE Std C62.41.2-2002, IEEE Recommended Practice on Characterization of Surges in Low Voltage (1000V and Less) AC Power Circuits

IEEE Std C62.45-1992 (R2002), IEEE Recommended Practice on Surge Testing for Equipment Connected to Low-Voltage (1000V and Less) AC Power Circuits

ANSI C84.1-1995 Electric Power Systems and Equipment – Voltage Ratings (60 Hertz)

IEEE Std 100-2000, IEEE Standard Dictionary of Electrical and Electronic Terms

NEMA MG 1-1998, Motors and Small Resources, Revision 3

IEEE Std 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems

NEMA MG 1-2003 (Rev 2004), Motors and Generators, Revision 1

**Schedule 4**

**LEVEL 2 AND 3 INTERCONNECTION REQUEST FORM  
FOR SMALL GENERATING FACILITIES LESS THAN 20 MW**

Distribution Company: \_\_\_\_\_

Designated Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

An Interconnection Request is considered complete when it provides all applicable and correct information required below.

**Processing Fee or Deposit**

If the Interconnection Request is submitted as Level 2, the nonrefundable processing fee payable to the distribution company is \$500.

If the interconnection request is submitted as Level 3, the interconnection customer shall submit to the distribution company a deposit not to exceed \$1,000 towards the cost of the feasibility study.

**Interconnection Customer Information**

Legal Name of the Interconnection Customer (or, if an individual, individual's name)

Name: \_\_\_\_\_

Account Number: \_\_\_\_\_

Contact person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: State: Zip: \_\_\_\_\_

Facility location (if different from above): \_\_\_\_\_

Telephone (Day): \_\_\_\_\_ Telephone (Evening): \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Alternative contact information (if different from the interconnection customer)

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_



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Telephone (Day): \_\_\_\_\_ Telephone (Evening): \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Application is for: New Small Generating Facility  
Capacity addition to Existing Small Generating Facility

If capacity addition to existing facility, please describe:  
\_\_\_\_\_

Will the Small Generating Facility be used for any of the following?

To supply power to the interconnection customer? Yes No

To supply power to others? Yes No

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone (Day): \_\_\_\_\_ Telephone (Evening): \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Requested point of interconnection: \_\_\_\_\_

Interconnection customer's requested in-service date: \_\_\_\_\_

## **Small Generating Facility Information**

Data apply only to the small generating facility, not the interconnection facilities.

Energy Source: Solar Wind Hydro Hydro Type (e.g. Run-of-River): \_\_\_\_\_

Diesel Natural Gas Fuel Oil Other (state type) \_\_\_\_\_

Prime Mover: Fuel Cell Recip Engine Gas Turb Steam Turb Microturbine PV Other \_\_\_\_\_

Type of Generator: Synchronous Induction Inverter

Generator Nameplate Rating: \_\_\_\_\_ kW (Typical) Generator Nameplate kVAR: \_\_\_\_\_

Interconnection customer or customer-site load: \_\_\_\_\_ kW (if none, so state)

Typical reactive load (if known): \_\_\_\_\_

Maximum physical export capability requested: \_\_\_\_\_ kW

List components of the small generating facility equipment package that are currently certified:

<u>Equipment Type</u>	<u>Certifying Entity</u>
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____
4. _____	4. _____
5. _____	5. _____

Is the prime mover compatible with the certified protective relay package? Yes No

Generator (or solar collector)

Manufacturer, model name & number: \_\_\_\_\_

Version Number: \_\_\_\_\_

Nameplate Output Power Rating in kW: (Summer) \_\_\_\_\_ (Winter) \_\_\_\_\_

Nameplate Output Power Rating in kVA: (Summer) \_\_\_\_\_ (Winter) \_\_\_\_\_

Individual Generator Power Factor

Rated Power Factor: Leading: \_\_\_\_\_ Lagging: \_\_\_\_\_

Total number of generators in wind farm to be interconnected pursuant to this

Interconnection Request: \_\_\_\_\_ Elevation: \_\_\_\_\_ Single phase \_\_\_\_\_ Three phase \_\_\_\_\_

Inverter manufacturer, model name & number (if used): \_\_\_\_\_

List of adjustable set points for the protective equipment or software: \_\_\_\_\_

Note: A completed power systems load flow data sheet must be supplied with the Interconnection Request.

Small Generating Facility Characteristic Data (for inverter-based machines)

Max design fault contribution current: \_\_\_\_\_ Instantaneous \_\_\_\_\_ or RMS? \_\_\_\_\_

Harmonics characteristics: \_\_\_\_\_

Start-up requirements: \_\_\_\_\_

Small Generating Facility Characteristic Data (for rotating machines)

RPM Frequency: \_\_\_\_\_

(\*) Neutral Grounding Resistor (If Applicable): \_\_\_\_\_

Synchronous Generators:

Direct Axis Synchronous Reactance,  $X_d$ : \_\_\_\_\_ P.U.

Direct Axis Transient Reactance,  $X'_d$ : \_\_\_\_\_ P.U.

Direct Axis Subtransient Reactance,  $X''_d$ : \_\_\_\_\_ P.U.

Negative Sequence Reactance,  $X_2$ : \_\_\_\_\_ P.U.

Zero Sequence Reactance,  $X_0$ : \_\_\_\_\_ P.U.

KVA Base: \_\_\_\_\_

Field Volts: \_\_\_\_\_

Field Amperes: \_\_\_\_\_

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## Induction Generators:

Motoring Power (kW): \_\_\_\_\_

I<sup>2</sup> 2t or K (Heating Time Constant): \_\_\_\_\_

Rotor Resistance, R<sub>r</sub>: \_\_\_\_\_

Stator Resistance, R<sub>s</sub>: \_\_\_\_\_

Stator Reactance, X<sub>s</sub>: \_\_\_\_\_

Rotor Reactance, X<sub>r</sub>: \_\_\_\_\_

Magnetizing Reactance, X<sub>m</sub>: \_\_\_\_\_

Short Circuit Reactance, X<sub>d</sub>'': \_\_\_\_\_

Exciting Current: \_\_\_\_\_

Temperature Rise: \_\_\_\_\_

Frame Size: \_\_\_\_\_

Design Letter: \_\_\_\_\_

Reactive Power Required In Vars (No Load): \_\_\_\_\_

Reactive Power Required In Vars (Full Load): \_\_\_\_\_

Total Rotating Inertia, H: \_\_\_\_\_ Per Unit on kVA Base

## Excitation and Governor System Data for Synchronous Generators Only

Provide appropriate IEEE model block diagram of excitation system, governor system and power system stabilizer (PSS) in accordance with the regional reliability council criteria. A PSS may be determined to be required by applicable studies. A copy of the manufacturer's block diagram may not be substituted.

## **Interconnection Facilities Information**

Will a transformer be used between the generator and the point of common coupling? Yes No

Will the transformer be provided by the interconnection customer? Yes No

Transformer Data (If applicable, for interconnection customer-owned transformer):

Is the transformer: single phase three phase? Size: \_\_\_\_\_ kVA

Transformer Impedance: \_\_\_\_\_ % on \_\_\_\_\_ kVA Base

If Three Phase:

Transformer Primary: \_\_\_\_\_ Volts \_\_\_\_\_ Delta \_\_\_\_\_ Wye \_\_\_\_\_ Wye Grounded

Transformer Secondary: \_\_\_\_\_ Volts \_\_\_\_\_ Delta \_\_\_\_\_ Wye \_\_\_\_\_ Wye Grounded

Transformer Tertiary: \_\_\_\_\_ Volts \_\_\_\_\_ Delta \_\_\_\_\_ Wye \_\_\_\_\_ Wye Grounded

Transformer Fuse Data (If applicable, for interconnection customer-owned fuse):

(Attach copy of fuse manufacturer's minimum melt and total clearing time-current curves)

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Size: \_\_\_\_\_ Speed: \_\_\_\_\_

Interconnecting Circuit Breaker (if applicable):

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_

Load Rating (Amps): \_\_\_\_\_ Interrupting Rating (Amps): \_\_\_\_\_ Trip Speed (Cycles): \_\_\_\_\_

Interconnection Protective Relays (If Applicable):

If microprocessor-controlled:

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Model No. \_\_\_\_\_

Firmware ID: \_\_\_\_\_ Instruction Book No. \_\_\_\_\_

List of functions and adjustable setpoints for the protective equipment or software:

<u>Setpoint Function</u>	<u>Minimum</u>	<u>Maximum</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

If Discrete Components:

(Enclose copy of any proposed time-overcurrent coordination curves)

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Style/Catalog No.: \_\_\_\_\_ Proposed Setting: \_\_\_\_\_

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Style/Catalog No.: \_\_\_\_\_ Proposed Setting: \_\_\_\_\_

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Style/Catalog No.: \_\_\_\_\_ Proposed Setting: \_\_\_\_\_

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Style/Catalog No.: \_\_\_\_\_ Proposed Setting: \_\_\_\_\_

Manufacturer: \_\_\_\_\_ Type: \_\_\_\_\_ Style/Catalog No.: \_\_\_\_\_ Proposed Setting: \_\_\_\_\_

Current Transformer Data (If applicable):

(Enclose copy of manufacturer's excitation and ratio correction curves)

Manufacturer: \_\_\_\_\_

Type: \_\_\_\_\_ Accuracy Class: \_\_\_\_\_ Proposed Ratio Connection: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Type: \_\_\_\_\_ Accuracy Class: \_\_\_\_\_ Proposed Ratio Connection: \_\_\_\_\_

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Potential Transformer Data (If applicable):

Manufacturer: \_\_\_\_\_

Type: \_\_\_\_\_ Accuracy Class: \_\_\_\_\_ Proposed Ratio Connection: \_\_\_\_\_

Manufacturer: \_\_\_\_\_

Type: \_\_\_\_\_ Accuracy Class: \_\_\_\_\_ Proposed Ratio Connection: \_\_\_\_\_

## **General Information**

Enclose copy of site electrical one-line diagram showing the configuration of all small generating facility equipment, current and potential circuits, and protection and control schemes.

