



Virginia Register of Regulations

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THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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

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

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

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

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

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **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**; **Jane M. Roush**.

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

PUBLICATION SCHEDULE AND DEADLINES

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

September 2009 through July 2010

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
FINAL INDEX Volume 25		October 2009
26:2	September 9, 2009	September 28, 2009
26:3	September 23, 2009	October 12, 2009
26:4	October 7, 2009	October 26, 2009
26:5	October 21, 2009	November 9, 2009
26:6	November 4, 2009	November 23, 2009
26:7	November 17, 2009 (Tuesday)	December 7, 2009
INDEX 1 Volume 26		January 2010
26:8	December 2, 2009	December 21, 2009
26:9	December 15, 2009 (Tuesday)	January 4, 2010
26:10	December 29, 2009 (Tuesday)	January 18, 2010
26:11	January 13, 2010	February 1, 2010
26:12	January 27, 2010	February 15, 2010
26:13	February 10, 2010	March 1, 2010
26:14	February 24, 2010	March 15, 2010
INDEX 2 Volume 26		April 2010
26:15	March 10, 2010	March 29, 2010
26:16	March 24, 2010	April 12, 2010
26:17	April 7, 2010	April 26, 2010
26:18	April 21, 2010	May 10, 2010
26:19	May 5, 2010	May 24, 2010
26:20	May 19, 2010	June 7, 2010
INDEX 3 Volume 26		July 2010
26:21	June 2, 2010	June 21, 2010
26:22	June 16, 2010	July 5, 2010
26:23	June 30, 2010	July 19, 2010

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PSYCHOLOGY

Initial Agency Notice

Title of Regulation: **18VAC125-20. Regulations Governing the Practice of Psychology.**

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

Name of Petitioner: Mary E. Olbrisch, Ph.D.

Nature of Petitioner's Request: To amend regulations for a residency to allow residents to count the hours of experience obtained while securing necessary documentation for the application and awaiting board approval.

Agency's Plan for Disposition of the Request: The board will discuss the petition at its meeting on October 6, 2009, and make a decision on whether to include the issue in its periodic review or initiate other regulatory action.

Public comments may be submitted until October 28, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

V.A.R. Doc. No. R10-03; Filed September 4, 2009, 12:08 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF 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 Medicine intends to consider amending the following regulations: **18VAC85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.** The purpose of the proposed action is to promulgate regulations for the licensure and practice of radiologist assistants pursuant to Chapters 83 and 507 of the 2009 Acts of Assembly.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2956.8:1 of the Code of Virginia.

Public Comment Deadline: October 28, 2009.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4621, FAX (804) 527-4429, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R10-2130; Filed September 2, 2009, 1:20 p.m.

BOARD OF NURSING

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 Nursing intends to consider amending the following regulations: **18VAC90-20, Regulations of the Practice of Nursing; 18VAC90-25, Regulations Governing Certified Nurse Aides; 18VAC90-30, Regulations Governing the Licensure of Nurse Practitioners; 18VAC90-40, Regulations for Prescriptive Authority for Nurse Practitioners; 18VAC90-50, Regulations Governing the Certification of Massage Therapists; 18VAC90-60, Regulations Governing the Registration of Medication Aides.** The purpose of the proposed action is to consider fee increases for all occupations regulated under the board's authority in order to address projected shortfalls in revenue.

The agency does not intend 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 Comment Deadline: October 28, 2009.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300,

Richmond, VA 23233-1463, telephone (804) 367-4515, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R10-2131; Filed September 2, 2009, 1:22 p.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 increase fees to address a shortfall in revenue.

The agency does not intend 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 Comment Deadline: October 28, 2009.

Agency Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 662-4426, FAX (804) 527-4471, or email elizabeth.carter@dhp.virginia.gov.

VA.R. Doc. No. R10-2132; Filed September 2, 2009, 1:22 p.m.

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

Title of Regulation: 2VAC5-200. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry (amending 2VAC5-200-10, 2VAC5-200-20, 2VAC5-200-30, 2VAC5-200-50, 2VAC5-200-60).

Statutory Authority: § 3.2-6029 of the Code of Virginia.

Effective Date: October 29, 2009.

Agency Contact: Richard D. Saunders, Deputy Director, Department of Agriculture and Consumer Services, P. O. Box 1163, Richmond, VA 23218, telephone (804) 692-0601, FAX (804) 371-2380, TTY (800) 828-1120, or email doug.saunders@vdacs.virginia.gov.

Summary:

The regulation amends the acceptable methods of carcass disposal to permit composting or other methods approved by the State Veterinarian; adds language on provisions governing composting; and amends the requirement to file disposal plans. The substantive changes proposed by this action include adding "composting" as a method of disposing of poultry destroyed to prevent the spread of an infectious or contagious disease; amending the definitions of "incinerator" and "landfill" to mirror definitions in the Code of Virginia; removing the definition of "infectious and contagious disease"; amending the definition of "person" to remove the terminology "for profit" (as well as removing this terminology from other locations within the regulation) to reflect that the regulation applies not only to for-profit operations, but also to those that are not-for-profit.

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.

2VAC5-200-10. Definitions.

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

"Composting" means the natural [treatment] process in which beneficial microbes reduce dead poultry into a biologically safe byproduct.

"Dead poultry" means poultry, exclusive of those intentionally slaughtered for food, ~~which that~~ die or are destroyed as a result of a contagious and infectious disease ~~upon any premises in the state through natural contagion on any premises in this state and poultry destroyed as the result of a natural or manmade disaster.~~

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Disposal" means ~~the complete to put dead poultry into a landfill or disposal pit; the~~ [treatment and] complete destruction of dead poultry in an incinerator ~~or their proper disposition in a disposal pit, in a landfill, or~~ [treatment] by rendering ~~or composting; or the management of dead poultry by other methods approved by the State Veterinarian~~ [and in accordance with other state laws and regulations].

"Disposal pit" means an opening dug in the ground that [is permitted in accordance with and] meets ~~the Initial Site Screening Criteria for Burial of Dead Poultry, the terms of which are hereby incorporated by reference and~~ criteria as specified in ~~VR 672-20-10~~ 9VAC20-80 [] of the Virginia [Department of] Waste Management [Environmental Quality Waste Management Board], Solid Waste Management Regulations.

"Entire flock" means all ~~of the~~ poultry within one group ~~of poultry~~ that has been designated as a flock for a period of at least 21 days.

"Flock" means all ~~of the~~ poultry on one premises, except that, at the discretion of the ~~department~~ State Veterinarian, any group of poultry which is segregated from other poultry and has been so segregated for a period of at least 21 days may be considered as a separate flock.

"Incinerator" means a ~~firebox constructed of masonry or metal in which dead poultry is burned by the use of fuel device designed for treatment of waste by combustion.~~

"Infectious and contagious disease" means ~~avian influenza and exotic newcastle disease.~~

"Landfill" means an ~~engineered land burial facility for the disposal of solid waste which is so located, designed, constructed, and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment~~ area permitted by

Regulations

the Department of Environmental Quality allowing the disposal of dead poultry.

"Off-farm disposal site" means any site for the disposal of dead poultry other than the farm on which the dead poultry died.

"Person" means any person, firm, partnership, corporation, or institution which engages in the raising or keeping of poultry for profit in this state.

"Poultry" means all chickens, ducks, turkeys or other domestic fowls being raised or kept on any premises in the state for profit.

"Premises" means the entire tract of land, including but not limited to the buildings thereon, owned, leased or used by any person for the raising or keeping of poultry for profit.

"Raising or keeping of poultry for profit" means the raising or keeping of 500 or more poultry at one time for the purpose of sale of such poultry or the eggs produced therefrom.

"Rendering" means treating dead poultry according to the process described in 9 CFR § 381.95(a) 82.1.

2VAC5-200-20. Applicability.

This chapter shall govern the disposal of dead ~~birds~~ poultry ~~by persons who raise or keep poultry for profit or who have entered into a contract for the raising or keeping of poultry for profit, but only when the entire flock is to be depopulated or when the entire flock dies. In all other instances § 3.1-742.1 et seq. involving for profit operations, Article 2 (§ 3.2-6024 et seq.) of Chapter 60 of Title 3.2 of the Code of Virginia, Disposal of Dead Poultry, shall govern.~~

2VAC5-200-30. Disposal pits, incinerators, ~~landfilling~~ landfills, ~~or rendering, or composting~~ required of persons raising or keeping poultry for profit.

A. It shall be unlawful for any person to engage in the raising or keeping of poultry ~~for profit~~ on any premises within the Commonwealth of Virginia, or to enter into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person, unless the premises upon which such poultry is to be raised or kept is provided with or unless the person maintaining the premises whereon the poultry is raised or kept has access to:

1. A disposal pit;
2. An incinerator;
3. A renderer through a bona fide contract for rendering;
4. A landfill, through a bona fide contract for the disposal of dead poultry therein.
5. Composting either on site, in the poultry house, or at another site approved by the State Veterinarian; or
6. Any other method approved by the State Veterinarian.

B. Provisions governing disposal pits. [Disposal pits shall be sited and permitted as landfills in accordance with the requirements of 9VAC20-80, Solid Waste Management Regulations, of the Virginia Waste Management Board.]

~~[1. If possible, an area away from public view should be selected.~~

~~2. No person engaged in the raising or keeping of poultry for profit and no person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall construct or use any pit for the disposal of poultry unless it conforms to the definition of a disposal pit contained in this chapter.~~

~~3. Any person engaged in the raising or keeping of poultry for profit and any person who has entered into a contract involving the raising or keeping of poultry for profit with any other person shall, before using a disposal pit, obtain approval for its use as required by state law.]~~

C. Provisions governing incinerators.

1. If possible, an area away from public view should be selected.

2. No person engaged in the raising or keeping of poultry ~~for profit~~ and no person who has entered into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person shall construct or use an incinerator for the disposal of dead poultry unless it ~~is constructed of masonry or metal and~~ has the capability to burn within a time frame approved by the State Veterinarian all poultry raised or kept on the premises at any time.

3. Any person engaged in the raising or keeping of poultry ~~for profit~~ and any person who has entered into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person shall, before using an incinerator on his premises to dispose of birds, obtain approval for its use as required by state law [and regulation].

D. Provisions governing bona fide rendering contract. No person engaged in the raising or keeping of poultry ~~for profit~~ and no person who has entered into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person shall dispose of dead poultry through rendering unless he owns a [rendering rendering] facility, or unless he has entered into a bona fide contract for the rendering of such dead poultry, which contract shall be part of the plan for disposal of dead poultry specified by 2VAC5-200-50 [~~of this chapter~~].

E. Provisions governing bona fide contract with a landfill. No person engaged in the raising or keeping of poultry ~~for profit~~ and no person who has entered into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person shall dispose of dead poultry in a landfill unless he owns a landfill, or unless he has entered into a bona fide contract for such disposal of dead poultry in a landfill, which

contract shall be part of the plan for the disposal of dead poultry specified by 2VAC5-200-50 [~~of this chapter~~].

F. Provisions governing composting.

1. If possible, an area from public view should be selected.
2. No person engaged in the raising or keeping of poultry and no person who has entered into a contract involving the raising or keeping of poultry with any other person shall construct or use any facility for the composting of dead poultry unless it conforms to best management practices or acceptable composting guidance as approved by the State Veterinarian.
3. Any person engaged in the raising or keeping of poultry and any person who has entered into a contract involving the raising or keeping of poultry with any other person shall, before composting, obtain approval for composting as required by state law [and regulation].

2VAC5-200-50. Plans for disposal of dead poultry.

A. No person shall engage in the raising or keeping of poultry ~~for profit~~ and no person shall enter into a contract involving the raising or keeping of poultry ~~for profit~~ with any other person unless he ~~files with the State Veterinarian a plan, has in his possession a dead poultry disposal plan~~ embracing [] at a minimum [] provisions consistent with the requirements of this chapter for the disposal of an entire flock of dead poultry. The plan shall be made available upon request of the State Veterinarian or his representative.

B. No person may implement the plan or any amendment to it until it is approved by the State Veterinarian. No person who owns a flock of less than 500 poultry shall be required to have a plan for the disposal of dead poultry. In the event a flock of less than 500 poultry needs to be depopulated or dies, the State Veterinarian, in consultation with the owner, will determine a method of disposal that complies with disease prevention protocol [~~and~~] is environmentally sound [] and is consistent with state law and regulation [].

C. Nothing in this section shall prohibit a person from ~~fileing~~ developing a plan on behalf of its contract growers.

2VAC5-200-60. Transportation of dead poultry; sanitation.

A. No person may transport any dead poultry from any premises to an off-farm disposal site without the prior approval, granted ~~by permit~~ on a case-by-case basis, by the State Veterinarian or his representative.

B. No person may transport dead poultry from a farm premises to any off-farm disposal site except in leak-proof containers or leak-proof ~~trucks~~ transporting vehicles.

C. No person may transport dead poultry from a farm premises to any off-farm disposal site unless the dead poultry

is enclosed in the transporting vehicle so that feathers and other debris will not be released into the environment.

D. No person may transport dead poultry from a farm premises to an off-farm disposal site unless:

1. The containers are disinfected prior to loading on the ~~truck~~ transporting vehicle and the exterior of the loaded ~~truck~~ transporting vehicle [is] disinfected prior to leaving the farm; and
2. The entire ~~truck~~ transporting vehicle is cleaned and disinfected after unloading at the off-farm disposal site and prior to leaving the off-farm disposal site.

FORMS (2VAC5-200) (~~Repealed.~~)

~~Initial Premises Survey For Burial of Poultry, Form VDACS 03110.~~

~~Approval of Dead Poultry Disposal Plan, Form VDACS-03111, eff. 2/93.~~

VA.R. Doc. No. R08-916; Filed September 8, 2009, 2:36 p.m.



TITLE 3. ALCOHOLIC BEVERAGES
ALCOHOLIC BEVERAGE CONTROL BOARD

Final Regulation

Title of Regulation: **3VAC5-70. Other Provisions (adding 3VAC5-70-225).**

Statutory Authority: §§ 4.1-103, 4.1-111, and 4.1-212.1 of the Code of Virginia.

Effective Date: October 28, 2009.

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

Summary:

Chapters 99 and 799 of the 2007 Acts of Assembly are identical enactments, creating a new delivery permit that may be issued by the Department of Alcoholic Beverage Control to certain alcoholic beverage manufacturers or retailers. The regulation details the application, recordkeeping, and reporting requirements for delivery permittees.

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.

Regulations

3VAC5-70-225. Delivery permits; application process; records and reports.

A. Any person or entity qualified for a delivery permit pursuant to § 4.1-212.1 of the Code of Virginia must apply for such permit by submitting Form 805-52, Retail License Application. The applicant shall attach (i) a photocopy of its current license as a winery, farm winery, brewery, or alcoholic beverage retailer that is authorized to sell wine or beer at retail for off-premises consumption, issued by the appropriate authority for the location from which deliveries 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. Delivery permittees shall maintain for two years complete and accurate records of all deliveries made under the privileges of such permits, including for each delivery:

1. Number of containers delivered;
2. Volume of each container delivered;
3. Brand of each container delivered;
4. Names and addresses of recipients;
5. Signature of recipient; and
6. Price charged for the wine or beer delivered.

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.

C. On or before the 15th day of each month, each delivery permittee shall file with the Supervisor, Tax Management Section, a report of activity for the previous calendar month, if any deliveries were made during the month. Such report shall include the following information for each delivery:

1. Number of containers delivered;
2. Volume of each container delivered;
3. Brand of each container delivered;
4. Names and addresses of recipients; and
5. Price charged for the wine or beer delivered.

Unless previously paid, payment of the appropriate beer or wine tax imposed by § 4.1-234 or 4.1-236 of the Code of Virginia shall accompany each report. If no wine or beer was sold and delivered in any month, the permittee shall not be required to submit a report for that month; however, every permittee must submit a report no less frequently than once every 12 months even if no sales or deliveries have been made in the preceding 12 months.

D. All deliveries by holders of delivery permits shall be performed by the owner or any agent, officer, director, shareholder, or employee of the permittee.

E. No more than four cases of wine nor more than four cases of beer may be delivered at one time to any person, except that a permittee may deliver more than four cases of wine or more than four cases of beer if he notifies the Supervisor, Tax Management Section, in writing at least one business day in advance of such delivery. Any notice given pursuant to this section shall include the number of containers to be delivered, the volume of each container to be delivered, the brand of each container to be delivered, and the name and address of the intended recipient.

F. When attempting to deliver wine or beer pursuant to a delivery permit, an owner, agent, officer, director, shareholder, or employee of the permittee 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 acknowledgment of receipt that allows the maintenance of the records required by this section.

The owner, agent, officer, director, shareholder, or employee of the permittee shall refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identifications. All permittees delivering 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 delivered in 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 delivery permit number of the delivering permittee.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS (3VAC5-70)

Order and Permit for Transportation of Alcohol, #703-69 (eff. 11/87).

Order and Permit for Transportation of Alcoholic Beverages, #703-73.

Mixed Beverage Annual Review-Instructions for Completion, #805-44 (rev. 11/06).

Application for Off Premises Keg Permit, #805-45 (eff. 1/93).

Retail License Application, #805-52 (rev. [~~7/08~~ 5/09]).

Application for Grain Alcohol Permit, #805-75.

Special Event License Application Addendum-Notice to Special Event Licenses Applicants, Form SE-1 (rev.08/02).

Statement of Income & Expenses for Special Event Licenses (with instructions), Form SE-2 (rev.08/02).

VA.R. Doc. No. R08-928; Filed September 9, 2009, 12:17 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The board is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-85).**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Public Hearing Information:

October 22, 2009 - 9 a.m. - 4000 West Broad Street, Richmond, VA

Public Comment Deadline: October 1, 2009.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341 or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendments designate the term "elk" specifically as "Rocky Mountain elk" (*Cervus elaphus*) and prohibit the hunting of Rocky Mountain elk in Virginia.*

4VAC15-90-85. Hunting elk of either sex prohibited.

Elk Rocky Mountain elk (*Cervus elaphus*) of either sex may not be taken during the general firearms deer season (as prescribed by 4VAC15-90-10, 4VAC15-90-20, 4VAC15-90-21, and 4VAC15-90-30), during the special archery seasons (as prescribed by 4VAC15-90-70), and during the special muzzleloading seasons (as prescribed by 4VAC15-90-80) with bag limits and checking requirements as prescribed in 4VAC15-90-90, 4VAC15-90-230, and 4VAC15-90-240 in Virginia.

VA.R. Doc. No. R10-2138; Filed September 9, 2009, 11:40 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Forms

NOTICE: The following forms have been filed by the Department of Mines, Minerals and Energy. The forms are available for public inspection at the Department of Mines, Minerals and Energy, Washington Building, 1100 Bank Street, 8th Floor, Richmond, VA 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from David B. Spears, Regulatory Coordinator, Department of Mines, Minerals and Energy, Washington Building, 1100 Bank Street, 8th Floor, Richmond, VA 23219, telephone (804) 692-3212, or email david.spears@dmme.virginia.gov, or at the Big Stone Gap office, 3405 Mountain Empire Road, Big Stone Gap, VA 24219.

Title of Regulation: 4VAC25-130. Coal Surface Mining Reclamation Regulations.

FORMS (4VAC25-130)

Anniversary Report Form, DMLR-PT-028 (rev. 3/09).

Ground Water Monitoring Report, DMLR-PT-101 (rev. 11/99).

Application for Exemption Determination (Extraction of Coal Incidental to the Extraction Of Other Minerals), DMLR-211 (rev. 3/09).

Consent for Right of Entry-Exploratory, DMLR-AML-122 (rev. 3/98).

Consent for Right of Entry-Construction, DMLR-AML-123 (rev. 3/98).

License for Performance-Acid Mine Drainage Investigations and Monitoring (Abandoned Mine Land Program), DMLR-AML-175c (11/96).

License for Performance-Acid Mine Drainage Reclamation and Construction (Abandoned Mine Land Program), DMLR-AML-176c (rev. 12/96).

Consent for Right of Entry-Ingress/Egress, DMLR-AML-177 (rev. 3/98).

Application for Recertification: DMLR Endorsement/Blaster's Certification, DMLR-BCME-03 (rev. 3/09).

Application for DMLR Endorsement: Blaster's Certification (Coal Surface Mining Operation), DMLR-BCME-04 (rev. 3/09).

Geology and Hydrology Information Part A through E, DMLR-CP-186 (rev. 3/86).

Regulations

Notice of Temporary Cessation, DMLR-ENF-220 (rev. 3/09).

Lands Unsuitable Petition, DMLR-OA-131 (rev. 12/85).

Chapter 19-Statement for Third Party-Certificate of Deposit, DMLR-PS-093 (rev. 12/85).

Application for Performance Bond Release, DMLR-PT-212 (rev. 3/09)

Example-Waiver (300 Feet from Dwelling), DMLR-PT-223 (rev. 2/96).

Analysis, Premining vs Postmining Productivity Comparison (Hayland/Pasture Land Use), DMLR-PT-012 (rev. 3/09).

Surety Bond, DMLR-PT-013 (rev. 8/07).

Surety Bond-Federal Lands, DMLR-PT-013A (rev. 3/09).

Surety Bond Rider, DMLR-PT-013B (rev. 8/07).

Map Legend, DMLR-PT-017 (rev. 3/09).

Certificate of Deposit, DMLR-PT-026 (rev. 8/07).

Form Letter From Banks Issuing a CD as Performance Bond for Mining on Federal Lands, DMLR-PT-026A (rev. 8/07).

Operator's Seeding Report, DMLR-PT-011 (rev. 3/09).

Request for Relinquishment, DMLR-PT-027 (rev. ~~3/09~~ 6/09).

Water Supply Inventory List, DMLR-PT-030 (rev. 3/09).

Application for Permit for Coal Surface Mining and Reclamation Operations and National Pollutant Discharge Elimination System (NPDES), DMLR-PT-034 (rev. 2/99).

Request for DMLR Permit Data, DMLR-PT-034info (eff. 11/07).

Certification - Application for Permit: Coal Surface Mining and Reclamation Operations, DMLR-PT-034D (rev. 3/09).

Coal Exploration Notice, DMLR-PT-051 (rev. 3/09).

Well Construction Data Sheet, DMLR-WCD-034D (rev. 5/04).

Sediment Basin Design Data Sheet, DMLR-PT-086 (rev. 3/09).

Impoundment Construction and Annual Certification, DMLR-PT-092 (rev. 3/09).

Road Construction Certification, DMLR-PT-098 (rev. 3/09).

Ground Water Monitoring Report, DMLR-PT-101 (rev. 3/09).

Rainfall Monitoring Report, DMLR-PT-102 (rev. 8/98).

Pre-Blast Survey, DMLR-PT-104 (rev. 3/09).

Excess Spoil Fills and Refuse Embankments Construction Certification, DMLR-PT-105 (rev. 3/09).

Stage-Area Storage Computations, DMLR-PT-111 (rev. 3/09).

Discharge Monitoring Report, DMLR-PT-119 (rev. 3/09).

Water Monitoring Report-Electronic File/Printout Certification, DMLR-PT-119C (rev. 3/09).

Coal Surface Mining Reclamation Fund Application, DMLR-PT-162 (rev. 3/09).

Conditions-Coal Surface Mining Reclamation Fund, DMLR-PT-167 (rev. 3/09).

Coal Surface Mining Reclamation Fund Tax Reporting Form, DMLR-PT-178 (rev. 3/09).

Surface Water Monitoring Report, DMLR-PT-210 (rev. 3/09).

Application For Performance Bond Release, DMLR-PT-212 (rev. 3/09).

Public Notice: Application for Transfer, Assignment, or Sale of Permit Rights under Chapter 19 of Title 45.1 of the Code of Virginia, DMLR-PT-219 (rev. 3/09).

Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia, Phase I, DMLR-PT-225 (rev. 3/09).

Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia, Phase II, DMLR-PT-226 (rev. 3/09).

Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia, Phase III, DMLR-PT-227 (rev. 3/09).

Public Notice: Application for Bond Reduction Under Chapter 19 of Title 45.1 of the Code of Virginia, Incremental Bond Reduction, DMLR-PT-228 (rev. ~~3/09~~ 8/09).

Verification of Public Display of Application, DMLR-PT-236 (8/01).

Affidavit (Permit Application Information: Ownership and Control Information and Violation History Information), DMLR-PT-240 (rev. 3/09).

Stream Channel Diversion(s) Certification, DMLR-PT-233 (rev. 3/09).

Quarterly Acid-Base Monitoring Report, DMLR-PT-239 (rev. 3/09).

Affidavit (No Legal Change in a Company's Identity), DMLR-PT-250 (rev. 3/09).

Affidavit (Reclamation Fee Payment), DMLR-PT-244 (rev. 3/09).

Application-National Pollutant Discharge Elimination System (NPDES) Permit-Short Form C, DMLR-PT-128 (rev. 3/09).

National Pollutant Discharge Elimination System (NPDES) Application Instructions, DMLR-PT-128A (rev. 3/09).

Impoundment Inspection Report, DMLR-PT-251 (rev. 3/09).

Surface Water Baseline Data Summary, DMLR-TS-114 (rev. 4/82).

Diversion Design Computation Sheet, DMLR-TS-120 (rev. 12/85).

Sediment Channel Design Data Sheet, DMLR-TS-127 (rev. 12/85).

Virginia Stream Survey, DMLR-TS-217 (rev. 1/87).

Line Transect-Forest Land Count, DMLR-PT-224 (rev. 3/09).

Applicant Violator System (AVS) Ownership & Control Information, DMLR-AML-003 (rev. 4/97).

Application for Coal Exploration Permit and National Pollutant Discharge Elimination System Permit, DMLR-PT-062 (formerly DMLR-PS-062) (rev. 3/09).

Application-National Pollutant Discharge Elimination System Application Instructions, DMLR-PT-128 (rev. 9/97).

Written Findings, DMLR-PT-237 (rev. 1/98).

Irrevocable Standby Letter of Credit, DMLR-PT-255 (rev. 8/07).

Confirmation of Irrevocable Standby Letter of Credit, DMLR-PT-255A (eff. 8/03).

Affidavit DMLR-AML-312 (eff. 7/98).

Indemnity Agreement - Self Bond, DMLR-PT-221 (eff. 12/07).

Permittee Consent to Service by Electronic Mail, DMLR-PT-265 (rev. 3/09).



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINED LAND RECLAMATION
P. O. DRAWER 900; BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8100

REQUEST FOR RELINQUISHMENT

As the duly authorized representative of _____

(**Permittee**), I hereby relinquish the Permittee's rights under Coal Surface Mining Operations
(**CSMO**) Permit Number _____ for _____ acres located _____.

Upon the Division's approval, this acreage is to be permitted to _____
(under Permit Application or CSMO Permit Number _____).

Signature: _____

Print Name: _____

_____ Date

Title/Position: _____

Notarization:

Subscribed and affirmed/sworn to me this ____ day of _____, 20 ____, in the
County/City of _____, of the State of _____ in the presence of _____.

Notary Public's
Signature¹: _____

Notary
Registration
No. _____

My
Commission
Expires: _____

¹ Pursuant to §47.1-15(3) of the Code of Virginia, as amended, the notarial certificate wording must be contained on the same page as the signature being notarized.

Example Publication for Incremental Bond Reduction

Public Notice
 Application for Bond Reduction
 Under Chapter 19, Title 45.1
 Code of Virginia

 (Company Name) is applying for bond reduction on Permit No. located in County **(Precise Location)** . This permit consists of acres which are bonded for \$ in the form of **(Specify bond type: cash, certificate of deposit, and/or insurance surety)**. As provided by §§4 VAC 25-130-800.40 and 4 VAC 25-130-801.17 of the **Virginia Coal Surface Mining Reclamation Regulations**, the Applicant is requesting a [Specify Phase of release requested as shown] **Phase I, Phase II or Phase III-(final release of increments listed)** bond reduction of \$ on increment number(s) , consisting of acres.

This bond reduction request is based on completion of **(number)** full growing season(s) and the following reclamation:

1. **Types of Reclamation Work Performed**
2. **Appropriate Date(s) of Reclamation Work Performed**
3. **Description of Reclamation Results Achieved**
4. **Description of the Post-Mining Land Use**

Any person with a valid legal interest which might be adversely affected by this proposal; or an officer or head of any federal, state or local government agency or authority may within 30 days of **(Date of Last Publication)** submit written comments or objections concerning this bond reduction, and may also request, in writing, that the Division of Mined Land Reclamation hold a public hearing or an informal conference. A copy of materials concerning this request will be available for public inspection at the Division of Mined Land Reclamation's office in Big Stone Gap, Virginia.

All correspondence should be submitted to the Division of Mined Land Reclamation **(Attention: Permit Section)**, P. O. Drawer 900, Big Stone Gap, Virginia, 24219. Telephone (276)

DMLR-PT-228
 Rev. 08/09

VA.R. Doc. No. R09-2129; Filed September 2, 2009, 11:44 a.m.

◆ ————— ◆

TITLE 5. CORPORATIONS

STATE CORPORATION COMMISSION, CLERK'S OFFICE

Forms

NOTICE: The following forms have been filed by the State Corporation Commission. The forms are available for public inspection at the State Corporation Commission, Clerk's Office, Tyler Building, 1300 East Main Street, 1st Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from Robert Lindsey, Assistant Deputy Clerk, Clerk's Office, State Corporation Commission, telephone (804) 371-9424, email robert.lindsey@scc.virginia.gov.

Title of Regulation: **5VAC5-30. Uniform Commercial Code Filing Rules.**

FORMS (5VAC5-30)

UCC Financing Statement, Form UCC1, (rev. 5/02).

UCC Financing Statement Addendum, Form UCC1Ad, (rev. ~~5/02~~ 5/09).

UCC Financing Statement Additional Party, Form UCC1AP, (rev. 5/02).

UCC Financing Statement Amendment, Form UCC3, (rev. 5/02).

UCC Financing Statement Amendment Addendum, Form UCC3Ad, (rev. 7/98).

UCC Financing Statement Amendment Additional Party, Form UCC3AP, (rev. 5/02).

~~Correction~~ Statement of Claim, Form UCC5, (rev. ~~5/04~~ 5/09).

National Information Request, Form UCC11, (rev. 5/01).

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR		
9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME				
OR				
11b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
11c. MAILING ADDRESS			CITY	STATE POSTAL CODE COUNTRY
11d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR				
12b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
12c. MAILING ADDRESS			CITY	STATE POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers timber to be cut or as-extracted collateral, or is filed as a fixture filing.
 14. Description of real estate.

16. Additional collateral description:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

17. Check *only* if applicable and check *only* one box.
 Debtor is a Trust, or Trustee acting with respect to property held in trust, or Decedent's Estate

18. Check *only* if applicable and check *only* one box.
 Debtor is a TRANSMITTING UTILITY
 Filed in connection with a Manufactured-Home Transaction
 Filed in connection with a Public-Finance Transaction

Instructions for UCC Financing Statement Addendum (Form UCC1Ad)

9. Insert name of first Debtor shown on Financing Statement to which this Addendum relates, exactly as shown in item 1 of Financing Statement.
10. Miscellaneous: Under certain circumstances, additional information not provided on Financing Statement may be required. Also, some states have non-uniform requirements. Use this space to provide such additional information or to comply with such requirements; otherwise, leave blank.
11. If this Addendum adds an additional Debtor, complete item 11 in accordance with Instruction 1 of Financing Statement. To include further additional Debtors, attach either an additional Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 of Financing Statement for determining and formatting additional names.
12. If this Addendum adds an additional Secured Party, complete item 12 in accordance with Instruction 3 of Financing Statement. To include further additional Secured Parties, attach either an additional Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow Instruction 1 of Financing Statement for determining and formatting additional names. In the case of a total assignment of the Secured Party's interest before the filing of this Financing Statement, if filer has given the name and address of the Total Assignee in item 3 of Financing Statement, filer may give the Assignor S/P's name and address in item 12.
- 13-15. If collateral is timber to be cut or as-extracted collateral, or if this Financing Statement is filed as a fixture filing, check appropriate box in item 13; provide description of real estate in item 14; and, if Debtor is not a record owner of the described real estate, also provide, in item 15, the name and address of a record owner. Also provide collateral description in item 4 of Financing Statement. Also check box 6 on Financing Statement. Description of real estate must be sufficient under the applicable law of the jurisdiction where the real estate is located.
16. Use this space to provide continued description of collateral, if you cannot complete description in item 4 of Financing Statement.
17. If Debtor is a trust or a trustee acting with respect to property held in trust or is a decedent's estate, check the appropriate box.
18. If Debtor is a transmitting utility or if the Financing Statement relates to a Manufactured-Home Transaction or a Public-Finance Transaction as defined in the applicable Commercial Code, check the appropriate box.