Enclose copy of any site documentation that indicates the precise physical location of the proposed small generating facility (e.g., United States Geological Survey (USGS) topographic map or other diagram or documentation).

Proposed location of protective interface equipment on property (include address if different from the interconnection customer's address) \_\_\_\_\_

Enclose copy of any site documentation that describes and details the operation of the protection and control schemes. Is available documentation enclosed? Yes  No

Enclose copies of schematic drawings for all protection and control circuits, relay current circuits, relay potential circuits, and alarm/monitoring circuits (if applicable).

Are schematic drawings enclosed? Yes  No

## **Applicant Signature**

I hereby certify that, to the best of my knowledge, all the information provided in this Interconnection Request is true and correct.

For Interconnection Customer: \_\_\_\_\_ Date: \_\_\_\_\_

**Schedule 5**

**SMALL GENERATOR  
INTERCONNECTION AGREEMENT (SGIA)  
(For Small Generating Facilities Subject to the Level 3 Process)**

This Interconnection Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
("Distribution Company"), and \_\_\_\_\_

("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties."

## **Distribution Company Information**

Distribution Company: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Interconnection Customer Information**

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Interconnection Customer Application No: \_\_\_\_\_

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

**Article 1. Scope and Limitations of Agreement**

1.1 This Agreement shall be used for all Interconnection Requests submitted under the Small Generator Interconnection Procedures (SGIP).

1.2 This Agreement governs the terms and conditions under which the Interconnection Customer's Small Generating Facility will interconnect with, and operate in parallel with, the utility's distribution system.

1.3 This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power. The purchase or delivery of power and other services that the Interconnection Customer may require will be covered under separate agreements. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity with the applicable Distribution Company.

1.4 Nothing in this Agreement is intended to affect any other agreement between the Distribution Company and the Interconnection Customer.

1.5 Responsibilities of the Parties

1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all applicable laws and regulations, operating requirements, and Good Distribution Company Practice.

1.5.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Small Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, in

accordance with this Agreement, and with Good Distribution Company Practice.

1.5.3 The Distribution Company shall construct, operate, and maintain its distribution and transmission system and interconnection facilities in accordance with this Agreement, and with Good Distribution Company Practice.

1.5.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriter's Laboratory, and operating requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its small generating facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the system or equipment of the Distribution Company or affected systems.

1.5.5 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Distribution Company and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Distribution Company's Transmission System, personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Attachments to this Agreement.

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1.5.6 The Distribution Company shall coordinate with all affected systems to support the interconnection.

## 1.6 Parallel operation obligations

Once the small generating facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the small generating facility including, but not limited to the rules and procedures concerning the operation of generation set forth in the tariff.

## 1.7 Metering

The Interconnection Customer shall be responsible for the Distribution Company's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of metering and data acquisition equipment specified in Attachments 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and operating requirements.

## 1.8 Reactive power

1.8.1 The Interconnection Customer shall design its small generating facility to maintain a composite power delivery at continuous rated power output at the point of interconnection at a power factor within the range of 0.95 leading to 0.95 lagging, unless the Distribution Company has established different requirements that apply to all similarly situated generators in the control area on a comparable basis. The requirements of this paragraph shall not apply to wind generators.

1.8.2 The Distribution Company is required to pay the Interconnection Customer for reactive power that the Interconnection Customer provides or absorbs from the small generating facility when the Distribution Company requests the Interconnection Customer to operate its small generating facility outside the range specified in article 1.8.1. In addition, if the Distribution Company pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.

1.8.3 Payments shall be in accordance with the Interconnection Customer's applicable rate schedule then in effect. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb reactive power under this Agreement, the Parties agree to expeditiously file such rate schedule and agree to support any request for waiver of the State Corporation Commission's prior notice requirement in order to compensate the Interconnection Customer from the time service commenced.

1.9 Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Attachment 1 to Schedule 5 or the body of this Agreement.

## **Article 2. Inspection, Testing, Authorization, and Right of Access**

### 2.1 Equipment testing and inspection

2.1.1 The Interconnection Customer shall test and inspect its small generating facility and interconnection facilities prior to interconnection. The Interconnection Customer shall notify the Distribution Company of such activities no fewer than five business days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a business day. The Distribution Company may, at its own expense, send qualified personnel to the small generating facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Distribution Company a written test report when such testing and inspection is completed.

2.1.2 The Distribution Company shall provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Distribution Company of the safety, durability, suitability, or reliability of the small generating facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the small generating facility.

### 2.2 Authorization required prior to parallel operation

2.2.1 The Distribution Company shall use reasonable efforts to list applicable parallel operation requirements in Attachment 5 of this Agreement. Additionally, the Distribution Company shall notify the Interconnection Customer of any changes to these requirements as soon as they are known. The Distribution Company shall make reasonable efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.

2.2.2 The Interconnection Customer shall not operate its small generating facility in parallel with the Distribution Company's system without prior written authorization of the Distribution Company. The Distribution Company will provide such authorization once the Distribution Company receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

### 2.3 Right of access

2.3.1 Upon reasonable notice, the Distribution Company may send a qualified person to the premises of the Interconnection Customer at or immediately before the

time the small generating facility first produces energy to inspect the interconnection, and observe the commissioning of the small generating facility (including any required testing), startup, and operation for a period of up to three business days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Distribution Company at least five business days prior to conducting any on-site verification testing of the small generating facility.

2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Distribution Company shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

2.3.3 Each Party shall be responsible for its own costs associated with following this article.

## **Article 3. Effective Date, Term, Termination, and Disconnection**

### 3.1 Effective date

This Agreement shall become effective upon execution by the Parties subject to acceptance by the State Corporation Commission's Division of Energy Regulation (if applicable), or if filed unexecuted, upon the date specified by the State Corporation Commission's Division of Energy Regulation. The Distribution Company shall promptly file this Agreement with the State Corporation Commission's Division of Energy Regulation upon execution, if required.

### 3.2 Term of Agreement

This Agreement shall become effective on the effective date and shall remain in effect for a period of 10 years from the effective date or such other longer period as the Interconnection Customer may request and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with article 3.3 of this Agreement.

### 3.3 Termination

No termination shall become effective until the Parties have complied with all applicable laws and regulations applicable to such termination, including the filing with the State Corporation Commission's Division of Energy Regulation of a notice of termination of this Agreement (if required), which notice has been accepted for filing by commission's Division of Energy Regulation.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the Distribution Company 20 business days written notice.

3.3.2 Either Party may terminate this Agreement after default pursuant to article 7.6.

3.3.3 Upon termination of this Agreement, the small generating facility will be disconnected from the Distribution Company's system. The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.4 This provisions of this article shall survive termination or expiration of this Agreement.

### 3.4 Temporary disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Distribution Company Practice.

3.4.1 Emergency Conditions -- "Emergency Condition" shall mean a condition or situation: (i) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (ii) that, in the case of the Distribution Company, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the distribution system, the Distribution Company's Interconnection Facilities or the electrical facilities of others to which the Distribution Company's distribution system is directly connected; or (iii) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the small generating facility or the Interconnection Customer's interconnection facilities. Under emergency conditions, the Distribution Company may immediately suspend interconnection service and temporarily disconnect the small generating facility. The Distribution Company shall notify the Interconnection Customer promptly when it becomes aware of an emergency condition that may reasonably be expected to affect the Interconnection Customer's operation of the small generating facility. The Interconnection Customer shall notify the Distribution Company promptly when it becomes aware of an emergency condition that may reasonably be expected to affect the Distribution Company's system or other affected systems. To the extent information is known, the notification shall describe the emergency condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

### 3.4.2 Routine maintenance, construction, and repair

The Distribution Company may interrupt interconnection service or curtail the output of the small generating facility and temporarily disconnect the small generating facility from the Distribution Company's distribution system when



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necessary for routine maintenance, construction, and repairs on the Distribution Company's distribution system. The Distribution Company shall provide the Interconnection Customer with five business days notice prior to such interruption. The Distribution Company shall use reasonable efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

### 3.4.3 Forced outages

During any forced outage, the Distribution Company may suspend interconnection service to effect immediate repairs on the Distribution Company's distribution system. The Distribution Company shall use reasonable efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Distribution Company shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

### 3.4.4 Adverse operating effects

The Distribution Company shall notify the Interconnection Customer as soon as practicable if, based on Good Distribution Company Practice, operation of the small generating facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the small generating facility could cause damage to the Distribution Company's distribution system or affected systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Distribution Company may disconnect the small generating facility. The Distribution Company shall provide the Interconnection Customer with a five business day notice of such disconnection, unless the provisions of article 3.4.1 apply.