The filing of this statement of claim does not affect the effectiveness of an initial financing statement or other filed record.

STATEMENT OF CLAIM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF PERSON FILING THIS STATEMENT [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. Identification of the RECORD to which this STATEMENT OF CLAIM relates.

1a. INITIAL FINANCING STATEMENT FILE NUMBER	1b. RECORD INFORMATION TO WHICH THIS STATEMENT OF CLAIM RELATES

2a. RECORD is inaccurate.
 Provide the basis for the belief of the person identified in item 4 that the RECORD identified in item 1 is inaccurate and indicate the manner in which the person believes the RECORD should be amended to cure the inaccuracy.

2b. RECORD was wrongfully filed.
 Provide the basis for the belief of the person identified in item 4 that the RECORD identified in item 1 was wrongfully filed.

3. If this STATEMENT OF CLAIM relates to a RECORD filed [or recorded] in a filing office described in Section 9-501(a)(1) and this STATEMENT OF CLAIM is filed in such a filing office, provide the date [and time] on which the INITIAL FINANCING STATEMENT identified in item 1a above was filed [or recorded].

3a. DATE	3b. TIME

4. NAME OF PERSON AUTHORIZING THE FILING OF THIS STATEMENT OF CLAIM — The RECORD identified in item 1 must be indexed under this name

4a. ORGANIZATION'S NAME

OR

4b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

International Association of Commercial Administrators (IACA)

STATEMENT OF CLAIM (FORM UCC5) (REV. 05/21/09)

Regulations

Instructions for Statement of Claim (Form UCC5)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instructions 1a and 1b; correct identification of the initial Record to which this Statement of Claim relates is crucial. Follow Instructions completely. Fill in form very carefully. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use. When properly completed, send Filing Office Copy to filing office. Always detach Debtor and Secured Party Copies.

ITEM INSTRUCTIONS

A and B. To assist filing offices that might wish to communicate with filer, filer may provide information in item A and item B. These items are optional.
C. Complete item C if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form the Acknowledgment Copy or a carbon or other copy of this form for use as an acknowledgment copy.

General — You must always complete items 1 and 4 and either 2a or 2b. You may also be required to complete item 3.

- 1a. **File number:** Enter file number of initial financing statement to which the Record that is the object of this Statement of Claim relates. Enter only one file number.
- 1b. Enter record information to which this Statement of Claim relates. Indicate the type of Record to which this Statement of Claim relates (e.g., Financing Statement or Amendment) or you may also insert additional information that you believe will assist in identifying the Record (e.g., the Record file number or the filing date of the Record).
- 2a. If this Statement of Claim is filed based on the filer's belief that the Record identified in item 1 is inaccurate, check box 2a, provide the basis for that belief, and indicate the manner in which the Record should be amended to cure the inaccuracy.
- 2b. If this Statement of Claim is filed based on the filer's belief that the Record identified in item 1 was wrongfully filed, check box 2b and provide the basis for that belief.
3. If this Statement of Claim relates to a Record filed [or recorded] in a filing office described in Section 9-501(a)(1) and this Statement of Claim is filed in such a filing office, provide the date [and time] on which the initial financing statement identified in item 1a above was filed [or recorded].
4. Always enter name of the person who authorized the filing of this Statement of Claim. This name must be the same as the name under which the Record is indexed.

VA.R. Doc. No. R10-2133; Filed September 8, 2009, 1:21 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming 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 where no agency discretion is involved. The State Board of Health will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC5-220. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12VAC5-220-110, 12VAC5-220-200).

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Effective Date: November 1, 2009.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2157, or email carrie.eddy@vdh.virginia.gov.

Summary:

The amendments increase the capital expenditure threshold for projects requiring a certificate of public need as required by § 32.1-102.1 of the Code of Virginia. Section 32.1-202.1 requires annual revision of this amount to reflect inflation. Using the Consumer Price Index recently published by the U.S. Department of Labor, the amendments increase this amount \$15,615,000 to \$16,083,450.

12VAC5-220-110. Requirements for registration of certain capital expenditures.

At least 30 days before any person contracts to make or is otherwise legally obligated to make a capital expenditure by or on behalf of a medical care facility that is \$5 million or more but is less than ~~\$15,615,000~~ \$16,083,450 and has not been previously authorized by the commissioner, the owner of any medical care facility as defined in this chapter shall register in writing such expenditure with the commissioner. The format for registration shall include information concerning the purpose of such expenditure and projected

impact that the expenditure will have upon the charges for services. For purposes of registration, the owner shall include any person making the affected capital expenditure. See definition of "project."

12VAC5-220-200. One hundred ninety-day review cycle.

The department shall review the following groups of completed applications in accordance with the following 190-day scheduled review cycles and the following descriptions of projects within each group, except as provided for in 12VAC5-220-220.

BATCH GROUP	GENERAL DESCRIPTION	REVIEW CYCLE	
		Begins	Ends
A	General Hospitals/Obstetrical Services/Neonatal Special Care Services	Feb. 10 Aug. 10	Aug. 18 Feb. 16
B	Open Heart Surgery/Cardiac Catheterization/Ambulatory Surgery Centers/Operating Room Additions/Transplant Services	Mar. 10 Sep. 10	Sep. 16 Mar. 19
C	Psychiatric Facilities/Substance Abuse Treatment/Mental Retardation Facilities	Apr. 10 Oct. 10	Oct. 17 Apr. 18
D/F	Diagnostic Imaging Facilities/Services Selected Therapeutic Facilities/Services	May 10 Nov. 10	Nov. 16 May 19
E	Medical Rehabilitation Beds/Services	June 10 Dec. 10	Dec. 17 Jun. 18
D/F	Selected Therapeutic Facilities/Services Diagnostic Imaging Facilities/Services	July 10 Jan. 10	Jan. 16 Jul. 18
G	Nursing Home Beds at Retirement Communities/Bed Relocations/Miscellaneous Expenditures by Nursing Homes	Jan. 10 Mar. 10 May 10 July 10 Sep. 10 Nov. 10	Jul. 18 Sep. 16 Nov. 16 Jan. 16 Mar. 19 May 19

Batch Group A includes:

1. The establishment of a general hospital.
2. An increase in the total number of general acute care beds in an existing or authorized general hospital.
3. The relocation at the same site of 10 general hospital beds or 10% of the general hospital beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period if such relocation involves a capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more (see 12VAC5-220-280).
4. The introduction into an existing medical care facility of any new neonatal special care or obstetrical services that the facility has not provided in the previous 12 months.
5. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category included in Batch Groups B through G, by or in behalf of a general hospital.

Batch Group B includes:

1. The establishment of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.
2. An increase in the total number of operating rooms in an existing medical care facility or establishment of operating rooms in a new facility.
3. The introduction into an existing medical care facility of any new cardiac catheterization, open heart surgery, or organ or tissue transplant services that the facility has not provided in the previous 12 months.
4. The addition by an existing medical care facility of any medical equipment for the provision of cardiac catheterization.

Regulations

5. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.

6. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a medical care facility, that is primarily related to the provision of surgery, cardiac catheterization, open heart surgery, or organ or tissue transplant services.

Batch Group C includes:

1. The establishment of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

2. An increase in the total number of beds in an existing or authorized mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

3. An increase in the total number of mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds in an existing or authorized medical care facility which is not a dedicated mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

4. The relocation at the same site of 10 mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds or 10% of the mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period if such relocation involves a capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more (see 12VAC5-220-280).

5. The introduction into an existing medical care facility of any new psychiatric or substance abuse treatment service that the facility has not provided in the previous 12 months.

6. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A and B or Batch Groups D/F through G, by or in behalf of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or

psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facilities.

7. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A through B or Batch Groups D/F through G, by or in behalf of a medical care facility, which is primarily related to the provision of mental health, psychiatric, substance abuse treatment or rehabilitation, or mental retardation services.

Batch Group D/F includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or nuclear medicine imaging, except for the purpose of nuclear cardiac imaging.

2. The introduction into an existing medical care facility of any new computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or nuclear medicine imaging services, except for the purpose of nuclear cardiac imaging that the facility has not provided in the previous 12 months.

3. The addition by an existing medical care facility of any equipment for the provision of computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning.

4. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A B, C, E, and G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or nuclear medicine imaging, except that portion of a physician's office dedicated to providing nuclear cardiac imaging.

5. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A B, C, E, and G, by or in behalf of a medical care facility, which is primarily related to the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or nuclear medicine imaging, except for the purpose of nuclear cardiac imaging.

Batch Group E includes:

1. The establishment of a medical rehabilitation hospital.

2. An increase in the total number of beds in an existing or authorized medical rehabilitation hospital.

3. An increase in the total number of medical rehabilitation beds in an existing or authorized medical care facility that is not a dedicated medical rehabilitation hospital.
4. The relocation at the same site of 10 medical rehabilitation beds or 10% of the medical rehabilitation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period, if such relocation involves a capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more (see 12VAC220-280).
5. The introduction into an existing medical care facility of any new medical rehabilitation service that the facility has not provided in the previous 12 months.
6. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A B, C, D/F, and G, by or in behalf of a medical rehabilitation hospital.
7. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A B, C, D/F, and G, by or in behalf of a medical care facility, that is primarily related to the provision of medical rehabilitation services.

Batch Group D/F includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
2. Introduction into an existing medical care facility of any new gamma knife surgery, lithotripsy, or radiation therapy services that the facility has not provided in the previous 12 months.
3. The addition by an existing medical care facility of any medical equipment for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
4. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project in Batch Groups A B, C, E, and G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.
5. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project in Batch Groups A B, C, E, and G, by or in behalf of a medical care facility, which is primarily related to the provision of gamma knife surgery, lithotripsy, or radiation therapy.

Batch Group G includes:

1. The establishment of a nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

2. The establishment of a nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds within a planning district.
3. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.
4. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds within a planning district.
5. The relocation at the same site of 10 nursing home, intermediate care facility, or extended care facility beds or 10% of the nursing home, intermediate care facility, or extended care facility beds of a medical care facility, whichever is less, from one physical facility to another in any two-year period, if such relocation involves a capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more (see 12VAC5-220-280).
6. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A through D/F, by or in behalf of a nursing home, intermediate care facility, or extended care facility, which does not increase the total number of beds of the facility.
7. Any capital expenditure of ~~\$15,615,000~~ \$16,083,450 or more, not defined as a project category in Batch Groups A through D/F, by or in behalf of a medical care facility, that is primarily related to the provision of nursing home, intermediate care, or extended care services, and does not increase the number of beds of the facility.

VA.R. Doc. No. R10-1948; Filed September 1, 2009, 2:13 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Health is claiming an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and (ii) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The State Board of Health will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC5-220. **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12VAC5-220-90, 12VAC5-220-105, 12VAC5-220-160, 12VAC5-220-180, 12VAC5-220-**

Regulations

210, 12VAC5-220-280, 12VAC5-220-335, 12VAC5-220-345, 12VAC5-220-355, 12VAC5-220-375).

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Effective Date: November 1, 2009.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2157, or email carrie.eddy@vdh.virginia.gov.

Summary:

The amendments conform the regulations to Chapter 175 of the 2009 Acts of Assembly, which comprehensively amended Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia related to the Certificate of Public Need (COPN) program. The amendments (i) replace the 21 considerations used in making a determination of need with eight modified and abbreviated considerations; (ii) add beds for psychiatric or substance abuse treatment services and the establishment of new psychiatric or substance abuse treatment services to the Request for Applications (RFA) process currently used for distributing nursing facility beds; (iii) extend the expedited review process to certain capital expenditure projects; and (iv) modify the requirements of the annual report. In addition, a technical correction to 12VAC5-220-105 corrects a misquoted statutory citation.

12VAC5-220-90. Annual report.

~~The Pursuant to § 32.1-102.12 of the Code of Virginia, the commissioner shall annually report to the Governor and the General Assembly on the status of Virginia's certificate of public need program. The report shall be issued by October 1 of each year and shall include, but need not be limited to:~~

- ~~1. A summary of the commissioner's actions during the previous fiscal year pursuant to Virginia's certificate of public need law;~~
- ~~2. A five year schedule for analysis of all project categories, which provides for the analysis of at least three project categories per year;~~
- ~~3. An analysis of the appropriateness of continuing the certificate of public need program for at least three project categories in accordance with the five year schedule for analysis of all project categories;~~
- ~~4. An analysis of the effectiveness of the application review procedures used by the regional health planning agencies and the department required by § 32.1-102.6 of the Code of Virginia that details the review time required during the past year for various project categories, the number of contested or opposed applications and the project categories of these contested or opposed projects, the number of applications upon which the regional health~~

~~planning agencies have failed to act in accordance with the timelines of § 32.1-102.6 B, and the number of deemed approvals from the department because of their failure to comply with the timelines required by § 32.1-102.6 E, and any other data determined by the commissioner to be relevant to the efficient operation of the program;~~

~~5. An analysis of health care market reform in the Commonwealth and the extent, if any, to which such reform obviates the need for the certificate of public need program;~~

~~6. An analysis of the accessibility by the indigent to care provided by medical care facilities regulated pursuant to Virginia's certificate of public need law;~~

~~7. An analysis of the relevance of Virginia's certificate of public need law to the quality of care provided by medical care facilities regulated pursuant to this law; and~~

~~8. An analysis of equipment registrations required pursuant to § 32.1-102.1:1, including type of equipment, whether an addition or replacement, and the equipment costs.~~

12VAC5-220-105. Requirements for registration of the replacement of existing medical equipment.

Within 30 days of any person contracting to make, or otherwise legally obligating to make, a capital expenditure for the replacement of medical equipment or otherwise acquiring replacement medical equipment for the provision of services listed in subdivision 7 of the definition of "project" in 12VAC5-220-10, the person shall register in writing such equipment replacement with the commissioner and the appropriate regional health planning agency. Such registration shall be made on forms provided by the department. The registration shall identify the specific unit of equipment to be replaced and the estimated capital cost of the replacement and shall include documentation that the equipment to be replaced has previously been authorized through issuance of a certificate of public need, registered pursuant to former § 32.1-102.3:4 of the Code of Virginia or exempted pursuant to § 32.1-102.11 of the Code of Virginia as allowed by law.

Part IV

Determination of Public Need (Required Considerations)

12VAC5-220-160. Required considerations.

In determining whether a public need exists for a proposed project, ~~the following factors shall be taken into account when applicable:~~ the applicable requirements of § 32.1-102.2:1 of the Code of Virginia will be considered.

- ~~1. The recommendation and the reasons therefor of the appropriate regional health planning agency.~~
- ~~2. The relationship of the project to the applicable health plans of the regional health planning agency and the Board of Health.~~

~~3. The relationship of the project to the long range development plan, if any, of the person applying for a certificate.~~

~~4. The need that the population served or to be served by the project has for the project, including, but not limited to, the needs of rural populations in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.~~

~~5. The extent to which the project will be accessible to all residents of the area proposed to be served and the effects on accessibility of any proposed relocation of an existing service or facility.~~

~~6. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the health planning region in which the project is proposed, in particular, the distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.~~

~~7. Less costly or more effective alternate methods of reasonably meeting identified health service needs.~~

~~8. The immediate and long term financial feasibility of the project.~~

~~9. The relationship of the project to the existing health care system of the area in which the project is proposed; however, for projects proposed in rural areas, the relationship of the project to the existing health care services in the specific rural locality shall be considered.~~

~~10. The availability of resources for the project.~~

~~11. The organizational relationship of the project to necessary ancillary and support services.~~

~~12. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.~~

~~13. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health planning region in which the project is to be located.~~

~~14. The need and the availability in the health planning region for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.~~

~~15. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for~~

~~a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other health maintenance organizations in a reasonable and cost effective manner.~~

~~16. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.~~

~~17. The costs and benefits of the construction associated with the proposed project.~~

~~18. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.~~

~~19. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.~~

~~20. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed, including, in the case of rural localities, any distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.~~

~~21. In the case of proposed health services or facilities, the extent to which a proposed service or facility will increase citizen accessibility, demonstrate documented community support, and introduce institutional competition into a health planning region.~~

12VAC5-220-180. Application forms.

A. Letter of intent. An applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency, by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a particular batch group for the same or similar services and facilities which are proposed for the same planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. (See 12VAC5-220-310 C.)

B. Application fees. The department shall collect application fees for applications that request a certificate of public need.

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The fee required for an application shall be 1.0% of the proposed expenditure for the project, but not less than \$1,000 and no more than \$20,000.

No application will be deemed to be complete for review until the required application fee is paid. (See 12VAC5-220-310 C.)

C. Filing application forms. Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. ~~All applications including the required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency.~~ In order to verify the date of the department's and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or ~~shall deliver the document~~ by hand, with a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency. (See 12VAC5-220-200.)

12VAC5-220-210. Requests for application (RFA).

The commissioner may request the submission of applications for his consideration which address a specific need for services and facilities as identified in the State Medical Facilities Plan. The department shall give notice of such RFA in a newspaper of general circulation in the locality or the planning district where the specific services or facility is requested. Such notice shall be published at least 120 days prior to the first day of the appropriate review cycle for the type of project being requested. A written copy of an RFA shall also be available upon request from the department and the regional health planning agency in the appropriate geographic area. The process for adoption of an RFA by the commissioner for projects ~~other than nursing home bed projects (see 12VAC5-220-325) shall be set forth in the State Medical Facilities Plan listed in § 32.1-102.3:2 A, B, and C of the Code of Virginia~~ are set forth in 12VAC5-220-335.

Part VI Expedited Review Process

12VAC5-220-280. Applicability.

~~Projects of medical care facilities~~ Capital expenditures as contained in subdivision 8 of "project" as defined in § 32.1-102.1 of the Code of Virginia or projects that involve relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another, when the cost of such relocation is less than \$5 million, shall be subject to an expedited review process.

12VAC5-220-335. Request for Applications (RFA).

~~A. Frequency. The Pursuant to § 32.1-102.3:2 A, B, and C of the Code of Virginia, the commissioner shall periodically issue, in consultation and cooperation with the Department of Medical Assistance Services, a Request for Applications (RFA) from project applicants proposing projects which would result in an increase in the number of beds in which nursing facility or extended care services are provided. An RFA shall be issued at least annually. (See 12VAC5-220-325)~~

B. Issuance. At least 60 days prior to the issuance of a RFA, the board shall publish the proposed RFA in the Virginia Register for public comment together with an explanation of (i) the regulatory basis for the planning district bed needs set forth in the proposed RFA and (ii) the rationale for the RFA's planning district designations. Any person objecting to the contents of the proposed RFA may notify, within 14 days of the publication, the board and the commissioner of his objection and the objection's regulatory basis. The commissioner shall prepare, and deliver by registered mail, a written response to each such objection within two weeks of the date of receiving the objection. The objector may file a rebuttal to the commissioner's response in writing within five days of receiving the commissioner's response. If objections are received, the board shall, after considering the provisions of the RFA, any objections, the commissioner's responses, and if filed, any written rebuttals of the commissioner's responses, hold a public hearing to receive comments on the specific RFA. Prior to making a decision on the RFA, the commissioner shall consider any recommendations made by the board.

~~C. Content.~~ A RFA from project applicants proposing projects which would result in an increase in the number of beds in which nursing facility or extended care services are provided shall be based on analyses of the need for increases in the ~~nursing home~~ bed supply in each of Virginia's planning districts in accordance with the applicable standards included in the State Medical Facilities Plan. Such RFAs shall also include a schedule for the review of applications submitted in response to the RFA which allows for at least 120 days between the day on which the RFA is issued and the first day of the review cycle for such applications.

12VAC5-220-345. Limitation on acceptance of nursing home bed RFA applications.

Applications for projects ~~which would result in an increase in the number of beds in which nursing facility or extended care services are provided (see 12VAC5-22-325) listed in § 32.1-102.3:2 A, B, and C of the Code of Virginia~~ shall only be accepted for review when properly filed in response to a RFA. Furthermore, the commissioner shall only accept for review applications which propose projects located in the planning districts from which applications are requested in the RFA and propose authorization of a number of new beds

~~in which nursing facility or extended care services~~ are provided which is less than or equal to the total number of beds identified as needed for the planning district in which the project will be located.

12VAC5-220-355. ~~Application~~ RFA project application forms.

A. Letter of intent. A ~~nursing home bed~~ RFA project applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency by the letter of intent deadline specified in the RFA. The letter shall identify the owner, the type of project for which an application is requested, and the proposed scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void if an application is not filed for the project by the application deadline specified in the RFA.

B. Application fees. The department shall collect application fees for RFA applications that request a ~~nursing home bed~~ certificate of public need. The fee required for an application is 1.0% of the proposed capital expenditure for the project but no less than \$1,000 and no more than \$20,000. No application will be deemed to be complete for review until the required application fee is paid.

C. Filing application forms. Applications must be submitted to the department and the appropriate regional health planning agency by the application filing deadline specified in the RFA. ~~All applications including the required data and information shall be prepared in triplicate; two copies to be submitted to the department; and one copy to be submitted to the appropriate regional health planning agency.~~ In order to verify the department and the appropriate regional health planning agency's receipt of the application, the applicant shall transmit the document electronically, or prepare in triplicate two copies to be submitted to the department and one copy to be submitted to the appropriate regional health planning agency and sent by certified mail or a delivery service, return receipt requested, or ~~shall deliver the document~~ by hand, with ~~the~~ a signed receipt to be provided. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

12VAC5-220-375. Consideration of RFA applications.

~~Nursing home bed~~ RFA applications proposed for the same planning district shall be considered as competing applications by the commissioner. The commissioner shall determine whether an application is competing and provide written notification to the competing applicants and the regional health planning agency.

VA.R. Doc. No. R10-2003; Filed September 1, 2009, 2:14 p.m.

BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Fast-Track Regulation

Title of Regulation: **12VAC35-180. Regulations to Assure the Protection of Subjects in Human Research (amending 12VAC35-180-10 through 12VAC35-180-110, 12VAC35-180-130, 12VAC35-180-140, 12VAC35-180-150).**

Statutory Authority: §§ 37.2-203 and 37.2-402 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 28, 2009.

Effective Date: November 12, 2009.

Agency Contact: Marion Greenfield, Office of Quality Management, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218, telephone (804) 786-4516, or email marion.greenfield@co.dmhmrsva.virginia.gov.

Basis: Section 37.2-402 of the Code of Virginia requires that the board adopt regulations regarding human research. The current version of these regulations became effective in 2004.

Purpose: The purpose of the proposed changes in the human research regulations is to eliminate unnecessary review requirements, reflect the department's name change approved by the 2009 General Assembly, and update the regulatory provisions to provide a more person-centered focus.

Rationale for Using Fast-Track Process: Section 2.2-4012.1 of the Code of Virginia and Executive Order 36 (06) allow state agencies to use a fast-track rulemaking process to expedite regulatory changes that are expected to be noncontroversial. The changes being made in the human research regulations eliminate unnecessary review provisions, reflect the department's name change approved by the 2009 General Assembly, and update the regulatory provisions to provide a more person-centered focus. None of these changes are controversial or establish any additional regulatory burdens.

Substance: The proposed amendments make the regulatory language more person-centered, change the department's name, and eliminate requirements that are no longer needed.

Issues: The primary advantages of the proposed changes to the public are: (i) correcting unnecessary and confusing regulatory language; (ii) adjusting section titles and language to clarify the role of the Review Committees; and (iii) eliminating activities that place unnecessary restrictions on the Review Committee and the organization conducting the research.

The primary advantage to the agency is that the proposed changes will: (i) clarify the role of the state board and

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commissioner; (ii) more clearly describe the department's responsibilities; and (iii) remove the board's review responsibilities.

Other pertinent matters of interest to the regulated community, government officials, and the public include: (i) changing the name of the department; and (ii) adding a requirement that certain agreements now permitted by the regulation between entities conducting research be in writing.

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

Summary of the Proposed Amendments to Regulation. The Board of Behavioral Health and Developmental Services proposes to delete its review responsibilities and more clearly describe those of the department and agency head, to make the regulatory language more person-centered, to change the name of the department, and to eliminate selected provisions of the requirements that are no longer needed.

Result of Analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs.

Estimated Economic Impact. The Board of Behavioral Health and Developmental Services proposes to delete its review responsibilities and more clearly describe those of the department and agency head, to make the regulatory language more person-centered, to change the name of the department¹, and to eliminate selected provisions of the requirements that are no longer needed.

The above proposed changes are not expected to create a significant economic impact as they mainly clarify the language, update new agency name, and clarify the responsibilities. Thus, no significant economic effect is expected as a result of these proposed changes.

However, the proposed changes also include adding a provision barring officials and employees of the agency conducting or authorizing research from acting as a legally authorized representative for an individual participating in the research; changing the section title for "certification process" to "affiliation with a research review committee" and deleting several requirements contained within this section; mandating that in the case of several cooperating institutions, a lead institution be established and that the agreement designating such institution must be in writing; mandating that written reports of suspension or termination due to protocol violations be provided by the chair of the research review committee to the head of the institution; deleting several designated categories of certain kinds of human research activities that involve no more than minimal risk; modifying the section concerning informed consent to clarify what is required when consent is secured orally; changing the records retention requirement from three to six years; removing a requirement that institutions or agencies notify the agency head or the board annually of their compliance with federal policy.

The changes described above may have the potential to create somewhat significant economic impact, but there is no available information from the department to substantiate the extent of their potential impact.

Businesses and Entities Affected. The proposed regulations apply to 40 community service boards, approximately 612 private providers, and 16 state facilities.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. Based on available information, no significant effect on employment is expected.

Effects on the Use and Value of Private Property. Based on available information, no significant effect on the use and value of private property is expected.

Small Businesses: Costs and Other Effects. Most of the 612 private providers are believed to be small businesses. However, based on available information, no significant costs or other economic effects are expected on small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Based on available information, no significant adverse impact is expected on small businesses.

Real Estate Development Costs. Based on available information, no significant effect on real estate development costs is expected.

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.

¹ Until July 1, 2009, this agency was known as the Department of Mental Health, Mental Retardation, and Substance Abuse Services. Chapter 813 of the 2009 Acts of Assembly changed the name.

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

Summary:

The proposed amendments delete the Board of Behavioral Health and Developmental Services' review responsibilities and more clearly describe the responsibilities of the department and agency head, make the regulatory language more person-centered, change the name of the department, and eliminate selected provisions of the requirements that are no longer needed.

12VAC35-180-10. Definitions.

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

"Affiliated with the institution" means employed by the institution or a member of a household containing an employee of the institution.

"Board" means the ~~State Mental Health, Mental Retardation and Substance Abuse Services~~ Board of Behavioral Health and Developmental Services.

"Commissioner" means the Commissioner of the Department of ~~Mental Health, Mental Retardation and Substance Abuse~~ Behavioral Health and Developmental Services.

"Community services board" or "CSB" means a public body established pursuant to § 37.2-501 of the Code of Virginia that provides mental health, mental retardation, and substance abuse services to individuals within each city or county that established it. For the purpose of these regulations, community services board also includes a behavioral health authority established pursuant to § 37.2-602 of the Code of Virginia.

"Department" means the Department of ~~Mental Health, Mental Retardation and Substance Abuse~~ Behavioral Health and Developmental Services.

"Health information" means any information, whether oral or recorded in any form or medium, that:

1. Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual.

"Human research" means any systematic investigation, including research development, testing, and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 CFR 46.101(b).

~~"Human subject" or "subject" means a living individual about whom an investigator (whether professional or student) conducting research obtains (i) data through intervention or interaction with the individual, or (ii) protected health information.~~

"Individual" means a human subject pursuant to 45 CFR 46.102 (f) about whom an investigator (whether professional or student) conducting research obtains (i) data through interaction with the individual; or (ii) protected health information.

"Individually identifiable health information" means information that is a subset of health information, including demographic information collected from an individual, and:

1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - a. That identifies the individual; or
 - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

"Informed consent" means the knowing and voluntary agreement, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion, of ~~a person~~ an individual who is capable of exercising free power of choice. For the purposes of human research, the basic elements of information necessary for such consent shall include:

1. A reasonable and comprehensible explanation to the ~~person~~ individual of the proposed procedures or protocols to be followed, and their purposes, including descriptions of any attendant discomforts, risks and benefits reasonably to be expected, how the results of the human research will be disseminated, and how the identity of the individual will be protected;
2. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the ~~person~~ individual together with their side effects, risks, and benefits;

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3. A description of any adverse consequences and risks to be expected and an indication whether there may be other significant risks not yet identified;

4. An instruction that the person individual may withdraw his consent and discontinue participation in the human research at any time without prejudice to him or fear of reprisal;

5. An explanation of any costs or compensation that may accrue to the person individual and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols or any medical care that may be available if an injury occurs; and;

6. An offer to answer and answers to any inquiries by the person individual or, if applicable, his legally authorized representative concerning the procedures and protocols and a description of the ways in which concerns may be raised or questions asked;

"Institution" or "agency" means any community services board or any facility or program operated, funded, or licensed by the department.

"Interaction" includes communication or interpersonal contact between investigator and the individual who is the subject of the human research.

"Intervention" includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject individual or subject's individual's environment that are performed for human research purposes.

"Legally authorized representative" means in the following specified order of priority, (i) the parent or parents having custody of an individual who is a prospective subject of human research who is a minor, (ii) the agent appointed under an advance directive as defined in § 54.1-2982 of the Code of Virginia, executed by the individual who is the prospective subject of human research, provided the advance directive authorizes the agent to make decisions regarding the prospective subject's individual's participation in human research, (iii) the legal guardian of an individual who is a prospective subject of human research, (iv) the spouse of individual who is a prospective subject of human research, except where a suit for divorce has been filed and the divorce decree is not yet final, (v) an adult child of the an individual who is a prospective subject of human research, (vi) a parent of the individual who is a prospective subject of human research when the subject individual is an adult, (vii) an adult brother or sister of the individual who is a prospective subject of human research, or (viii) any person or judicial or other body authorized by law or regulation to consent on behalf of an individual who is a prospective subject of human research to such subject's individual's participation in the particular human research. For the purposes of this definition, any person authorized by law or regulation to consent on behalf of

an individual who is a prospective subject of human research to his participation in the particular human research shall include an attorney-in-fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney-in-fact shall not be employed by the person, institution or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the human research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed human research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations, tests, or treatments.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human-subject individual.

"Protected health information (PHI)" means individually identifiable health information that is created or received by or on behalf of the institution or agency that is maintained or transmitted in any medium, including electronic media. PHI excludes individually identifiable health information in:

1. Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC § 1232g;
2. Records described at 20 USC § 1232g(a)(4)(B)(iv) (educational records not otherwise covered under the Family Educational Rights Privacy Act in subdivision 1 of this definition); or
3. Employment records held by a covered entity in its role as an employer.

~~"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to general knowledge. Activities which meet this definition constitute research for purposes of this chapter, whether or not they are supported or funded under a program which is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.~~

"Research review committee" or "committee" means a committee of professionals to provide complete and adequate review of human research activities pursuant to § 32.1-162.19 of the Code of Virginia.

12VAC35-180-30. Applicability.