### 3.4.5 Modification of the small generating facility

The Interconnection Customer must receive written authorization from the Distribution Company before making any change to the small generating facility that may have a material impact on the safety or reliability of the Distribution Company's system. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Distribution Company Practice. If the Interconnection Customer makes such modification without the Distribution Company's prior written authorization, the latter shall have the right to temporarily disconnect the small generating facility.

### 3.4.6 Reconnection

The Parties shall cooperate with each other to restore the small generating facility, interconnection facilities, and the

Distribution Company's distribution system to their normal operating state as soon as reasonably practicable following a temporary disconnection.

## **Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades**

### 4.1 Interconnection facilities

4.1.1 The Interconnection Customer shall pay for the cost of the interconnection facilities itemized in Attachment 2 of this Agreement. The Distribution Company shall provide a best estimate cost, including overheads, for the purchase and construction of its interconnection facilities and provide a detailed itemization of such costs. Costs associated with interconnection facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and the Distribution Company.

4.1.2 The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (i) owning, operating, maintaining, repairing, and replacing its own interconnection facilities, and (ii) operating, maintaining, repairing, and replacing the Distribution Company's interconnection facilities.

### 4.2 Distribution upgrades

The Distribution Company shall design, procure, construct, install, and own the distribution upgrades described in Attachment 6 of this Agreement. If the Distribution Company and the Interconnection Customer agree, the Interconnection Customer may construct distribution upgrades that are located on land owned by the Interconnection Customer. The actual cost of the distribution upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

## **Article 5. Cost Responsibility for System Upgrades**

### 5.1 Applicability

No portion of this article 5 shall apply unless the interconnection of the small generating facility requires system upgrades.

### 5.2 System upgrades

The Distribution Company shall design, procure, construct, install, and own the system upgrades described in Attachment 3 of this Agreement. If the Distribution Company and the Interconnection Customer agree, the Interconnection Customer may construct system upgrades that are located on land owned by the Interconnection Customer. Unless the Distribution Company elects to pay for system upgrades, the actual cost of the system upgrades, including overheads, shall be borne initially by the Interconnection Customer.

## 5.2.1 Repayment of amounts advanced for system upgrades

The Interconnection Customer shall be entitled to a cash repayment, equal to the total amount paid to the Distribution Company and affected system operator, if any, for system upgrades, including any tax gross-up or other tax-related payments associated with the system upgrades, and not otherwise refunded to the Interconnection Customer, to be paid to the Interconnection Customer on a dollar-for-dollar basis for the nonusage sensitive portion of transmission charges, as payments are made under the Distribution Company's tariff and affected system's tariff for distribution services with respect to the small generating facility. Upgrades through the date on which the Interconnection Customer receives a repayment of such payment pursuant to this subparagraph. The Interconnection Customer may assign such repayment rights to any person.

5.2.1.1 Notwithstanding the foregoing, the Interconnection Customer, the Distribution Company, and affected system operator may adopt any alternative payment schedule that is mutually agreeable so long as the Distribution Company and affected system operator take one of the following actions no later than five years from the commercial operation date: (i) return to the Interconnection Customer any amounts advanced for system upgrades not previously repaid, or (ii) declare in writing that the Distribution Company or affected system operator will continue to provide payments to the Interconnection Customer on a dollar-for-dollar basis for the nonusage sensitive portion of transmission charges, or develop an alternative schedule that is mutually agreeable and provides for the return of all amounts advanced for system upgrades not previously repaid; however, full reimbursement shall not extend beyond 20 years from the commercial operation date.

5.2.1.2 If the small generating facility fails to achieve commercial operation, but it or another generating facility is later constructed and requires use of the system upgrades, the Distribution Company and affected system operator shall at that time reimburse the Interconnection Customer for the amounts advanced for the system upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying the entity to which reimbursement must be made.

## 5.3 Special provisions for affected systems

Unless the Distribution Company provides, under this Agreement, for the repayment of amounts advanced to affected system operator for system upgrades, the Interconnection Customer and affected system operator shall enter into an agreement that provides for such repayment. The

agreement shall specify the terms governing payments to be made by the Interconnection Customer to affected system operator as well as the repayment by affected system operator.

## 5.4 Rights under other agreements

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, transmission congestion rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future, under any other agreement or tariff as a result of, or otherwise associated with system upgrades, including the right to obtain cash reimbursements or transmission credits for transmission service that is not associated with the small generating facility.

## **Article 6. Billing, Payment, Milestones, and Financial Security**

### 6.1 Billing and payment procedures and final accounting

6.1.1 The Distribution Company shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of interconnection facilities and upgrades contemplated by this Agreement on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within 30 calendar days of receipt, or as otherwise agreed to by the Parties.

6.1.2 Within three months of completing the construction and installation of the Distribution Company's interconnection facilities and/or upgrades described in the Attachments to this Agreement, the Distribution Company shall provide the Interconnection Customer with a final accounting report of any difference between (i) the Interconnection Customer's cost responsibility for the actual cost of such facilities or upgrades, and (ii) the Interconnection Customer's previous aggregate payments to the Distribution Company for such facilities or upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Distribution Company shall invoice the Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Distribution Company within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Distribution Company shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.

### 6.2 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 4 of this Agreement.

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A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, it shall immediately notify the other Party of the reason(s) for not meeting the milestone and (i) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (ii) requesting appropriate amendments to Attachment 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless it will suffer significant uncompensated economic or operational harm from the delay, attainment of the same milestone has previously been delayed, or it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

## 6.3 Financial security arrangements

At least 20 business days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Distribution Company's interconnection facilities and upgrades, the Interconnection Customer shall provide the Distribution Company, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Distribution Company and is consistent with the Uniform Commercial Code of the jurisdiction where the point of interconnection is located. Such security for payment shall be in an amount sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Distribution Company's interconnection facilities and upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Distribution Company under this Agreement during its term. In addition:

6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Distribution Company, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.

6.3.2 The letter of credit or surety bond must be issued by a financial institution or insured reasonably acceptable to the Distribution Company and must specify a reasonable expiration date.

## **Article 7. Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default**

### 7.1 Assignment

This Agreement may be assigned by either Party upon 15 business days prior written notice and opportunity to object by the other Party; provided that:

7.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate of the assigning Party with an equal or greater credit rating and with the

legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement;

7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Distribution Company, for collateral security purposes to aid in providing financing for the small generating facility, provided that the Interconnection Customer will promptly notify the Distribution Company of any such assignment.

7.1.3 Any attempted assignment that violates this article is void and ineffective.

Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. An assignee is responsible for meeting the same financial, credit, and insurance obligations as the Interconnection Customer. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

### 7.2 Limitation of liability

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

### 7.3 Indemnity

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in article 7.2.

7.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified person is entitled to indemnification under this article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this article, to assume the defense of such claim, such indemnified person may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

7.3.4 If an indemnifying party is obligated to indemnify and hold any indemnified person harmless under this article, the amount owing to the indemnified person shall be the amount of such indemnified person's actual loss, net of any insurance or other recovery.

7.3.5 Promptly after receipt by an indemnified person of any claim or notice of the commencement of any action or administrative or legal proceeding or small generator investigation as to which the indemnity provided for in this article may apply, the indemnified person shall notify the indemnifying party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying party.

#### 7.4 Consequential damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

#### 7.5 Force Majeure

7.5.1 As used in this article, a Force Majeure Event means "any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing."

7.5.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the

Force Majeure Event cannot be mitigated by the use of reasonable efforts. The Affected Party will use reasonable efforts to resume its performance as soon as possible.

#### 7.6 Default

7.6.1 No default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Small Generator Interconnection Agreement or the result of an act or omission of the other Party. Upon a default, the nondefaulting Party shall give written notice of such default to the defaulting Party. Except as provided in article 7.6.2, the defaulting Party shall have 60 calendar days from receipt of the default notice within which to cure the default; however, if the default is not capable of cure within 60 calendar days, the defaulting Party shall commence the cure within 20 calendar days after notice and continuously and diligently complete the cure within six months from receipt of the default notice; and, if cured within such time, the default specified in such notice shall cease to exist.

7.6.2 If a default is not cured as provided in this article, or if a default is not capable of being cured within the period provided for herein, the nondefaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

### Article 8. Insurance

8.1 The Interconnection Customer shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection undertaken pursuant to this Agreement. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. The Interconnection Customer shall obtain additional insurance only if necessary as a function of owning and operating a generating facility. Insurance shall be obtained from an insurance provider authorized to do business in the State where the interconnection is located. Certification that such insurance is in effect shall be provided upon request of the Distribution Company, except that the Interconnection Customer shall show proof of insurance to the Distribution Company no later than 10 business days prior to the anticipated commercial operation date. An Interconnection Customer of sufficient creditworthiness may propose to self-insure for such

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liabilities, and such a proposal shall not be unreasonably rejected.