This chapter shall apply to the Department of ~~Mental Health, Mental Retardation and Substance Abuse~~ Behavioral Health and Developmental Services, any community services board, and any facility operated, funded or licensed by the department which conducts or which proposes to conduct or authorize human research in which uses individuals participate as human subjects.

12VAC35-180-40. Policy.

A. No human research may be conducted without obtaining the informed consent of the subject individual or his legally authorized representative. ~~The~~ This informed consent of the ~~subject or his legally authorized representative to participate in the research must shall~~ be documented in writing and supported by the signature of a witness. ~~Arrangements Adequate and appropriate arrangements~~ shall be made for those who need special assistance in understanding the consequences of participating in the human research.

B. No official or employee of the institution or agency conducting or authorizing the human research shall be qualified to act as a legally authorized representative for an individual participating in the particular human research.

C. Each human research activity shall be approved by a research review committee composed of representatives of varied backgrounds who shall assure the competent, complete, and professional review of human research activities.

~~C.~~ D. Institutions or agencies, as defined by this chapter, may participate in human research activity when such activity has been considered and approved by a university institutional review board (IRB) that complies with the relevant requirements of § 32.1-162.19 of the Code of Virginia.

~~D.~~ E. Nontherapeutic human research using subjects individuals receiving care services in a residential or hospital setting is prohibited unless it is determined by the research review committee that such nontherapeutic human research will present no more than a minor increase over minimal risk to the ~~human subject individual~~.

~~E.~~ F. The individual person, institution, or agency conducting the human research shall be required to notify all individuals who are subjects of the human research of the risks caused by the human research ~~which that~~ are discovered after the human research has concluded.

12VAC35-180-50. Certification process Affiliation with a research review committee.

~~A. Institutions or agencies seeking to conduct or sponsor human research are required to submit statements to the department assuring that all human research activities will be reviewed and approved by an internal or external research review committee. Institutions shall report annually to the commissioner giving assurance that a committee exists and is functioning. These reports shall include a list of committee members, their qualifications for service on the committee, their institutional or agency affiliation and a copy of the minutes of committee meetings.~~

~~B. Prior to the initiation of a human research project, institutions shall also send to the commissioner a description of the research project to be undertaken, which shall include a~~

~~statement of the criteria for inclusion of a subject in the research project, a description of what will be done to the subjects, and a copy of the informed consent statement.~~

~~C.~~ Each person engaged in the conduct of human research or proposing to conduct human research shall affiliate himself with an institution or agency having a research review committee, and ~~such the~~ human research as he conducts or proposes to conduct shall be subject to review and approval by the committee in the manner set forth in these regulations.

~~D. The commissioner may inspect the records of the committee.~~

~~E. The chairman of the committee shall report as soon as possible to the head of the institution and to the commissioner any violation of the research protocol which led the committee to either suspend or terminate the research.~~

12VAC35-180-60. Composition of research review committees.

A. Each research review committee shall have at least five members, appointed by the head of the institution or agency, with varying backgrounds to ensure the competent, complete and professional review of human research activities commonly conducted by the institution or agency. The committee shall be sufficiently qualified through the maturity, experience, and diversity of its members, including consideration of race, gender and cultural background, to promote respect for its advice and counsel in safeguarding the rights and welfare of individuals who are the subjects ~~in~~ of human research. In addition to possessing the professional competence necessary to review specific human research activities, the committee must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. If a committee regularly reviews human research that has an impact on ~~an~~ individuals who are institutionalized or ~~other are otherwise~~ vulnerable category of subjects, including residents of individuals who reside in mental health ~~or mental retardation~~ facilities or state training centers, the committee shall have in its membership one or more individuals persons who are primarily concerned with the welfare of these subjects individuals and who have appropriate experience to serve in that capacity.

B. No committee shall consist entirely of members of one profession, and at least one member ~~must shall~~ be ~~an~~ individual a person whose primary concerns are in nonscientific areas (e.g., lawyers, ethicists, members of the clergy).

C. Each committee shall include at least one member who is not otherwise affiliated with the institution or agency and who is not part of the immediate family of a person who is affiliated with the institution or agency.

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D. No member of a committee shall participate in the committee's initial or continuing review of any project in which the member is directly involved or for which he has administrative approval authority, except to provide information requested by the committee. The committee ~~has responsibility~~ shall be responsible for determining whether a member has a conflicting interest. The committee member shall be replaced in the case of conflicting interests resulting in a decrease of the committee below five persons.

E. A committee may, at its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee. These individuals may not vote with the committee.

F. A quorum of the committee shall consist of a majority of its members including at least one member whose primary concerns are in nonscientific areas.

G. The committee and the institution or agency shall establish procedures and rules of operation necessary to fulfill the requirements of this chapter.

12VAC35-180-70. Elements of each committee's review process.

A. No human research shall be conducted or authorized by ~~such an~~ institution or agency unless ~~the a~~ research review committee has reviewed and approved the proposed human research project giving consideration to:

1. The adequacy of the description of the potential benefits and risks involved and the adequacy of the methodology of the human research;
2. The degree of the risk, and, if the human research is nontherapeutic, whether it presents greater than minimal risk;
3. Whether the rights and welfare of the individuals who are the subjects of the human research are adequately protected;
4. Whether the risks to the individuals who are the subjects of human research are outweighed by the potential benefits to them;
5. Whether the risks to ~~subjects~~ individuals are minimized by using procedures that are consistent with sound human research design and that do not unnecessarily expose ~~subjects~~ individuals to risk and, whenever appropriate, by using procedures already being performed on ~~the subjects~~ individuals for diagnostic or treatment purposes;
6. When some or all of the ~~subjects~~ individuals are likely to be incapable of providing informed consent or are otherwise vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, whether additional safeguards have been included

in the study to protect the rights and welfare of these ~~subjects~~ individuals;

7. Whether the informed consent is to be obtained by methods that are adequate and appropriate and whether the written consent form is adequate and appropriate in both content and language for the particular human research and for the individuals who are the particular subjects of the human research;

8. Whether the persons proposing to supervise or conduct the particular human research are appropriately competent and qualified;

9. Whether criteria for selection of individuals to participate as human research subjects are equitable; and

10. Whether the human research conforms with such other requirements ~~as the board may establish~~ of the department, where applicable.

B. Each committee shall review approved projects to ensure conformity with the approved proposal at least annually.

C. ~~Research must be approved by the committee that has jurisdiction over the subject.~~ When cooperating institutions conduct some or all of the human research involving some or all of the subjects individuals, each cooperating institution is responsible for safeguarding the rights and welfare of ~~human~~ subjects the individuals and for complying with this chapter, except that in complying with this chapter institutions may enter into joint review, rely upon the review of another qualified committee, or ~~make come to~~ similar arrangements agreements aimed at avoiding duplication of effort. These agreements must be in writing and designate a lead institution, which shall be the institution responsible for reporting and dealing with possible misconduct in human research. Such arrangements agreements may be made by the committee ~~chairperson~~ chair with the approval of a majority of the members present at a meeting of the committee. If a given institution or agency does not have a research review committee, this arrangement shall be approved by the chief executive officer of the institution, or his designee.

D. The committee shall consider human research proposals within 45 days after submission to the committee's ~~chairman~~ chair. In order for the human research to be approved, it shall receive the approval of a majority of those members present, including one nonscientific person, at a meeting in which a quorum exists. A committee shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed human research activity, or of modifications required to secure committee approval.

E. The committee shall develop a written description of the procedure to be followed by ~~a subject~~ an individual who has a complaint about a human research project in which he is participating or has participated.

F. Any subject individual who has a complaint about a human research project in which he is participating or has participated shall be referred to the chairperson of the committee who shall refer it to the committee to determine if there has been a violation of the protocol.

G. ~~The chair of the committee shall provide a written report as soon as possible to the head of the institution of any violation of the human research protocol that led the committee to either suspend or terminate the human research.~~

~~G.~~ H. The committee shall require periodic written reports to ensure that the project is being carried out in conformity with the proposal. The frequency of such reports should reflect the nature and degree of risk of each human research project.

~~H.~~ I. The committee shall ensure compliance with the Health Insurance Portability and Accountability Act of 1996 (Public Law ~~104-19~~ 104-191) and ~~the federal and state~~ regulations ~~promulgated thereunder~~ regarding the use and disclosure of PHI created for human research. In particular, authorization shall be obtained for the use and disclosure of PHI created for the purpose of human research, except as otherwise permitted by 45 CFR 164.512(i).

12VAC35-180-80. Kinds of human research exempt from committee review.

~~Research~~ Human research activities in which the ~~only~~ involvement of human individuals as subjects ~~will be in~~ is limited to one or more of the following categories are exempt from this chapter unless the human research is covered by other sections of this chapter:

1. ~~Research~~ Human research conducted in established or commonly accepted educational settings, involving commonly used educational practices, such as:
 - a. Research on regular and special education instructional strategies; or
 - b. Research on the effectiveness of or the comparison among instructional techniques, curriculum or classroom management methods.
2. ~~Research~~ Human research involving solely the use and analysis of the results of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in such a manner so that subjects individuals cannot be identified, directly or through identifiers linked to the subjects individuals.
3. ~~Research~~ Human research involving survey or interview procedures, unless responses are recorded in such a manner that the subjects individuals can be identified, directly or through identifiers linked to the subjects individuals; and either:
 - a. The subject's individual's responses, if they became known outside the human research, could reasonably place the subject at risk of criminal or civil liability or be

damaging to the subject's individual's financial standing, employability, or reputation; or

b. The human research deals with sensitive aspects of the subject's individual's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct.

4. ~~Research~~ Human research involving solely the observation (including observation by subjects individuals who are the subjects of human research) of public behavior, unless observations are recorded in such a manner that subjects individuals can be identified, directly or through identifiers linked to the subjects individuals, and either:

a. The observations recorded about the individual, if they became known outside the human research, could reasonably place the subject individual at risk of criminal or civil liability or be damaging to the subject's individual's financial standing, ~~or~~ employability, or reputation; or

b. The human research deals with sensitive aspects of the subject's individual's own behavior such as sexual behavior, drug or alcohol use, or illegal conduct.

5. ~~Research~~ Human research involving solely the collection or study of existing data, documents, records, or pathological or diagnostic specimens, if these sources are publicly available or if the information taken from these sources is recorded in such a manner that subjects individuals cannot be identified, directly or through identifiers linked to the subjects individuals.

6. ~~Research~~ Human research involving solely a combination of any of the activities described in this section.

12VAC35-180-90. Expedited review procedures for certain kinds of human research involving no more than minimal risk.

A. ~~The~~ A research review committee may conduct an expedited review of a human research project ~~which that~~ involves no more than minimal risk to the individuals who are the subjects of the human research if (i) another institution's or agency's human research review committee has reviewed and approved the project, or (ii) the review involves only minor changes in previously approved human research and the changes occur during the approved project period. Under an expedited review procedure, the review may be carried out by the committee ~~chairperson chair~~ and ~~one two~~ or more experienced reviewers designated by the ~~chairperson chair~~ from among members of the committee. In reviewing the human research, the reviewers may exercise all of the authority of the committee except that the reviewers may not disapprove the human research. A human research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in 12VAC35-180-70.

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B. Each committee which uses an expedited review procedure shall adopt a method for keeping all members advised of human research proposals which have been approved under the procedure.

~~C. Research activities involving no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods) may be reviewed by the research review committee through the expedited review procedure.~~

~~1. Collection of hair and nail clippings, in a nondisfiguring manner; nonpermanent teeth at a time of natural loss or if patient care indicates a need for extraction; and permanent teeth if patient care indicates a need for extraction.~~

~~2. Collection of excreta and external secretions including sweat, uncannulated saliva, placenta removed at delivery, and amniotic fluid at the time of rupture of the membrane prior to or during labor.~~

~~3. Recording of data from subjects 18 years of age or older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. It also includes such procedures as weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography. It does not include exposure to electromagnetic radiation outside the visible range (for example, x rays, microwaves).~~

~~4. Collection of blood samples by venipuncture or less invasive procedures, in amounts not exceeding 450 milliliters in an eight week period and no more often than two times per week, from subjects 18 years of age or older and who are in good health and not pregnant.~~

~~5. Collection of both supra gingival and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.~~

~~6. Voice recordings made for research purposes such as investigations of speech defects.~~

~~7. Moderate exercise by healthy volunteers.~~

~~8. The study of existing data, documents, records, pathological specimens, or diagnostic specimens.~~

~~9. Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate subjects' behavior and the research will not involve stress to subjects.~~

~~10. Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.~~

12VAC35-180-100. Informed consent.

A. No human research ~~may~~ shall be conducted ~~in this Commonwealth~~ in the absence of informed consent subscribed to in writing by the subject individual or by the subject's legally individual's authorized representative except as provided for in subsection F of this section. If the subject individual is capable of providing informed consent, ~~then it shall be subscribed to in writing~~ written consent must be provided by the subject individual and witnessed. If the subject individual is incapable of making an informed decision, as defined in § 54.1-2982 of the Code of Virginia, at the time consent is required, ~~then it shall be subscribed to in writing~~ written consent must be provided by the person's legally individual's legally authorized representative and witnessed. If the subject individual is a minor otherwise capable of rendering informed consent, the consent shall be ~~subscribed to~~ provided by both the minor and his legally authorized representative. An investigator shall seek such consent only under circumstances that provide the individual who is the prospective subject or the representative sufficient opportunity to consider whether ~~or not~~ to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject individual or, if applicable the individual's legally authorized representative shall be in language understandable to the subject individual or the representative.

If two or more persons who qualify as legally authorized representatives have equal decision-making priority under this chapter inform the principal investigator or attending physician that they disagree as to participation of the prospective subject individual in human research, the subject individual shall not be enrolled in the human research that is the subject of the consent.

B. No individual shall participate in human research unless this requirement is met ~~for each individual~~. ~~The giving of informed consent by a legally an authorized representative shall be subject to the provisions of subsection C of this section.~~ No informed consent shall include any language through which the subject individual waives or appears to waive any of his legal rights, including any release of any individual person, institution, or agency or any agents thereof from liability for negligence. Notwithstanding the informed consent by a ~~legally~~ authorized representative, no person individual shall be forced to participate in any human research if the investigator conducting the human research knows that participation in the human research is protested by the prospective subject individual. In the case of persons individuals suffering from organic brain disease causing progressive deterioration of cognition for which there is no known cure or medically accepted treatment, the

implementation of experimental courses of therapeutic treatment to which the legally authorized representative has given informed consent shall not constitute the use of force. Each subject individual shall be given a copy of the signed consent form required by 12VAC35-180-40 A except as provided for in subsection F of this section.

C. No legally authorized representative may consent to nontherapeutic human research unless it is determined by the research review committee that such nontherapeutic human research will present no more than a minor increase over minimal risk to the subject individual. A legally authorized representative may not consent to participation in human research on behalf of a ~~prospective subject~~ an individual if the legally authorized representative knows, or upon reasonable inquiry ought to know, that any aspect of the human research protocol is contrary to the religious beliefs or basic values of the ~~prospective subject individual~~, whether expressed orally or in writing. A legally authorized representative may not consent to participation in human research involving nontherapeutic sterilization, abortion, psychosurgery, or admission for human research purposes to a facility or hospital as defined in ~~§ 37.1-1~~ § 37.2-100 of the Code of Virginia. No nontherapeutic human research shall be performed without the consent of the subject individual or, if applicable, his legally authorized representative.

D. The research review committee may approve a consent procedure ~~which that~~ does not include; or ~~which that~~ alters some or all of the elements of informed consent set forth in 12VAC35-180-10, or ~~waive that waives~~ the requirements to obtain informed consent provided the committee finds and documents that:

1. The human research involves no more than minimal risk to the ~~subjects individuals~~;
2. The omission, waiver or alteration will not adversely affect the rights and welfare of the ~~subjects individuals~~;
3. The human research could not practicably be carried out without the omission, waiver or alteration; and
4. Whenever appropriate, the ~~subjects individuals~~ shall be provided with additional pertinent information after participation.