8.2 The Distribution Company agrees to maintain general liability insurance or self insurance consistent with the Distribution Company's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Distribution Company's liabilities undertaken pursuant to this Agreement.

8.3 The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

## **Article 9. Confidentiality**

9.1 Confidential information shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed confidential information regardless of whether it is clearly marked or otherwise designated as such.

9.2 Confidential information does not include information previously in the public domain, required to be publicly submitted or divulged by governmental authorities (after notice to the other Party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving confidential information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.

9.2.1 Each Party shall employ at least the same standard of care to protect confidential information obtained from the other Party as it employs to protect its own confidential information.

9.2.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of confidential information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

## **Article 10. Disputes**

10.1 The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.

10.2 In the event of a dispute, either Party shall provide the other Party with a written Notice of Dispute. Such Notice shall describe in detail the nature of the dispute.

10.3 If the dispute has not been resolved within two business days after receipt of the Notice, either Party may contact the Division of Energy Regulation for assistance in resolving the dispute.

10.4 Each Party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.

10.5 If neither Party elects to seek assistance from the State Corporation Commission's Division of Energy Regulation, or if the attempted dispute resolution fails, then either Party may exercise whatever rights and remedies it may have in equity or law consistent with the terms of this Agreement.

## **Article 11. Taxes**

11.1 The Parties agree to follow all applicable tax laws and regulations

11.2 Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the Distribution Company's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

## **Article 12. Miscellaneous**

### 12.1 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state Virginia without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a governmental authority.

### 12.2 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties.

### 12.3 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

### 12.4 Waiver

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of

this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Distribution Company. Any waiver of this Agreement shall, if requested, be provided in writing.

12.5 Entire Agreement

This Agreement, including all Attachments, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (i) such portion or provision shall be deemed separate and independent, (ii) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (iii) the remainder of this Agreement shall remain in full force and effect.

12.9 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the small generating facility or the interconnection facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than 24 hours after such Party becomes aware of the occurrence, and (ii) promptly furnish to

the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

12.10 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; however, each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

12.10.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; however, in no event shall the Distribution Company be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

12.10.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

12.11 Reservation of Rights

The Distribution Company shall have the right to make a unilateral filing with the Commission to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation.

**Article 13. Notices**

13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national currier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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If to the Distribution Company:

Distribution Company: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## 13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If to the Distribution Company:

Distribution Company: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## 13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the Distribution Company:

Distribution Company: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## 13.4 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative:

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Distribution Company's Operating Representative:

Distribution Company: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

## 13.5 Changes to the Notice Information

Either Party may change this information by giving five business days written notice prior to the effective date of the change.

## **Article 14. Signatures**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Distribution Company

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For the Interconnection Customer

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1 to  
Schedule 5****Glossary of Terms**

Affected system – An electric system other than the Distribution Company's transmission system that may be affected by the proposed interconnection.

Applicable laws and regulations – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority.

Business Day – Monday through Friday, excluding federal holidays.

Default – The failure of a breaching Party to cure its breach under the Small Generator Interconnection Agreement.

Distribution Company – The Utility that owns and/or operates the Distribution System located in Virginia to which the small generation facility proposes to interconnect its small generating facility.

Distribution system – The Distribution Company's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission systems which transport bulk power over longer distances. The voltage levels at which distribution systems operate differ among areas.

Distribution upgrades – The additions, modifications, and upgrades to the Distribution Company's distribution system at or beyond the point of interconnection to facilitate interconnection of the small generating facility and render the transmission service necessary to effect the Interconnection Customer's wholesale sale of electricity in interstate commerce. Distribution upgrades do not include interconnection facilities.

Good Distribution Company Practice – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Distribution Company Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental authority – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other

governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided that such term does not include the Interconnection Customer, the interconnection provider, or any Affiliate thereof.

Interconnection Customer – Any entity, including the Distribution Company, the transmission owner or any of the affiliates or subsidiaries of either, that proposes to interconnect its small generating facility with the Distribution Company's transmission system.

Interconnection facilities – The Distribution Company's interconnection facilities and the Interconnection Customer's interconnection facilities. Collectively, interconnection facilities include all facilities and equipment between the small generating facility and the point of interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the small generating facility to the Distribution Company's transmission system. Interconnection facilities are sole use facilities and shall not include distribution upgrades or system upgrades.

Interconnection request – The Interconnection Customer's request, in accordance with the tariff, to interconnect a new small generating facility, or to increase the capacity of, or make a material modification to the operating characteristics of, an existing small generating facility that is interconnected with the Distribution Company's system.

Material modification – A modification that has a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

System upgrades – Additions, modifications, and upgrades to the Distribution Company's distribution and transmission system required at or beyond the point at which the small generating facility interconnects with the system to accommodate the interconnection of the small generating facility with the Distribution Company's transmission system.

Operating requirements – Any operating and technical requirements that may be applicable due to Regional Transmission Organization, Independent System Operator, control area, or the Distribution Company's requirements, including those set forth in the Small Generator Interconnection Agreement.

Party or Parties – The Distribution Company, Interconnection Customer or any combination of the above.

Point of interconnection – The point where the interconnection facilities connect with the Distribution Company's transmission system.

Reasonable efforts – With respect to an action required to be attempted or taken by a Party under the Small Generator



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Interconnection Agreement, efforts that are timely and consistent with Good Distribution Company Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Attachment 4 to  
Schedule 5**

Small Generating Facility – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's interconnection facilities.

Tariff – The rates, terms and conditions filed by the utility with the State Corporation Commission for the purpose of providing commission-regulated electric service to retail customers.

Upgrades – The required additions and modifications to the Distribution Company's distribution or transmission system at or beyond the point of interconnection. Upgrades do not include interconnection facilities.

**Attachment 2 to  
Schedule 5**

**Description and Costs of the Small Generating Facility, Interconnection Facilities, and Metering Equipment**

Equipment, including the small generating facility, interconnection facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer or the Distribution Company. The Distribution Company will provide a best estimate itemized cost, including overheads, of its interconnection facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its interconnection facilities and metering equipment.

**Attachment 3 to  
Schedule 5**

**Attachment 5 to  
Schedule 5**

**Milestones**

In-Service Date: \_\_\_\_\_

Critical milestones and responsibility as agreed to by the Parties:

<b><u>Milestone/Date</u></b>	<b><u>Responsible Party</u></b>
<u>(1) _____</u>	<u>_____</u>
<u>(2) _____</u>	<u>_____</u>
<u>(3) _____</u>	<u>_____</u>
<u>(4) _____</u>	<u>_____</u>
<u>(5) _____</u>	<u>_____</u>
<u>(6) _____</u>	<u>_____</u>
<u>(7) _____</u>	<u>_____</u>
<u>(8) _____</u>	<u>_____</u>
<u>(9) _____</u>	<u>_____</u>
<u>(10) _____</u>	<u>_____</u>

Agreed to by:

For the Distribution Company \_\_\_\_\_  
Date \_\_\_\_\_

For the Transmission Owner (If Applicable) \_\_\_\_\_  
Date \_\_\_\_\_

For the Interconnection Customer \_\_\_\_\_  
Date \_\_\_\_\_

**Additional Operating Requirements for the Distribution Company's System and Affected Systems Needed to Support the Interconnection Customer's Needs**

The Distribution Company shall also provide requirements that must be met by the Interconnection Customer prior to initiating parallel operation with the Distribution Company's system.

[Diagram to be provided by applicant]

**One-line Diagram Depicting the Small Generating Facility, Interconnection Facilities, Metering Equipment, and Upgrades**

**Attachment 6 to  
Schedule 5**

**Distribution Company's Description of its Upgrades and  
Best Estimate of Upgrade Costs**

The Distribution Company shall describe upgrades and provide an itemized estimate of the cost, including overheads, of the upgrades and annual operation and maintenance expenses associated with such upgrades. The Distribution Company shall functionalize upgrade costs and annual expenses as either transmission or distribution related.

**Attestation**

VA.R. Doc. No. R08-1147; Filed February 26, 2008, 2:56 p.m.

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**TITLE 22. SOCIAL SERVICES**

**DEPARTMENT OF SOCIAL SERVICES**

**Emergency Regulation**

**Title of Regulation: 22VAC40-705. Child Protective Services (amending 22VAC40-705-10, 22VAC40-705-30).**

**Statutory Authority: §§63.2-217 and 63.2-1503 of the Code of Virginia.**

**Effective Dates: March 1, 2008, through February 28, 2009.**

**Agency Contact: Nan McKenney, Child Protective Services Policy Supervisor, Department of Social Services, Division of Family Services, 7 N. Eighth Street, Richmond, VA 23219, telephone (804) 726-7569, FAX (804) 726-7895, TTY (800) 828-1120, or email nan.mckenney@dss.virginia.gov.**

**Preamble:**

*The purpose of this action is to address situations created by Chapters 479 and 597 of the 2007 Acts of Assembly that pertain to the needs of terminally ill children by clarifying the definition of medical neglect. In order to protect the health, safety and welfare of terminally ill children, it is necessary to act immediately pursuant to §2.2-4011 A of the Code of Virginia and make substantive changes to 22VAC40-705.*

*The action clarifies that a decision by the parents or other person legally responsible for a child with a life-threatening condition to refuse a particular medical treatment shall not be deemed a refusal to provide necessary care if all of the following circumstances are met:*

*1. The decision is made jointly by the parents or other person legally responsible for the child and the child;*

*2. The child is 14 years of age and sufficiently mature to have an informed opinion on the subject of his medical treatment;*

*3. The parents or other person legally responsible for the child and the child have considered alternative treatment options; and*

*4. The parents or other person legally responsible for the child and the child believe in good faith that such decision is in the child's best interest.*

**22VAC40-705-10. Definitions.**

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

"Abuser or neglector" means any person who is found to have committed the abuse and/or neglect of a child pursuant to Chapter 15 (§63.2-1500 et seq.) of Title 63.2 of the Code of Virginia.