~~E. Except as provided in subsection F of this section, the consent form may be either of the following:~~

~~± E.~~ A written consent document that embodies the elements of informed consent required by 12VAC35-180-10. ~~This form~~ may be read to the subject individual or, if applicable, the subject's individual's legally authorized representative, but in any event, the investigator shall give either the subject individual or the legally authorized representative adequate opportunity to read it before it is signed; or,

~~2. A short form written consent document stating that the elements of informed consent required by 12VAC35-180-10 have been presented orally to the subject or the subject's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the committee shall approve a written summary of what is to be said to the subject or the legally authorized representative. Only the short form itself is to be signed by the subject or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the subject or the representative, in addition to a copy of the short form.~~

F. The committee may waive the requirement in subsection E of this section for the investigator to obtain a written informed consent form for some or all subjects individuals if it finds that the only record linking the subject individual and the human research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each subject individual shall be asked whether the subject individual wants documentation linking the subject individual with the human research, and the subject's individual's wishes shall govern. In cases where the documentation requirement is waived, the committee may require the investigator to provide subjects individuals with a written statement explaining the human research.

12VAC35-180-110. Committee records.

A. An institution or agency, or when appropriate a committee shall prepare and maintain adequate documentation of committee activities, including the following:

1. Copies of all human research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to individuals who are subjects of the human research.
2. Minutes of committee meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the committee; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving human research; and a written summary of the discussion of ~~controversial~~ issues about which opposition has been voiced and their resolution.
3. Records of continuing review activities.
4. Copies of all correspondence between the committee and the investigators.
5. A list of committee members.
6. Written procedures for the committee.

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7. Statements of significant new findings provided to subjects individuals.

B. The records required by this chapter shall be retained for at least three years, and records relating to human research which is conducted shall be retained for ~~at least three~~ six years after completion of the human research. All records shall be accessible for inspection and copying by authorized employees or agents of the department at reasonable times and in a reasonable manner. An overview of approved human research projects and the results of such projects shall be made public on the website of the institution or agency conducting the human research unless otherwise exempt from disclosure under the Virginia Freedom of Information Act, (§ 2.2-3700 et seq. of the Code of Virginia).

12VAC35-180-130. Role of the department, and commissioner, and the board.

~~A. The commissioner shall establish and maintain records of institutional assurances, annual reports, and summary descriptions of research projects to be reviewed by the board.~~

~~B. The commissioner shall review communications from committees reporting violations of research protocols which led to suspension or termination of the research to ensure that appropriate steps have been taken for the protection of the rights of human research subjects. The board shall be kept informed.~~

~~C. The commissioner shall arrange for the printing and dissemination of copies of this chapter.~~

The commissioner shall assure that the department's human rights program, through procedures described in 12VAC35-115, protects the rights of individuals who are admitted to a state hospital, training center, or other facility operated, funded, or licensed by the department to refuse to participate as a subject of human research and assure that written and informed consent is received from individuals or their legally authorized representative prior to their participation as a subject of human research.

12VAC35-180-140. Applicability of state policies.

Nothing in this chapter shall be construed as limiting in any way the rights of subjects individuals in human research under regulations promulgated by the ~~board~~ State Board of Behavioral Health and Developmental Services pursuant to ~~§ 37.1-84.1~~ § 37.2-400 of the Code of Virginia.

12VAC35-180-150. Applicability of federal policies.

Human research at institutions or agencies which are subject to policies and regulations for the protection of ~~human~~ subjects individuals promulgated by any agency of the federal government shall be exempt from this chapter. ~~Such~~ institutions or agencies shall notify the commissioner and the board annually of their compliance with the policies and regulations of federal agencies.

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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.), the Industrialized Building Safety Law (§ 36-70 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and § 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.

Proposed Regulation

Title of Regulation: **13VAC5-31. Virginia Amusement Device Regulations (amending 13VAC5-31-20, 13VAC5-31-50, 13VAC5-31-75).**

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

Public Hearing Information:

January 25, 2010 - 10 a.m. - Virginia Housing Development Authority, Virginia Housing Center, 4224 Cox Road, Glen Allen, VA

Public Comment Deadline: January 25, 2010.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The proposed amendments:

- 1. Move the definition of the term "kiddie ride" to the definitions section;*
- 2. Clarify existing continuing education requirements in conjunction with correlating changes to the Uniform Statewide Building Code;*

3. Conform liability insurance requirements for amusement devices with industry standards and for consistency with language used in prior provisions in the regulation;

4. To correct an error made in a previous regulatory action, reinstate language that specifies that 13VAC5-31-75 F applies only to amusement devices permanently affixed to a site and the requirement for midseason inspection of rides; and

5. Correct an erroneous standard designation from ASTM F628 to ASTM F698.

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.

"Kiddie ride" means an amusement device where the passenger or patron height is limited to 54 inches or less, the design capacity of passengers or patrons is 12 or less, and the assembly time for the device is two hours or less.

"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.

13VAC5-31-50. 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~~ certification as an amusement device inspector ~~from the Virginia Board of Housing and Community Development in accordance with the Virginia Certification Standards (13VAC5-21).~~

B. Local building department personnel enforcing this chapter and private inspectors shall attend ~~16 hours every two years of continuing education and~~ periodic maintenance training courses approved or required as designated by DHCD. ~~Additional~~ In addition to the periodic maintenance training required above, local building department personnel and private inspectors shall attend 16 hours of continuing education hours shall not be required if more than one every

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~~two years as approved by DHCD. If local building department personnel or private inspectors possess more than one BHCD certificate is held, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.~~

Part II

Enforcement, Permits and Certificates of Inspection

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; per occurrence 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 that~~ 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 for amusement devices permanently fixed to a site, 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, at least once during the operating season 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~~ F698 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.

VA.R. Doc. No. R09-1892; Filed August 27, 2009, 10:00 a.m.

Proposed Regulation

Title of Regulation: 13VAC5-51. Virginia Statewide Fire Prevention Code (amending 13VAC5-51-21, 13VAC5-51-81, 13VAC5-51-85, 13VAC5-51-130, 13VAC5-51-132, 13VAC5-51-133, 13VAC5-51-135, 13VAC5-51-145, 13VAC5-51-150, 13VAC5-51-155; repealing 13VAC5-51-143).

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

Public Hearing Information:

January 25, 2010 - 10 a.m. - Virginia Housing Development Authority, Virginia Housing Center, 4224 Cox Road, Glen Allen, VA

Public Comment Deadline: January 25, 2010.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The Virginia Statewide Fire Prevention Code (SFPC) is a regulation governing the maintenance of fire safety features in existing buildings and structures and fire-safety related operations on property. The SFPC incorporates by reference the International Fire Code (IFC), a nationally recognized model code produced by the International Code Council as a companion code to that used under the Virginia Uniform Statewide Building Code (13VAC5-63). Every three years, a new edition of the model code becomes available. At that time, the Board of Housing and Community Development initiates a regulatory action to incorporate the newer edition of the model code into the regulation through a proposed regulation.

Specific changes in the proposed regulation are:

1. 13VAC5-51-21 E and H: Changes made due to the new chapter numbering in the 2009 edition of the IFC, which is the new edition of the IFC being incorporated into the SFPC and to a provision in the USBC that is being renumbered in a correlating regulatory amendment action.
2. 13VAC5-51-31: Updates the reference to the IFC from the 2006 to the 2009 edition, which is the new nationally recognized model code used in the SFPC.
3. 13VAC5-51-81: Changes fee provisions to match state law in accordance with § 27-97 of the Code of Virginia. As the catchline was formerly entitled only "Permits," there was confusion over whether separate fees could be charged for appeals even though state law clearly provides for such separate fees.
4. 13VAC5-51-85: Deletes the requirements for construction permits and retains the requirements for operational permits. The construction permit requirements were inserted under a prior regulatory action in an attempt to correlate with when permits are needed under the USBC to assist persons enforcing the SFPC in existing buildings when discovering work that needed a permit under the USBC, so that the local building department responsible for enforcement of the USBC could be notified. The requirement is being removed as the permit requirements of the USBC change frequently thus making amendments to this regulation necessary to remain consistent with the USBC.
5. 13VAC5-51-130 A and C: Changes subsection A to correlate with the same definition in the USBC and moves the group classifications from a parenthetical reference to the text of the definition. The change to subsection C deletes the definition of the term "canopy" to correlate with changes made to the IFC to eliminate the need for the definition. Canopies are now regulated under the USBC and only tents are regulated under the SFPC.
6. 13VAC5-51-132, 13VAC5-51-133 and 13VAC5-51-135: Changes to match the new numbering in the 2009 edition of the IFC.
7. 13VAC5-51-143: Repealed because there were amendments to the 2006 edition of the IFC that are now incorporated into the 2009 IFC, thereby making the changes to the IFC unnecessary.
8. 13VAC5-51-145, 13VAC5-51-150 and 13VAC5-51-155: Changes to correlate with changes in the IFC from the 2006 to the 2009 edition; no substantive changes are made.

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

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supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

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

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

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

E. 102.4. Referenced codes and standards: The codes and standards referenced in the IFC shall be those listed in Chapter 45 47 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. 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.

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 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. Inspection of buildings other than state-owned buildings under construction and the review and approval of building plans for these structures for enforcement of the USBC shall be the sole responsibility of the appropriate local building inspectors.

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

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 ~~341~~ 341.3, comply with the provisions located therein.

13VAC5-51-81. Section 107.0. Permits and fees.

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.			
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.			
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 ³). Exception: An operational permit is not required for agricultural storage.			
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. Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.			
Permit Amounts for Compressed Gases			
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		
For SI: 1 cubic foot = 0.02832 m ³ .			

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<p>Covered mall buildings. An operational permit is required for:</p> <ol style="list-style-type: none"> 1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall. 2. The display of liquid- or gas-fired equipment in the mall. 3. The use of open-flame or flame-producing equipment in the mall. 					
<p>Cryogenic fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p>					
<p>Permit Amounts for Cryogenic Fluids</p>					
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			
<p>For SI: 1 gallon = 3.785 L.</p>					
<p>Cutting and welding. An operational permit is required to conduct cutting or welding operations within the jurisdiction.</p>					
<p>Dry cleaning plants. An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.</p>					
<p>Exhibits and trade shows. An operational permit is required to operate exhibits and trade shows.</p>					
<p>Explosives. An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.</p>					
<p>Fire hydrants and valves. An operational permit is required to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.</p> <p>Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.</p>					

<p>Flammable and combustible liquids. An operational permit is required:</p> <ol style="list-style-type: none"> 1. To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) (see § 3501.1.2) nor does it apply to piping systems (see § 3503.6). 2. To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following: 			
<ol style="list-style-type: none"> 2.1. The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition. 2.2. The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days. 			
<ol style="list-style-type: none"> 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. 			

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Floor finishing. An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m ²) using Class I or Class II liquids.			
Fruit and crop ripening. An operational permit is required to operate a fruit- or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.			
Fumigation and thermal insecticidal fogging. An operational permit is required to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.			
Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below.			
Permit Amounts for Hazardous Materials			
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		
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.			

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<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 m²).</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"> 1. Public exhibitions and demonstrations where hot work is conducted. 2. Use of portable hot work equipment inside a structure. <p>Exception: Work that is conducted under a construction permit.</p> <ol style="list-style-type: none"> 3. Fixed-site hot work equipment such as welding booths. 4. Hot work conducted within a hazardous fire area. 5. Application of roof coverings with the use of an open-flame device. 6. When approved, the fire official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in this chapter. These permits shall be issued only to their employees or hot work operations under their supervision. 			
<p>Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 21.</p>			
<p>Lumber yards and woodworking plants. An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft³) (236 m³).</p>			
<p>Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.</p>			
<p>LP-gas. An operational permit is required for:</p> <ol style="list-style-type: none"> 1. Storage and use of LP-gas. <p>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less serving occupancies in Group R-3.</p> <ol style="list-style-type: none"> 2. Operation of cargo tankers that transport LP-gas. 			
<p>Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>			

<p>Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m³) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.</p>			
<p>Open burning. An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to. 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. 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>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>			

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<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 m³) of total volume of scrap tires and for indoor storage of tires and tire byproducts.</p>			
<p>Temporary membrane structures and tents. 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"> 1. Tents used exclusively for recreational camping purposes. 2. Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons. 			
<p>Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.</p>			
<p>Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.</p>			
<p>Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m³).</p>			

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 In accordance with § 27-97 of the Code of Virginia, 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. \$300 per day for fireworks, pyrotechnics or proximate audience displays conducted in any state-owned building and \$150 per day for each subsequent day.
6. \$200 per day for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property and \$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 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 college dormitories.

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

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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.

C. 108.1.2. ~~Types~~ Duration of operational 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. 1.~~ 1. A prescribed period.

~~1.2. 2.~~ 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, joekey 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~~

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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.~~

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. Membrane structures, air supported structures and tents. A construction permit is required to erect all membrane structures or any tent or air supported structure that covers an area greater than 900 square feet (84 m²), 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.~~

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

A. Add the following definitions:

Background clearance card: See Section 3302.1.

Blaster, restricted: See Section 3302.1.

Blaster, unrestricted: See Section 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~~ with an occupancy in Group R-2, R-3, R-4, or R-5 occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services, the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Behavioral Health and Developmental Services, the Virginia Department of Education or the 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 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.~~

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

13VAC5-51-132. 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 ~~44~~ 15 to Section 404.2 to read:

~~44.~~ 15. 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~~ 507.5.1 to read:

~~508.5.1.~~ 507.5.1. 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~~ Change Section ~~511~~ 510 to read:

Section ~~511~~ 510.

Maintenance of In-Building Emergency Communication Equipment.

~~511.1.~~ 510.1. General. In-building emergency communication equipment shall be maintained in accordance with USBC and the provisions of this section.

~~511.2.~~ 510.2. 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.~~ 510.3. 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

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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.

13VAC5-51-135. 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.

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.

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.

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.

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.

H. Change Section ~~907.20.2~~ 907.9.2 to read:

~~907.20.2.~~ 907.9.2. Testing. Testing shall be performed in accordance with the schedules in Chapter 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. (Repealed.)

~~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 m²) 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 m²).

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 m²).

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.

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

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Over 3,000 ^a	7	120	96
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For SI: 1 inch = 25.4 mm

^aWhen 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.~~

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

A. Change Add the following language to the end of 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.~~

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~~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.~~

B. Change Add the following language to the end of 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.~~

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.

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 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 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 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 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 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.

3301.2.3.1.4. 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 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

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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 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 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 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 SFMO.

The 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 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 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 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

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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 3307.1 to read:

3307.1. General. Blasting operations shall be conducted only by persons certified by the SFMO as a restricted or unrestricted blaster or shall be supervised on-site by a person properly certified by the SFMO as a restricted or unrestricted blaster.

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.

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.

T. Delete Section 3308.11.

13VAC5-51-155. IFC Chapter 45 47. Referenced Standards.

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
NEPA 10-07	Portable Fire Extinguishers	Table 901.6.1, 906.2, 906.3, Table 906.3(1), Table 906.3(2), 2106.3
NEPA 13-07	Installation of Sprinkler Systems	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
NEPA 13D-07	Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured	903.3.1.3, 903.3.5.1.1

	Homes	
NEPA 13R-07	Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height	903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4
NEPA 14-07	Installation of Standpipe and Hose Systems	905.2, 905.3.4, 905.4.2, 905.8
NEPA 20-07	Installation of Stationary Pumps for Fire Protection	913.1, 913.2, 913.5.1
NEPA 24-07	Installation of Private Fire Service Mains and their Appurtenances	508.2.1, 1909.5
NEPA 25-08	Inspection, Testing and Maintenance of Water-based Fire Protection Systems	508.5.3, Table 901.6.1, 904.7.1, 912.6, 913.5
NEPA 30B-07	Manufacture and Storage of Aerosol Products	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
NEPA 33-07	Spray Application Using Flammable or Combustible Materials	1504.3.2
NEPA 72-07	National Fire Alarm Code	509.1, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.1.1,

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		<p>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</p>
NFPA 704-07	<p>Identification of the Hazards of Materials for Emergency Response</p>	<p>606.7, 1802.1, 2404.2, 2703.2.2.1, 2703.2.2.2, 2703.5, 2703.10.2, 2705.1.10, 2705.2.1.1, 2705.4.4, 3203.4.1, 3404.2.3.2</p>

~~NFPA 24-07, Installation of Private Fire Service Mains and their Appurtenances, 2007 Edition, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 25-08, 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, Liquefied Petroleum Gas Code, 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.~~

DOCUMENTS INCORPORATED BY REFERENCE (13VAC5-51)

The International Fire Code – ~~2006~~ 2009 Edition, International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070.