"Administrative appeal rights" means the child protective services appeals procedures for a local level informal conference and a state level hearing pursuant to §63.2-1526 of the Code of Virginia, under which an individual who is found to have committed abuse and/or neglect may request that the local department's records be amended.

"Alternative treatment options" means treatments used to prevent or treat illnesses or promote health and well-being outside the realm of modern conventional medicine.

"Appellant" means anyone who has been found to be an abuser and/or neglector and appeals the founded disposition to the director of the local department of social services, an administrative hearing officer, or to circuit court.

"Assessment" means the process by which child protective services workers determine a child's and family's needs.

"Caretaker" means any individual having the responsibility of providing care for a child and includes the following: (i) parent or other person legally responsible for the child's care; (ii) any other person who has assumed caretaking responsibility by virtue of an agreement with the legally responsible person; (iii) persons responsible by virtue of their positions of conferred authority; and (iv) adult persons residing in the home with the child.

"Case record" means a collection of information maintained by a local department, including written material, letters, documents, tapes, photographs, film or other materials regardless of physical form about a specific child protective services investigation, family or individual.

"Central Registry" means a subset of the child abuse and neglect information system and is the name index with identifying information of individuals named as an abuser and/or neglector in founded child abuse and/or neglect

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complaints or reports not currently under administrative appeal, maintained by the department.

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Child abuse and neglect information system" means the computer system which collects and maintains information regarding incidents of child abuse and neglect involving parents or other caretakers. The computer system is composed of three parts: the statistical information system with nonidentifying information, the Central Registry of founded complaints not on appeal, and a database that can be accessed only by the department and local departments that contains all nonpurged CPS reports. This system is the official state automated system.

"Child protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse and/or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child protective services worker" means one who is qualified by virtue of education, training and supervision and is employed by the local department to respond to child protective services complaints and reports of alleged child abuse and/or neglect.

"Chronically and irreversibly comatose" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflexive activity of muscles and nerves for low-level conditioned response and from which to a reasonable degree of medical probability there can be no recovery.

"Collateral" means a person whose personal or professional knowledge may help confirm or rebut the allegations of child abuse and/or neglect or whose involvement may help ensure the safety of the child.

"Complaint" means any information or allegation of child abuse and/or neglect made orally or in writing pursuant to §63.2-100 of the Code of Virginia.

"Consultation" means the process by which the alleged abuser and/or neglecter may request an informal meeting to discuss the investigative findings with the local department prior to the local department rendering a founded disposition of abuse and/or neglect against that person pursuant to §63.2-1526 A of the Code of Virginia.

"Controlled substance" means a drug, substance or marijuana as defined in §18.2-247 of the Code of Virginia

including those terms as they are used or defined in the Drug Control Act, Chapter 34 (§54.1-3400 et seq.) of Title 54.1 of the Code of Virginia. The term does not include alcoholic beverages or tobacco as those terms are defined or used in Title 3.1 or Title 4.1 of the Code of Virginia.

"Department" means the Virginia Department of Social Services.

"Differential response system" means that local departments of social services may respond to valid reports or complaints of child abuse or neglect by conducting either a family assessment or an investigation.

"Disposition" means the determination of whether or not child abuse and/or neglect has occurred.

"Documentation" means information and materials, written or otherwise, concerning allegations, facts and evidence.

"Family Advocacy Program representative" means the professional employed by the United States Armed Forces who has responsibility for the program designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up and reporting of family violence, pursuant to 22VAC40-720-20.

"Family assessment" means the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child; and
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services. These arrangements may be made in consultation with the caretaker(s) of the child.

"First source" means any direct evidence establishing or helping to establish the existence or nonexistence of a fact. Indirect evidence and anonymous complaints do not constitute first source evidence.

"Founded" means that a review of the facts shows by a preponderance of the evidence that child abuse and/or neglect has occurred. A determination that a case is founded shall be based primarily on first source evidence; in no instance shall a determination that a case is founded be based solely on indirect evidence or an anonymous complaint.

"He" means he or she.

"His" means his or her.

"Identifying information" means name, social security number, address, race, sex, and date of birth.

"Indirect evidence" means any statement made outside the presence of the child protective services worker and relayed to the child protective services worker as proof of the contents of the statement.

"Informed opinion" means that the child has been informed and understands the benefits and risks, to the extent known, of the treatment recommended by conventional medical providers for his condition and the alternative treatment being considered as well as the basis of efficacy for each, or lack thereof.

"Investigation" means the collection of information to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
5. Whether or not abuse or neglect has occurred;
6. If abuse or neglect has occurred, who abused or neglected the child; and
7. A finding of either founded or unfounded based on the facts collected during the investigation.

"Investigative narrative" means the written account of the investigation contained in the child protective services case record.

"Legitimate interest" means a lawful, demonstrated privilege to access the information as defined in §63.2-104 of the Code of Virginia.

"Licensed substance abuse treatment practitioner" means a person who (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence and (ii) is licensed to provide advanced substance abuse treatment and independent, direct and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Life-threatening condition" means a condition that if left untreated more likely than not will result in death and for which the recommended medical treatments carry a probable chance of impairing the health of the individual or a risk of terminating the life of the individual.

"Local department" means the city or county local agency of social services or department of public welfare in the Commonwealth of Virginia responsible for conducting

investigations of child abuse and/or neglect complaints or reports pursuant to §63.2-1503 of the Code of Virginia.

"Local department of jurisdiction" means the local department in the city or county in Virginia where the alleged victim child resides or in which the alleged abuse and/or neglect is believed to have occurred. If neither of these is known, then the local department of jurisdiction shall be the local department in the county or city where the abuse and/or neglect was discovered.

"Mandated reporters" means those persons who are required to report suspicions of child abuse and/or neglect pursuant to §63.2-1509 of the Code of Virginia.

"Monitoring" means contacts with the child, family and collaterals which provide information about the child's safety and the family's compliance with the service plan.

"Multidisciplinary teams" means any organized group of individuals representing, but not limited to, medical, mental health, social work, education, legal and law enforcement, which will assist local departments in the protection and prevention of child abuse and neglect pursuant to §63.2-1503 K of the Code of Virginia. Citizen representatives may also be included.

"Notification" means informing designated and appropriate individuals of the local department's actions and the individual's rights.

"Particular medical treatment" means a process or procedure that is recommended by conventional medical providers and accepted by the conventional medical community.

"Preponderance of evidence" means the evidence as a whole shows that the facts are more probable and credible than not. It is evidence which is of greater weight or more convincing than the evidence offered in opposition.

"Purge" means to delete or destroy any reference data and materials specific to subject identification contained in records maintained by the department and the local department pursuant to §§63.2-1513 and 63.2-1514 of the Code of Virginia.

"Reasonable diligence" means the exercise of justifiable and appropriate persistent effort.

"Report" means either a complaint as defined in this section or an official document on which information is given concerning abuse and neglect. A report is required to be made by persons designated herein and by local departments in those situations in which a response to a complaint from the general public reveals suspected child abuse and/or neglect pursuant to subdivision 5 of the definition of abused or neglected child in §63.2-100 of the Code of Virginia.

"Safety plan" means an immediate course of action designed to protect a child from abuse or neglect.

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"Service plan" means a plan of action to address the service needs of a child and/or his family in order to protect a child and his siblings, to prevent future abuse and neglect, and to preserve the family life of the parents and children whenever possible.

"State automated system" means the "child abuse and neglect information system" as previously defined.

"Substance abuse counseling or treatment services" are services provided to individuals for the prevention, diagnosis, treatment, or palliation of chemical dependency, which may include attendant medical and psychiatric complications of chemical dependency.

"Sufficiently mature" is determined on a case-by-case basis and means that a child has no impairment of his cognitive ability and is of a maturity level capable of having intelligent views on the subject of his health condition and medical care.

"Terminal condition" means a condition caused by injury, disease or illness from which to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is chronically and irreversibly comatose.

"Unfounded" means that a review of the facts does not show by a preponderance of the evidence that child abuse or neglect occurred.

"Valid report or complaint" means the local department of social services has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation or family assessment because the following elements are present:

1. The alleged victim child or children are under the age of 18 at the time of the complaint or report;
2. The alleged abuser is the alleged victim child's parent or other caretaker;
3. The local department receiving the complaint or report is a local department of jurisdiction; and
4. The circumstances described allege suspected child abuse or neglect.

"Withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening condition by providing treatment (including appropriate nutrition, hydration, and medication) which in the treating physician's or physicians' reasonable medical judgment will most likely be effective in ameliorating or correcting all such conditions.

## **22VAC40-705-30. Types of abuse and neglect.**

A. Physical abuse occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon a child a physical injury by other than accidental means or creates a substantial risk of death, disfigurement, or impairment of bodily functions, including,

but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of §18.2-248 of the Code of Virginia.

B. Physical neglect occurs when there is the failure to provide food, clothing, shelter, or supervision for a child to the extent that the child's health or safety is endangered. This also includes abandonment and situations where the parent's or caretaker's own incapacitating behavior or absence prevents or severely limits the performing of child caring tasks pursuant to §63.2-100 of the Code of Virginia. In situations where the neglect is the result of family poverty and there are no outside resources available to the family, the parent or caretaker shall not be determined to have neglected the child; however, the local department may provide appropriate services to the family.

1. Physical neglect may include multiple occurrences or a one-time critical or severe event that results in a threat to health or safety.
2. Physical neglect may include failure to thrive.
  - a. Failure to thrive occurs as a syndrome of infancy and early childhood which is characterized by growth failure, signs of severe malnutrition, and variable degrees of developmental retardation.
  - b. Failure to thrive can only be diagnosed by a physician and is caused by nonorganic factors.

C. Medical neglect occurs when there is the failure by the caretaker to obtain or follow through with a complete regimen of medical, mental or dental care for a condition which if untreated could result in illness or developmental delays pursuant to §63.2-100 of the Code of Virginia. However a decision by parents or other persons legally responsible for the child to refuse a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person legally responsible for the child and the child; (ii) the child has reached 14 years of age and sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person legally responsible for the child and the child have considered alternative treatment options; and (iv) the parents or other person legally responsible for the child and the child believe in good faith that such decision is in the child's best interest. Medical neglect also includes withholding of medically indicated treatment.

1. A child who, in good faith, is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious

denomination pursuant to §63.2-100 of the Code of Virginia shall not for that reason alone be considered a neglected child.

2. For the purposes of this regulation, "withholding of medically indicated treatment" does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when in the treating physician's or physicians' reasonable medical judgment:

- a. The infant is chronically and irreversibly comatose;
- b. The infant has a terminal condition and the provision of such treatment would:
  - (1) Merely prolong dying;
  - (2) Not be effective in ameliorating or correcting all of the infant's life-threatening conditions;
  - (3) Otherwise be futile in terms of the survival of the infant; or
  - (4) Be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

D. Mental abuse or neglect occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon a child a mental injury by other than accidental means or creates a substantial risk of impairment of mental functions.

Mental abuse or neglect may include failure to thrive.

1. Failure to thrive occurs as a syndrome of infancy and early childhood which is characterized by growth failure, signs of severe malnutrition, and variable degrees of developmental retardation.
2. Failure to thrive can only be diagnosed by a physician and is caused by nonorganic factors.

E. Sexual abuse occurs when there is any act of sexual exploitation or any sexual act upon a child in violation of the law which is committed or allowed to be committed by the child's parents or other persons responsible for the care of the child pursuant to §63.2-100 of the Code of Virginia.

VA.R. Doc. No. R08-833; Filed February 26, 2008, 12:31 p.m.

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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

February 15, 2008

Administrative Letter 2008 - 03

TO: All Insurers Licensed in Virginia to Write Life Insurance, Variable Life Insurance, Annuities or Variable Annuities

RE: Rules Governing Military Sales Practices (14 VAC 5-420-10 et. seq.)

Note: Insurers are instructed to furnish a copy of this administrative letter to their appointed agents in Virginia, and to include a copy of this administrative letter in materials provided to all newly appointed agents in Virginia.

The purpose of this Administrative Letter is to remind insurers and agents marketing or soliciting life insurance or annuities to members of the United States Armed Forces of the specific standards addressed and identified in the Rules Governing Military Sales Practices (the Rules), effective in Virginia on February 15, 2008.

A copy of the Rules was attached to the Commission's Order Adopting the Rules, sent to all life and annuity insurers in November, 2007. The Rules may also be viewed at the Bureau's website, by clicking on "Insurance Regulations" at:

<http://www.scc.virginia.gov/division/boi/webpages/boi2008administrativeletters.htm>

### BACKGROUND

These Rules are a result of findings in multi-state examinations conducted on behalf of the National Association of Insurance Commissioners (NAIC), investigations by the Department of Defense and its branch components, the United States Government Accountability Office Report, GAO-06-23, and provisions of federal law established by The Military Personnel Financial Services Protection Act (the Act), Pub. L. No. 109-290 (<http://bulk.resource.org/gpo.gov/laws/109/publ290.109.pdf>).

The Rules apply to sales activities regarding solicitation of certain forms of life insurance policies, issued or issued for delivery in Virginia to any active duty service member based or living in Virginia, whether permanently, temporarily or for training. The phrase "in Virginia" also includes all military installations located within the geographical boundaries of the Commonwealth, where a military installation is defined as "any federally owned, leased, or operated base, reservation, post, camp, building, or other facility where service members are assigned for duty to include barracks, transient housing, and family quarters." A service member is considered to be on active duty when serving full-time military service for the

United States, to include the National Guard or Reserve if serving under military calls or orders to active duty or active duty for training that specify a period of 31 or more calendar days. While other states may adopt similar provisions for their respective laws or Rules, Virginia's Rules apply to active duty service members of all ranks and pay grades.

The Rules apply to insurer or agent activities occurring at any location and also identify prohibited practices specifically occurring on military installations. There are more than 10 prohibited practices or specific requirements for sales activities occurring on a military installation. The Rules also identify more than 25 prohibited practices or specific requirements that apply regardless of the location.

Insurers and agents should be particularly mindful that the marketing of certain life insurance products that may contain, have attached, or are sold in concert with a "side fund," as defined by 14 VAC 5-420-20, are prohibited, except in the circumstances identified in the Rules.

While this discussion is certainly not all-inclusive, it does highlight some of the reasons why the Rules are necessary not only to carry out the intent of Congress set out in the provisions of the Act, but also to facilitate an efficient and consistent regulatory framework governing sales to military personnel on a nationwide basis.

Insurers and agents licensed to do business in the Commonwealth of Virginia are required to be fully aware of and abide by all the provisions of the Rules.

Questions regarding this letter may be directed to: James Young, Senior Insurance Market Examiner, Life and Health Division, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9532, FAX (804) 371-9821.

/s/ Alfred W. Gross  
Commissioner of Insurance

### Bureau of Financial Institutions

AT RICHMOND, FEBRUARY 21, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2007-00161

Ex Parte: In re: credit union service organizations

On October 5, 2007, the State Corporation Commission ("Commission") entered an Order to Take Notice in this case to give interested persons an opportunity to comment or request a hearing on regulations proposed by the Bureau of Financial Institutions ("Bureau") that would authorize state-chartered credit unions to invest in or make loans to credit union service organizations on similar terms and conditions

as federal credit unions. Interested persons were given until December 14, 2007, to submit comments or request a hearing. The Commission received comment letters from various credit unions and organizations as well as several requests for a hearing.

On December 21, 2007, the Commission entered an Order scheduling a hearing for February 26, 2008, in order to consider the adoption of the proposed regulations. The Commission also directed the Bureau to meet with representatives from those entities that submitted comments in an attempt to narrow the issues for the Commission's consideration at the hearing. The Commission's Order also required the Bureau to make a filing in this case in which it (i) identified any issues that had been resolved as a result of the Bureau's meeting, and (ii) responded to the comments filed in this case that pertained to issues that remained unresolved after the Bureau's meeting.

On February 15, 2008, the Bureau filed its Response to Comments. In its Response, the Bureau informed the Commission that as a result of its meeting with representatives from those entities that submitted comments, the credit unions and organizations that initially requested a hearing no longer desire a hearing and have withdrawn their requests. Therefore, the Bureau recommended that the Commission cancel the hearing scheduled for February 26, 2008.

Accordingly, IT IS ORDERED THAT:

- (1) The hearing scheduled for February 26, 2008, is canceled.
- (2) The Commission's Division of Information Resources shall cause a copy of this order to be sent to the Registrar of Regulations for publication in the Virginia Register of Regulations.
- (3) This Order shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.
- (4) This case is continued generally pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to those persons named in the attached service list and the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order to all state-chartered credit unions and such other interested parties as he may designate.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Total Maximum Daily Load Study in Waters in Accomack County

The Virginia Department of Environmental Quality will host a public meeting on water quality studies for Holdens Creek,

Sandy Bottom Branch, Unnamed Tributary to Sandy Bottom Branch, Unnamed Tributary to Pitts Creek, and Petit Branch all located in Accomack County on Wednesday, March 26, 2008.

The meeting will start at 6 p.m. in the Arcadia Middle School cafeteria located at 29485 Horsey Road in Oak Hall. The purpose of the meeting is to provide information on load allocations and reductions required to meet the TMDL goals. The discussion is open to interested community members and local government.