~~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 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.~~

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. R09-1893; Filed August 24, 2009, 10:42 a.m.

Proposed Regulation

Title of Regulation: **13VAC5-63. Virginia Uniform Statewide Building Code (amending 13VAC5-63-10, 13VAC5-63-20, 13VAC5-63-30, 13VAC5-63-50, 13VAC5-63-60, 13VAC5-63-70, 13VAC5-63-150, 13VAC5-63-190, 13VAC5-63-200, 13VAC5-63-210, 13VAC5-63-220, 13VAC5-63-230, 13VAC5-63-240, 13VAC5-63-245, 13VAC5-63-250, 13VAC5-63-267, 13VAC5-63-290, 13VAC5-63-300, 13VAC5-63-310, 13VAC5-63-320, 13VAC5-63-330, 13VAC5-63-350, 13VAC5-63-360, 13VAC5-63-400, 13VAC5-63-434, 13VAC5-63-440, 13VAC5-63-450, 13VAC5-63-480, 13VAC5-63-500, 13VAC5-63-520, 13VAC5-63-530, 13VAC5-63-540; repealing 13VAC5-63-436, 13VAC5-63-437).**

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

Public Hearing Information:

January 25, 2010 - 10 a.m. - Virginia Housing Development Authority, Virginia Housing Center, 4224 Cox Road, Glen Allen, VA

Public Comment Deadline: January 25, 2010.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhdcd.virginia.gov.

Background:

The Virginia Uniform Statewide Building Code (USBC) governs the construction, maintenance, and rehabilitation of new and existing building and structures. The USBC uses nationally recognized model building codes and standards produced by the International Code Council and other standard-writing groups as the basis for the technical provisions of the regulation. Every three years, new editions of the model codes become available. At that time, the Board of Housing and Community Development initiates a regulatory action to incorporate the newest editions of the model codes into the regulation through the publishing of a proposed regulation. Those affected by the regulation then review the proposed regulation to assure that the newest model codes and standards reflect the minimum requirements necessary for buildings and structures. After the publishing of the proposed regulation, the board establishes a comment period for the acceptance of code change proposals to modify the model codes or standards or any provisions of the entire regulation. Code change proposals are assimilated into a compilation document containing a staff evaluation of each proposal and the compilation document is reviewed by client groups during a second comment period and additional comment on each proposal is accepted. A public hearing is also held. The board then considers all comments on all proposals and develops a final regulation to complete the regulatory process.

Summary:

The proposed amendments (i) incorporate the newest editions of the nationally recognized model codes and standards into the regulation; (ii) make general clarifications and correlation changes to conform to statutory language, coordinate the application of the regulations with the other building and fire regulations of the board, and remove provisions in the existing 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; (iii) update exemptions from the USBC; (iv) provide that no change shall be made in the existing occupancy classification of any structure when the current USBC requires a greater degree of accessibility; (v) clarify that handrail and guardrail configuration and height on a reconstructed deck are excluded from the requirement that reconstructed decks must meet the current code provisions

for structural loading, connections, and structural attachment; (vi) require state enforcement personnel to comply with certification, periodic maintenance training, and continuing education requirements; (vii) clarify continuing education requirements; (viii) clarify that the limitations of authority by the local government on the building official are not applicable to the third-party inspector policy nor do such limitations have the effect of altering the provisions of the code or creating building regulations; (ix) require that the local board of building code appeals must meet at least once annually, appoint officers, and receive training on the code as appropriate or necessary; (x) require that a townhouse be separated from adjacent townhouses by a common two-hour wall assembly; (xi) require standards for optional sprinkler systems; (xii) add new requirements to the 2009 IBC for exiting from stages; (xiii) add elevator machine rooms and elevator machine spaces to the list of exempt locations for automatic sprinklers; (xiv) change an existing requirement for the residual pressure in standpipe fire-fighting systems to be less when a sprinkler system is installed to include sprinkler systems for small residential buildings; (xv) add language to the IBC to exempt raised areas used for religious purposes from the necessity of having to provide wheelchair access; (xvi) change the language in the 2009 IBC regarding the construction of elevator rooms to include rooms housing elevator controllers in the exceptions to permit the reduction in fire rating for the walls of such rooms; (xvii) add a requirement to the 2009 IBC for accessibility for persons with disabilities to be consistent with the Americans with Disabilities Act; (xviii) add a requirement to the International Property Maintenance Code (IPMC) for the service and maintenance of grease interceptor, grease traps, and automatic grease removal devices; and (xix) change the criteria in the IPMC for inspecting water damaged electrical equipment to permit a certified electrician to evaluate the safety of the equipment.

Part I
Construction

13VAC5-63-10. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part I, Construction, may be cited as the Virginia Construction Code. The term "USBC" shall mean the Virginia Construction Code unless the context in which the term is used clearly indicates it to be an abbreviation for the entire Virginia Uniform Statewide Building Code or for a different part of the Virginia Uniform Statewide Building Code.

B. Section 101.2 Incorporation by reference. Chapters 2 - 35 of the ~~2006~~ 2009 International Building Code, published by the International Code Council, Inc., are adopted and

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incorporated by reference to be an enforceable part of the USBC. The term "IBC" means the ~~2006~~ 2009 International Building Code, published by the International Code Council, Inc. Any codes and standards referenced in the IBC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference. In addition, any provisions of the appendices of the IBC specifically identified to be part of the USBC are also considered to be part of the incorporation by reference.

Note 1: The IBC references the whole family of International Codes including the following major codes:

~~2006~~ 2009 International Plumbing Code

~~2006~~ 2009 International Mechanical Code

~~2005~~ 2008 National Electrical Code

~~2006~~ 2009 International Fuel Gas Code

~~2006~~ 2009 International Energy Conservation Code

~~2006~~ 2009 International Residential Code

Note 2: The International Residential Code is applicable to the construction of detached one- and two-family dwellings and townhouses as set out in Section 310.

C. Section 101.3 Numbering system. A dual numbering system is used in the USBC to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IBC. IBC numbering system designations are provided in the catchlines of the Virginia Administrative Code sections. Cross references between sections or chapters of the USBC use only the IBC numbering system designations. The term "chapter" is used in the context of the numbering system of the IBC and may mean a chapter in the USBC, a chapter in the IBC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The USBC is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 - 35 of the IBC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IBC that are specifically identified. The terminology "changes to the text of the incorporated chapters of the IBC that are specifically identified" shall also be referred to as the "state amendments to the IBC." Such state amendments to the IBC are set out using corresponding chapter and section numbers of the IBC numbering system. In addition, since Chapter 1 of the IBC is not incorporated as part of the USBC, any reference to a provision of Chapter 1 of the IBC in the provisions of Chapters 2 - 35 of the IBC is generally invalid. However, where the purpose of such a reference would clearly

correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 - 35 of the IBC or in the state amendments to the IBC means the USBC, unless the context clearly indicates otherwise. The term "this code" or "the code" where used in a code or standard referenced in the IBC means that code or standard, unless the context clearly indicates otherwise. The use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IBC, in the codes and standards referenced in the IBC and in the state amendments to the IBC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 - 35 of the IBC and any conflicting provisions of the codes and standards referenced in the IBC. In addition, the state amendments to the IBC supersede any conflicting provisions of Chapters 2 - 35 of the IBC and any conflicting provisions of the codes and standards referenced in the IBC. Further, the provisions of Chapters 2 - 35 of the IBC supersede any conflicting provisions of the codes and standards referenced in the IBC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope of the code, enforcement, fees, permits, inspections and disputes. Any provisions of Chapters 2 - 35 of the IBC or any provisions of the codes and standards referenced in the IBC that address the same subject matter and impose differing requirements are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IBC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 - 35 of the IBC or of the codes and standards referenced in the IBC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IBC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for administrative, procedural and enforcement requirements of this code.

H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be defined in other chapters or provisions of the code and such definitions are also valid.

Note: The order of precedence outlined in Section 101.6 may be determinative in establishing how to apply the definitions in the IBC and in the referenced codes and standards.

13VAC5-63-20. Section 102 Purpose and scope.

A. Section 102.1 Purpose. In accordance with § 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provisions necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

B. Section 102.2 Scope. This section establishes the scope of the USBC in accordance with § 36-98 of the Code of Virginia. The USBC shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies. This code also shall supersede the provisions of local ordinances applicable to single-family residential construction that (i) regulate dwelling foundations or crawl spaces, (ii) require the use of specific building materials or finishes in construction, or (iii) require minimum surface area or numbers of windows; however, this code shall not supersede proffered conditions accepted as a part of a rezoning application, conditions imposed upon the grant of special exceptions, special or conditional use permits or variances, conditions imposed upon a clustering of single-family homes and preservation of open space development through standards, conditions, and criteria established by a locality pursuant to subdivision 8 of § 15.2-2242 of the Code of Virginia or subdivision A 12 of § 15.2-2286 of the Code of Virginia, or land use requirements in airport or highway overlay districts, or historic districts created pursuant to § 15.2-2306 of the Code of Virginia, or local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.

Note: Requirements relating to functional design are contained in Section 103.11 of this code.

C. Section 102.2.1 Invalidation of provisions. To the extent that any provisions of this code are in conflict with Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia or in conflict with the scope of the USBC, those provisions are considered to be invalid to the extent of such conflict.

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

1. Equipment ~~and~~ related wiring, and poles and towers supporting the related wiring installed by a provider of publicly regulated utility service or a franchised cable television operator and electrical equipment and related wiring used for radio, broadcast or cable television,

telecommunications or information service transmission. The exemption shall apply only if under applicable federal and state law the ownership and control of the equipment and wiring is by the service provider or its affiliates. Such exempt equipment and wiring shall be located on either public rights-of-way or private property for which the service provider has rights of occupancy and entry; however, the structures, including their service equipment, housing or supporting such exempt equipment and wiring shall be subject to the USBC. The installation of equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

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

- 2.1. Electrical equipment connected after the last disconnecting means.
- 2.2. Plumbing piping and equipment connected after the last shutoff valve or backflow device and before the equipment drain trap.
- 2.3. Gas piping and equipment connected after the outlet shutoff valve.

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

4. 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.

5. Industrialized buildings subject to the Virginia Industrialized Building Safety Regulations (13VAC5-91) and manufactured homes subject to the Virginia Manufactured Home Safety Regulations (13VAC5-95); except as provided for in Section ~~421~~ 424.

6. Farm buildings and structures, except for a building or a portion of a building located on a farm that is operated as a restaurant as defined in § 35.1-1 of the Code of Virginia and licensed as such by the Virginia Board of Health pursuant to Chapter 2 (§ 35.1-11 et seq.) of Title 35.1 of the Code of Virginia. However, farm buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to flood-proofing regulations or mudslide regulations, as applicable.

7. Federally owned buildings and structures unless federal law specifically requires a permit from the locality.

13VAC5-63-30. Section 103 Application of code.

A. Section 103.1 General. In accordance with § 36-99 of the Code of Virginia, the USBC shall prescribe building regulations to be complied with in the construction and

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rehabilitation of buildings and structures, and the equipment therein.

B. Section 103.2 When applicable to new construction. Construction for which a permit application is submitted to the local building department after ~~May 1, 2008~~ (insert effective date), shall comply with the provisions of this code, except for permit applications submitted during a one-year period after ~~May 1, 2008~~ (insert effective date). The applicant for a permit during such one-year period shall be permitted to choose whether to comply with the provisions of this code or the provisions of the code in effect immediately prior to ~~May 1, 2008~~ (insert effective date). This provision shall also apply to subsequent amendments to this code based on the effective date of such amendments. In addition, when a permit has been properly issued under a previous edition of this code, this code shall not require changes to the approved construction documents, design or construction of such a building or structure, provided the permit has not been suspended or revoked.

C. Section 103.3 Change of occupancy. No change shall be made in the existing occupancy classification of any structure when the current USBC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation or sanitation. When such a greater degree is required, the owner or the owner's agent shall make written application to the local building department for a new certificate of occupancy and shall obtain the new certificate of occupancy prior to the use of the structure under the new occupancy classification. When impractical to achieve compliance with this code for the new occupancy classification, the building official shall consider modifications upon application and as provided for in Section 106.3.

Exception: This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

D. Section 103.4 Additions. Additions to buildings and structures shall comply with the requirements of this code for new construction and an existing building or structure plus additions shall comply with the height and area provisions of Chapter 5. Further, this code shall not require changes to the design or construction of any portions of the building or structure not altered or affected by an addition, unless the addition has the effect of lowering the current level of safety.

Exception: This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

E. Section 103.5 Reconstruction, alteration or repair. The following criteria is applicable to reconstruction, alteration or repair of buildings or structures:

1. Any reconstruction, alteration or repair shall not adversely affect the performance of the building or

structure, or cause the building or structure to become unsafe or lower existing levels of health and safety.

2. Parts of the building or structure not being reconstructed, altered or repaired shall not be required to comply with the requirements of this code applicable to newly constructed buildings or structures.

3. The installation of material or equipment, or both, that is neither required nor prohibited shall only be required to comply with the provisions of this code relating to the safe installation of such material or equipment.

4. Material or equipment, or both, may be replaced in the same location with material or equipment of a similar kind or capacity.

Exceptions:

1. This section shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.

2. Reconstructed decks, balconies, porches and similar structures located 30 inches (762 mm) or more above grade shall meet the current code provisions for structural loading capacity, connections and structural attachment. This requirement excludes the configuration and height of handrails and guardrails.

F. Section 103.6. Use of rehabilitation code. Compliance with Part II of the Virginia Uniform Statewide Building Code, also known as the "Virginia Rehabilitation Code," shall be an acceptable alternative to compliance with this code for the rehabilitation of such existing buildings and structures within the scope of that code. For the purposes of this section, the term "rehabilitation" shall be as defined in the Virginia Rehabilitation Code.

G. Section 103.7. Retrofit requirements. The local building department shall enforce the provisions of Section ~~3411~~ 3413, which require certain existing buildings to be retrofitted with fire protection systems and other safety equipment. Retroactive fire protection system requirements contained in the International Fire Code shall not be applicable unless required for compliance with the provisions of Section ~~3411~~ 3413.

H. Section 103.8 Nonrequired equipment. The following criteria for nonrequired equipment is in accordance with § 36-103 of the Code of Virginia. Building owners may elect to install partial or full fire alarms or other safety equipment that was not required by the edition of the USBC in effect at the time a building was constructed without meeting current requirements of the code, provided the installation does not create a hazardous condition. Permits for installation shall be obtained in accordance with this code. In addition, as a requirement of this code, when such nonrequired equipment is to be installed, the building official shall notify the appropriate fire official or fire chief.

I. Section 103.8.1 Reduction in function or discontinuance of nonrequired fire protection systems. When a nonrequired fire protection system is to be reduced in function or discontinued, it shall be done in such a manner so as not to create a false sense of protection. Generally, in such cases, any features visible from interior areas shall be removed, such as sprinkler heads, smoke detectors or alarm panels or devices, but any wiring or piping hidden within the construction of the building may remain. Approval of the proposed method of reduction or discontinuance shall be obtained from the building official.

J. Section 103.9 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with either the International Residential Code, the International Mechanical Code or the International Fuel Gas Code, depending on which is applicable based on the fuel source and the occupancy classification of the structure.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

K. Section 103.10 Use of certain provisions of referenced codes. The following provisions of the IBC and of other indicated codes or standards are to be considered valid provisions of this code. Where any such provisions have been modified by the state amendments to the IBC, then the modified provisions apply.