Petit Branch (VAT-D02R-01), Holdens Creek (VAT-C10E-01), Sandy Bottom Branch (VAT-C10R-02), and Unnamed Tributary to Sandy Bottom Branch (VAT-C10R-01) were identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria and do not support the Recreation Use. Segment VAT-C09R-01 of Unnamed Tributary to Pitts Creek was listed in Virginia's 1998 303(d) TMDL Priority List and Report because it did not support the Aquatic Life Use due to violations of the dissolved oxygen water quality standard.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports.

During the study, DEQ will develop a Total Maximum Daily Load for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. Virginia agencies are working to identify the sources of pollution in the watersheds of these streams.

The public comment period on materials presented at this meeting will extend from March 26, 2008, to April 25, 2008. For additional information or to submit comments, contact Jennifer Howell, Virginia Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, or email [jshowell@deq.virginia.gov](mailto:jshowell@deq.virginia.gov).

Additional information is also available on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

### Restore Water Quality in Bull Creek in Buchanan County

Public meeting location: Harman Memorial Baptist Church Christian Center on Route 609 off Route 460 in Maxie, Virginia, on Thursday, March 20, 2008, from 7 p.m. to 9 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality, Department



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## General Notices/Errata

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of Mines Minerals and Energy and the Department of Conservation and Recreation for Bull Creek in Southwest Virginia.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: DEQ has been working to identify sources of pollutants affecting the aquatic organisms in the waters of Bull Creek. Bull Creek is in Buchanan County and flows along Route 609 to Levisa Fork downstream of Grundy, Virginia. The "impaired" stream segments are estimated to be approximately 16.9 miles including Bull Creek, from the headwaters to the confluence with Levisa Fork, and all tributaries; Belcher Branch, Deel Fork, Burnt Poplar Branch, Big Branch, Starr Branch, Jess Fork, and Convict Hollow. The stream is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, March 20, 2008, to April 21, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after March 19, 2008, from the contact below or on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

Contact for additional information: Shelley D. Williams, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email [sdwilliams@deq.virginia.gov](mailto:sdwilliams@deq.virginia.gov).

### **Restore Water Quality in the James River and Tributaries in the City of Hopewell, Chesterfield, Charles City and Prince George Counties**

Public meeting: Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia, March 20, 2008, from 7 p.m.

to 9 p.m. In case of inclement weather, check the DEQ website for a rescheduled date. A Technical Advisory Meeting will also be held on March 20, 2008 in the Hopewell Community Center from 2 p.m. until 4 p.m.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing the completion of a study to restore water quality, a public comment opportunity, and public meeting.

Meeting description: Final technical advisory committee and public meetings on a study to restore water quality.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the waters of the James River and its tributaries in the following jurisdictions.

Stream	County/City	Length (mi.)	Impairment
James River	Charles City, Chesterfield, Prince George, City of Hopewell	5.31 Sq.Miles	Bacteria
Bailey Bay, tidal Bailey Creek, tidal Cattail Creek	City of Hopewell	0.29 Sq. Miles	Bacteria
Bailey Creek	City of Hopewell, Prince George	6.54	Bacteria
Powell Creek	Prince George	6.92	Bacteria

These streams are impaired for failure to meet the Primary Contact (Recreational) designated use because of bacterial standard violations.

The study reports the sources of bacterial contamination and recommends total maximum daily loads, or TMDLs, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacterial levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, March 20, 2008, to April 21, 2008. DEQ also accepts

written and oral comments at the public meeting announced in this notice.

Contact for additional information: Mark Alling, TMDL Manager, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or email [msalling@deq.virginia.gov](mailto:msalling@deq.virginia.gov).

## **Total Maximum Daily Load - Falling River**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of a plan to reduce bacteria in a 10.49 mile segment of Falling River in Campbell and Appomattox Counties. The plan is referred to as an Implementation Plan (IP).

This plan follows a required study called a Total Maximum Daily Load (TMDL) that studied the causes of bacteria in the river. This study was approved by EPA in July 2004, and a copy can be found on DEQ's website at [http://gisweb.deq.virginia.gov/tmdlapp/tmdl\\_report\\_result.cfm](http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_result.cfm).

Development and approval of the plan is required by §62.1-44.19:7 C of the Code of Virginia. Accordingly, the plan should provide measurable goals and the date of expected achievement of water quality objectives. The plan should also include the corrective actions needed and their associated costs, benefits and environmental impacts.

The plan is developed in collaboration with people who live, work and play in the Falling River watershed. The second public meeting on the development of the plan for the Falling River bacteria TMDL will be held on Thursday, April 3, 2008, at 6:30 p.m. in the Campbell County Board of Supervisors Meeting Room located in the lower level of the Haberer Building, 47 Court House Lane, Rustburg, VA. During this meeting the public will be provided the opportunity to review and comment on the draft plan which includes a summation of suggested actions and activities to be taken to have the Falling River eliminated from the Virginia's Impaired Waters List.

The public comment period will end on May 5, 2008. A fact sheet on the development of the implementation plan for the Falling River bacteria TMDL is available upon request. Questions or information requests should be addressed to Krystal Coxon, Virginia Department of Conservation and Recreation. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent in writing to Krystal Coxon, Department of Conservation and Recreation, New River Watershed Office, P.O. Box 1506, Dublin, VA 24084, via email at [krystal.coxon@dcr.virginia.gov](mailto:krystal.coxon@dcr.virginia.gov), or telephone (540) 643-2533.

## **Total Maximum Daily Load - Maury River**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for the Maury River in Rockbridge County. The Maury River was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's general (benthic) standard for aquatic life. This impairment extends for 7.10 miles from Indian Gap Run to Buffalo Creek.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of this TMDL will be held on Tuesday, March 25, 2008, 7 p.m. at the Buena Vista City Council Chambers, Municipal Building, 2039 Sycamore Ave., Buena Vista, VA.

The public comment period for the first public meeting will end on April 25, 2008. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or email [mbrent@deq.virginia.gov](mailto:mbrent@deq.virginia.gov).

## **Total Maximum Daily Load - Mill Creek and Powhatan Creek**

The Department of Environmental Quality (DEQ), Virginia Department of Conservation and Recreation (DCR), and the Department of Health (VDH) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for fecal coliform bacteria in waters located in the James City County, Virginia.

Mill Creek was identified in Virginia's 2002 Water Quality Assessment 305(b) Report. Sufficient exceedances of Virginia's water quality standards for fecal coliform and enterococci bacteria assessed segment VAT-G10E-03 as not supporting the Recreation Use.

Powhatan Creek has two segments that have been identified as impaired and do not support the Recreation Use. Segment VAT-G10E-01 was listed in Virginia's 1998 303(d) TMDL Priority List and Report because of violations of the fecal coliform and enterococci water quality standard. In the 2002 Water Quality Assessment 305(b) Report, segment VAT-G10R-02 was documented as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in

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Virginia's 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports. Virginia agencies are working to identify sources of bacteria contamination in the watersheds of both Mill and Powhatan Creeks.

A Total Maximum Daily Load has been developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount.

The final public meeting is scheduled for Tuesday, March 18, 2008, at 7 p.m. in the James City Williamsburg Community Center, 5301 Longhill Road, Williamsburg. The purpose of the meeting is to discuss the TMDL development process and to share information on bacteria sources in the watershed.

The public comment period on materials presented at this meeting will extend from March 18, 2008, to April 17, 2008. Questions or information requests will be accepted by email, fax, or mail. Written comments should include the name, address, and telephone number of the person submitting the comments.

For additional information and to submit comments: Jennifer Howell, Virginia Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, FAX (757) 518-2003, or email [jshowell@deq.virginia.gov](mailto:jshowell@deq.virginia.gov).

Information from this meeting will be made available on the DEQ TMDL website at <http://www.deq.virginia.gov/tmdl/>.

### **Total Maximum Daily Load - Parker Creek**

The Department of Environmental Quality (DEQ), Virginia Department of Conservation and Recreation (DCR), and the Department of Health (VDH) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Parker Creek located in Accomack County, Virginia.

Parker Creek, located in Accomack County, was identified in Virginia's 1998 303(d) TMDL Priority List and Report. The Aquatic Life Use was not being met due to poor health in the benthic biological community. The impaired benthic segment (TMDL ID VAT-D03R-01) is located in the free-flowing freshwater portion and extends 2.03 miles ending at the tidal interface. Virginia agencies have worked to identify the stressors that are affecting the benthic community in Parker Creek.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports.

DEQ has developed a Total Maximum Daily Load for the stressor identified as the primary source of biological impairment in Parker Creek. A TMDL is the total amount of pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount.

The public meeting is scheduled for Monday, March 31, 2008, at 6:30 p.m. in the Accomack-Northampton Planning District Commission building, 23372 Front Street, Accomac, Virginia. The purpose of the meeting is to discuss the TMDL allocation scenarios and reductions required to meet the TMDL goals.

The public comment period on materials presented at this meeting will extend from March 31, 2008, to April 29, 2008. Questions or information requests will be accepted by email, fax, or mail. Written comments should include the name, address, and telephone number of the person submitting the comments.

For additional information and to submit comments: Jennifer Howell, Virginia Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, FAX (757) 518-2003, or email [jshowell@deq.virginia.gov](mailto:jshowell@deq.virginia.gov).

Information from this meeting will be made available on the DEQ TMDL website at <http://www.deq.virginia.gov/tmdl/>.

### **Restore Water Quality In North Fork and South Fork Pound Rivers**

Announcement of an effort to restore water quality in North Fork and South Fork Pound Rivers in Wise County, Virginia.

Public meeting location: Pound Town Hall, 8422 North River Rd., Pound, Virginia, Monday, March 24, 2008, from 7 p.m. to 9 p.m.

Purpose of notice: To seek public comment and announce a public meeting on a water quality improvement study by the Virginia Department of Environmental Quality, Department of Mines Minerals and Energy and the Department of Conservation and Recreation for the North and South Fork Pound River in Southwest Virginia.

Meeting description: Final public meeting on a study to restore water quality.

Description of study: DEQ has been working to identify sources of pollutants affecting the aquatic organisms in the waters of the North and South Fork Pound Rivers. The South Fork Pound River flows along Route 671 and confluences with the North Fork Pound River in the Town of Pound along Bus. 23. The "impaired" stream segments are estimated to total approximately 7.64 miles. The stream is impaired for failing to meet the Aquatic Life Use based on violations of the general standard for aquatic organisms.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, March 24, 2008, to April 24, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available after March 21, 2008, from the contact below or on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

Contact for additional information: Shelley Williams, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email [sdwilliams@deq.virginia.gov](mailto:sdwilliams@deq.virginia.gov).

### **Restore Water Quality in the Smith River Watershed and the North and South Mayo Rivers**

Public meeting: Henry County Administrative Building, Public Meeting Room 2, Thursday, March 27, 2008, from 6:30 p.m. to 8:30 p.m. Directions: From Route 220, take the Collinsville exit. At first stop light, take a left onto King's Mountain Road. Administrative Building is approximately two miles on left at 3300 Kings Mountain Road, Martinsville, VA 24112.

Purpose of notice: The Virginia Department of Environmental Quality announces the final public meeting to discuss a study to restore water quality in the Smith River watershed and the North and South Mayo Rivers.

Description of study: Virginia agencies are working to identify sources of bacterial pollution in the North and South Mayo Rivers and Smith River watershed. The bacteria exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water.

The following is a list of the "impaired" waters, the length of the impaired segment, the location and the reason for the impairment: North Mayo River, 22.46 miles, Henry, Patrick

Counties, bacteria; South Mayo River, 10.86 miles, Henry, Patrick Counties, bacteria; Blackberry Creek, 14.82 miles, Henry, Patrick County, bacteria; Marrowbone Creek, 4.33 miles, Henry County, bacteria; Leatherwood Creek, 8.34 miles, Henry County, bacteria; Smith River, 6.95 miles, Henry County, bacteria; Smith River, 13.77 miles, Henry County, Martinsville City, bacteria.

The state agencies developed a Total Maximum Daily Load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by April 28, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Mary Dail, Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, or email [mrdail@deq.virginia.gov](mailto:mrdail@deq.virginia.gov).

### **Total Maximum Daily Loads - South Fork Shenandoah River and Naked Creek**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for the South Fork Shenandoah River and Naked Creek in Rockingham and Page Counties. The South Fork Shenandoah River was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria and violations of the state's general (benthic) standard for aquatic life. The benthic and bacteria impairments on the South Fork Shenandoah extend for 59 miles from the confluence of the North and South Rivers downstream to Hawksbill Creek. In addition, Naked Creek was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's general (benthic) standard for aquatic life. This impairment extends for 12.42 miles from the headwaters downstream to the confluence with the South Fork Shenandoah River.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of these TMDLs will be held on Tuesday, April 15, 2008, 7 p.m. at the Town

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## General Notices/Errata

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of Shenandoah Council Chambers, Shenandoah Town Hall, 426 First Street, Shenandoah, VA.

The public comment period for the first public meeting will end on May 15, 2008. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or email [rbrent@deq.virginia.gov](mailto:rbrent@deq.virginia.gov).

### **Total Maximum Daily Loads - South River**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for the South River in Augusta and Rockingham Counties. The South River was listed on the 1996 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for bacteria and violations of the state's general (benthic) standard for aquatic life. The benthic impairment extends for 5.44 miles from the Invista discharge downstream to Sawmill Run. The bacteria impairment extends for 24.71 miles from the Invista discharge to the confluence with the North River.

Section 303(d) of the Clean Water Act and §62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of these TMDLs will be held on Tuesday, April 8, 2008, 7 p.m. at the Waynesboro City Council Chambers, Room 104, Charles T. Yancey Municipal Building, 503 West Main Street, Waynesboro, VA.

The public comment period for the first public meeting will end on May 8, 2008. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or email [rbrent@deq.virginia.gov](mailto:rbrent@deq.virginia.gov).

### **Total Maximum Daily Loads - Strait Creek and West Strait Creek**

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Strait Creek and West Strait Creek in Highland County. West Strait Creek was listed on the 1996 303(d) TMDL Priority List and Report as impaired due to violations of the state's

general (benthic) standard for aquatic life. The benthic impairment extends for 1.17 miles from the headwaters downstream to an unnamed tributary originating on Miracle Ridge. In addition, Strait Creek was listed on the 2002 303(d) TMDL Priority List and Report as impaired due to violations of the state's general (benthic) standard for aquatic life. This impairment extends for 3.24 miles from the confluence with West Strait Creek to the confluence with the South Branch Potomac River.

Section 303(d) of the Clean Water Act and §62.1-44.19:7.C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of these TMDLs will be held on Tuesday, April 22, 2008, 7 p.m. at the Highland County Modular Conference Center, Spruce Street, Monterey, VA.

The public comment period for the first public meeting will end on May 22, 2008. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or email [rbrent@deq.virginia.gov](mailto:rbrent@deq.virginia.gov).

### **Watershed Cleanup Plan**

The Virginia Department of Environmental Quality, Virginia Department of Conservation and Recreation and the Accomack-Northampton Planning District Commission will host a public meeting on March 28, 2008, on the development of a cleanup plan for a waterway in Accomack County.

The meeting will start at 6 p.m. at the ESO Arts Center, 15293 King Street in Belle Haven. Participants will have the opportunity to contribute to the watershed cleanup plan.

DEQ has developed a Total Maximum Daily Load (TMDL) for the shellfish growing waters in the Occohannock Creek watershed. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. In this case, the stream has bacteria pollution. This pollution decreases the quality of the water, and does not allow for shellfish propagation. To maintain the use of a waterbody for direct shellfish harvesting, the goal is to ensure the concentration of fecal coliforms entering the waterbody does not exceed a safe level determined in the TMDL report.

The Implementation Plan (IP) has been developed by the A-NPDC and watershed stakeholders to provide a clean up plan that will lead to attainment of the water quality standards. This meeting will present the final report and the necessary steps used in the IP development.

For more information, contact Jennifer Howell, TMDL Coordinator in the DEQ Tidewater Regional Office in Virginia Beach, by phone at (757) 518-2111, or by email at [jshowell@deq.virginia.gov](mailto:jshowell@deq.virginia.gov). A 30-day comment period will extend from March 28, 2008, until April 28, 2008. Additional information is also available on the DEQ website at [www.deq.virginia.gov/tmdl](http://www.deq.virginia.gov/tmdl).

## STATE LOTTERY DEPARTMENT

### Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on February 22, 2008. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

#### Director's Order Number One (08)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on March 7, 2008:

Game 275	Blackjack
Game 293	Find the 9's
Game 334	Lucky 7's Bingo
Game 678	Emerald Green 7's
Game 709	Diamond White 7's
Game 721	\$100,000 Mega Multiplier
Game 775	Mini Ruby Red 7's
Game 784	21,000 Blackjack Tripler
Game 792	Xtreme Green
Game 800	Trick or Treat Doubler
Game 801	Pumpkin Patch Cash Tripler
Game 1000	A Wreath of Franklins
Game 1001	Candy Cane Cash
Game 1002	Seasons Greetings
Game 1003	Money Tree
Game 1004	\$1,000,000 Holiday Greenery

The last day for lottery retailers to return for credit unsold tickets from any of these games will be April 11, 2008. The last day to redeem winning tickets for any of these games will be September 3, 2008, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of September 3, 2008, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia; and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Paula I. Otto  
Executive Director  
February 20, 2008

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

### Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.

## ERRATA

### BOARD OF GAME AND INLAND FISHERIES

**Title of Regulation:** **4VAC15-410. Watercraft: Boating Safety Education.**

**Publication:** 24:13 VA.R. 1727-1735 March 3, 2008.

**Correction to Proposed Regulation:**

Page 1727, Title of Regulation, change "4VAC15-410-170" to "4VAC15-410-160."

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# General Notices/Errata

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VA.R. Doc. No. R08-1187

**DEPARTMENT OF MEDICAL ASSISTANCE  
SERVICES**

Title of Regulation: **12VAC30-120. Waivered Services.**

Publication: 24:13 VA.R. 1799-1836 March 3, 2008.

Correction to Final Regulation:

Page 1788, Title of Regulation, delete "12VAC30-120-2030" from section listing.

VA.R. Doc. No. R08-1107