1. Special inspection requirements in Chapters 2 - 35.
2. Chapter 34, Existing Structures, except that Section ~~3410~~ 3412, Compliance Alternatives, shall not be used to comply with the retrofit requirements identified in Section 103.7 and shall not be construed to permit noncompliance with any applicable flood load or flood-resistant construction requirements of this code.
3. Testing requirements and requirements for the submittal of construction documents in any of the ICC codes referenced in Chapter 35.
4. Section R301.2 of the International Residential Code authorizing localities to determine climatic and geographic design criteria.
5. Flood load or flood-resistant construction requirements in the IBC or the International Residential Code, including, but not limited to, any such provisions pertaining to flood

elevation certificates that are located in Chapter 1 of those codes. Any required flood elevation certificate pursuant to such provisions shall be prepared by a land surveyor licensed in Virginia or an RDP.

L. Section 103.11 Functional design. The following criteria for functional design is in accordance with § 36-98 of the Code of Virginia. The USBC shall not supersede the regulations of other state agencies that require and govern the functional design and operation of building related activities not covered by the USBC, including but not limited to (i) public water supply systems, (ii) waste water treatment and disposal systems, (iii) solid waste facilities, nor shall state agencies be prohibited from requiring, pursuant to other state law, that buildings and equipment be maintained in accordance with provisions of this code. In addition, as established by this code, the building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. For purposes of coordination, the locality may require reports to the building official by other departments or agencies indicating compliance with their regulations applicable to the functional design of a building or structure as a condition for issuance of a building permit or certificate of occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the locality. All enforcement of these conditions shall not be the responsibility of the building official, but rather the agency imposing the condition.

Note: Identified state agencies with functional design approval are listed in the "Related Laws Package," which is available from DHCD.

M. Section 103.12 Amusement devices and inspections. In accordance with § 36-98.3 of the Code of Virginia, to the extent they are not superseded by the provisions of § 36-98.3 of the Code of Virginia and the VADR, the provisions of the USBC shall apply to amusement devices. In addition, as a requirement of this code, inspections for compliance with the VADR shall be conducted either by local building department personnel or private inspectors provided such persons are certified as amusement device inspectors under the VCS.

N. Section 103.13 State buildings and structures. This section establishes the application of the USBC to state-owned buildings and structures in accordance with § 36-98.1 of the Code of Virginia. The USBC shall be applicable to all state-owned buildings and structures, with the exception that §§ 2.2-1159, 2.2-1160 and 2.2-1161 of the Code of Virginia shall provide the standards for ready access to and use of state-owned buildings by the physically handicapped.

Any state-owned building or structure for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction

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commenced. Subsequent reconstruction, renovation or demolition of such building or structure shall be subject to the pertinent provisions of this code.

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

Notwithstanding any provision of this code to the contrary, roadway tunnels and bridges owned by the Virginia Department of Transportation shall be exempt from this code. The Virginia Department of General Services shall not have jurisdiction over such roadway tunnels, bridges and other limited access highways; provided, however, that the Department of General Services shall have jurisdiction over any occupied buildings within any Department of Transportation rights-of-way that are subject to this code.

Except as provided in § 23-38.109 D of the Code of Virginia, and notwithstanding any provision of this code to the contrary, at the request of a public institution of higher education, the Virginia Department of General Services, as further set forth in this provision, shall authorize that institution of higher education to contract with a building official of the locality in which the construction is taking place to perform any inspection and certifications required for the purpose of complying with this code. The department shall publish administrative procedures that shall be followed in contracting with a building official of the locality. The authority granted to a public institution of higher education under this provision to contract with a building official of the locality shall be subject to the institution meeting the conditions prescribed in § 23-38.88 B of the Code of Virginia.

Note: In accordance with § 36-98.1 of the Code of Virginia, roadway tunnels and bridges shall be designed, constructed and operated to comply with fire safety standards based on nationally recognized model codes and standards to be developed by the Virginia Department of Transportation in consultation with the State Fire Marshal and approved by the Virginia Commonwealth Transportation Board. Emergency response planning and activities related to the standards approved by the Commonwealth Transportation Board shall be developed by the Department of Transportation and coordinated with the appropriate local officials and emergency service providers. On an annual basis, the Department of Transportation shall provide a report on the maintenance and operability of installed fire protection and detection systems in roadway tunnels and bridges to the State Fire Marshal.

O. Section 103.13.1 Certification of state enforcement personnel. State enforcement personnel shall comply with the applicable requirements of Section 105 for certification, periodic maintenance training, and continuing education.

13VAC5-63-50. Section 105 Local building department.

A. Section 105.1 Appointment of building official. Every local building department shall have a building official as the executive official in charge of the department. The building official shall be appointed in a manner selected by the local governing body. After permanent appointment, the building official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting building official.

Note: Building officials are subject to sanctions in accordance with the VCS.

B. Section 105.1.1 Qualifications of building official. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building, fire or trade inspector, contractor, housing inspector or superintendent of building, fire or trade construction or at least five years of building experience after obtaining a degree in architecture or engineering, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

C. Section 105.1.2 Certification of building official. An acting or permanent building official shall be certified as a building official in accordance with the VCS within one year after being appointed as acting or permanent building official.

Exception: A building official in place prior to April 1, 1983, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

D. Section 105.1.3 Noncertified building official. Except for a building official exempt from certification under the exception to Section 105.1.2, any acting or permanent building official who is not certified as a building official in accordance with the VCS shall attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 105.1.2.

E. Section 105.1.4 Continuing Requirements for periodic maintenance and continuing education requirements. Building officials shall attend ~~16 hours every two years of continuing education and~~ periodic maintenance training courses approved or required as designated by DHCD. Additional In addition to the periodic maintenance training required above, building officials shall attend 16 hours of continuing education hours shall not be required if more than one every two years as approved by DHCD. If a building official possesses more than one BHCD certificate is held, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

F. Section 105.2 Technical assistants. The building official, subject to any limitations imposed by the locality, shall be permitted to utilize technical assistants to assist the building official in the enforcement of the USBC. DHCD shall be notified by the building official within 60 days of the employment of, contracting with or termination of all technical assistants.

Note: Technical assistants are subject to sanctions in accordance with the VCS.

G. Section 105.2.1 Qualifications of technical assistants. A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: building construction; building, fire or housing inspections; plumbing, electrical or mechanical trades; or fire protection, elevator or property maintenance work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.

H. Section 105.2.2 Certification of technical assistants. A technical assistant shall be certified in the appropriate subject area within 18 months after becoming a technical assistant.

When required by local policy to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

Exception: A technical assistant in place prior to March 1, 1988, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

I. Section 105.2.3 Continuing Requirements for periodic maintenance and continuing education requirements. Technical assistants shall attend ~~16 hours every two years of continuing education and~~ periodic maintenance training courses approved or required as designated by DHCD. Additional In addition to the periodic maintenance training required above, technical assistants shall attend 16 hours of continuing education hours shall not be required if more than one every two years as approved by DHCD. If a technical assistant possesses more than one BHCD certificate is held, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

J. Section 105.3 Conflict of interest. The standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

K. Section 105.4 Records. The local building department shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with The Library of Virginia's General Schedule Number Six.

13VAC5-63-60. Section 106 Powers and duties of the building official.

A. Section 106.1 Powers and duties, generally. The building official shall enforce this code as set out herein and as interpreted by the State Review Board.

B. Section 106.2 Delegation of authority. The building official may delegate powers and duties except where such authority is limited by the local government. However, such limitations of authority by the local government are not applicable to the third-party inspector policy required by Section 113.7.1 nor shall such limitations of authority by the local government have the effect of altering the provisions of this code or creating building regulations. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

C. Section 106.3 Issuance of modifications. Upon written application by an owner or an owner's agent, the building official may approve a modification of any provision of the USBC provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured.

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The decision of the building official concerning a modification shall be made in writing and the application for a modification and the decision of the building official concerning such modification shall be retained in the permanent records of the local building department.

Note: The USBC references nationally recognized model codes and standards. Future amendments to such codes and standards are not automatically included in the USBC; however the building official should give them due consideration in deciding whether to approve a modification.

D. Section 106.3.1 Substantiation of modification. The building official may require or may consider a statement from an RDP or other person competent in the subject area of the application as to the equivalency of the proposed modification. In addition, the building official may require the application to include construction documents sealed by an RDP.

E. Section 106.3.2 Use of performance code. Compliance with the provisions of a nationally recognized performance code when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.

13VAC5-63-70. Section 107 Fees.

A. Section 107.1 Authority for charging fees. In accordance with § 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement of the USBC.

B. Section 107.1.1 Fee schedule. The local governing body shall establish a fee schedule incorporating unit rates, which may be based on square footage, cubic footage, estimated cost of construction or other appropriate criteria. A permit or any amendments to an existing permit shall not be issued until the designated fees have been paid, except that the building official may authorize the delayed payment of fees.

C. Section 107.1.2 Refunds. When requested in writing by a permit holder, the locality shall provide a fee refund in the case of the revocation of a permit or the abandonment or discontinuance of a building project. The refund shall not be required to exceed an amount which correlates to work not completed.

D. Section 107.2 Code academy fee levy. In accordance with subdivision 7 of § 36-137 of the Code of Virginia, the local building department shall collect a ~~1.75%~~ 2.0% levy of fees charged for building permits issued under this code and transmit it quarterly to DHCD to support training programs of the Virginia Building Code Academy. ~~The foregoing levy shall remain effective until July 1, 2009, after which time the fee levy shall be increased to 2.0%.~~ Localities that maintain individual or regional training academies accredited by DHCD shall retain such levy.

13VAC5-63-150. Section 115 Violations.

A. Section 115.1 Violation a misdemeanor; civil penalty. In accordance with § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions. Any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the code that are not abated or remedied promptly after receipt of a notice of violation from the local enforcement officer.

Note: See the full text of § 36-106 of the Code of Virginia for additional requirements and criteria pertaining to legal action relative to violations of the code.

B. Section 115.2 Notice of violation. The building official shall issue a written notice of violation to the responsible party if any violations of this code or any directives or orders of the building official have not been corrected or complied with in a reasonable time. The notice shall reference the code section upon which the notice is based and direct the discontinuance and abatement of the violation or the compliance with such directive or order. The notice shall be issued by either delivering a copy to the responsible party by mail to the last known address or delivering the notice in person or by leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place if the person in charge of the premises cannot be found. The notice of violation shall indicate the right of appeal by referencing the appeals section. When the owner of the building or structure, or the permit holder for the construction in question, or the tenants of such building or structure, are not the responsible party to whom the notice of violation is issued, then a copy of the notice shall also be delivered to the such owner, permit holder or tenants.

C. Section 115.2.1 Notice not to be issued under certain circumstances. When violations are discovered more than two years after the certificate of occupancy is issued or the date of initial occupancy, whichever occurred later, or more than two years after the approved final inspection for an alteration or renovation, a notice of violation shall only be issued upon advice from the legal counsel of the locality that action may be taken to compel correction of the violation. When compliance can no longer be compelled by prosecution under § 36-106 of the Code of Virginia, the building official, when requested by the building owner, shall document in writing the existence of the violation noting the edition of the USBC the violation is under.

D. Section 115.3 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the building official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality

so authorizes, the building official may issue or obtain a summons or warrant. Compliance with a notice of violation notwithstanding, the building official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work subject to this code.

Note: See § 19.2-8 of the Code of Virginia concerning the statute of limitations for building code prosecutions.

E. Section 115.4 Penalties and abatement. Penalties for violations of the USBC shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

F. Section 115.5 Transfer of ownership. In accordance with § 36-105 of the Code of Virginia, if the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

13VAC5-63-190. Section 119 Appeals.

A. Section 119.1 Establishment of appeals board. In accordance with § 36-105 of the Code of Virginia, there shall be established within each local building department a LBBCA. Whenever a county or a municipality does not have such a LBBCA, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to defray the cost of such appeals. In addition, as an authorization in this code, separate LBBCAs may be established to hear appeals of different enforcement areas such as electrical, plumbing or mechanical requirements. Each such LBBCA shall comply with the requirements of this section.

B. Section 119.2 Membership of board. The LBBCA shall consist of at least five members appointed by the locality for a specific term of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the locality. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period. The LBBCA shall meet at least once annually to assure a duly constituted board, appoint officers

as necessary, and receive such training on the code as may be appropriate or necessary from staff of the locality.

C. Section 119.3 Officers and qualifications of members. The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

D. Section 119.4 Conduct of members. No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

E. Section 119.5 Right of appeal; filing of appeal application. The owner of a building or structure, the owner's agent or any other person involved in the design or construction of a building or structure may appeal a decision of the building official concerning the application of the USBC to such building or structure and may also appeal a refusal by the building official to grant a modification to the provisions of the USBC pertaining to such building or structure. The applicant shall submit a written request for appeal to the LBBCA within 30 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the building official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

Note: To the extent that a decision of a building official pertains to amusement devices there may be a right of appeal under the VADR.

F. Section 119.6 Meetings and postponements. The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses

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listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

G. Section 119.7 Hearings and decision. All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the building official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be sent to all parties by certified mail. In addition, the resolution shall contain the following wording:

"Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, ~~501 North Second~~ 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150."

H. Section 119.8 Appeals to the State Review Board. After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the building official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the building official's decision. For appeals from a LBBCA, a copy of the building official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the building official's decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board

are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

13VAC5-63-200. Chapter 2 Definitions: Section 202 Definitions.

A. Add the following definitions to Section 202 of the IBC to read:

Building regulations. Any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance, or use of structures and buildings and installation of equipment therein. The term does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Construction. The construction, reconstruction, alteration, repair, or conversion of buildings and structures.

Day-night average sound level (Ldn). See Section 1202.1.

DHCD. The Virginia Department of Housing and Community Development.

Emergency communication equipment. See Section 902.1.

Emergency public safety personnel. See Section 902.1.

Equipment. Plumbing, heating, electrical, ventilating, air-conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

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

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced in the farm.
2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products.
3. Business or office uses relating to the farm operations.
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm.
5. Storage or use of supplies and materials used on the farm.
6. Implementation of best management practices associated with farm operations.

Industrialized building. A combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes shall not be considered industrialized buildings for the purpose of this code.

LBBCA. Local board of building code appeals (~~LBBCA~~). See Section 119.1.

Local building department. The agency or agencies of any local governing body charged with the administration, supervision, or enforcement of this code, approval of construction documents, inspection of buildings or structures, or issuance of permits, licenses, certificates or similar documents.

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

Locality. A city, county or town in this Commonwealth.

Manufactured home. A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

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

Skirting. A weather-resistant material used to enclose the space from the bottom of the manufactured home to grade.

Sound transmission class (STC) rating. See Section 1202.1.

State regulated care facility (SRCF). A building with an occupancy in Group R-2, R-3, R-4 or R-5 occupied by persons in the care of others where program oversight is provided by the Virginia Department of Social Services, the Virginia Department of ~~Mental Health, Mental Retardation and Substance Abuse~~ Behavioral Health and Developmental Services, the Virginia Department of Education or the Virginia Department of Juvenile Justice.

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

Technical assistant. Any person employed by or under an extended contract to a local building department or local enforcing agency for enforcing the USBC, including but not limited to inspectors and plans reviewers. For the purpose of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.

VADR. The Virginia Amusement Device Regulations (13VAC5-31).

VCS. The Virginia Certification Standards (13VAC5-21).

Working day. A day other than Saturday, Sunday or a legal local, state or national holiday.

B. Change the following definitions in Section 202 of the IBC to read:

Building. A combination of materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Building" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.

For application of this code, each portion of a building that is completely separated from other portions by fire walls complying with Section ~~705~~ 706 shall be considered as a separate building (see ~~IBC~~ Section 503.1).

~~**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 other end.~~

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.

Registered Design Professional (RDP). An architect or professional engineer, licensed to practice architecture or engineering, as defined under § 54.1-400 of the Code of Virginia.

Structure. An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the

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context clearly requires a different meaning. "Structure" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.

C. Delete the following definitions from Section 202 of the IBC:

Agricultural building.

Existing building structure.

13VAC5-63-210. Chapter 3 Use and occupancy classification.

A. Change exception ~~45~~ 13 of Section 307.1 of the IBC to read:

~~45~~ 13. The storage of black powder, smokeless propellant and small arms primers in Groups M, R-3 and R-5 and special industrial explosive devices in Groups B, F, M and S, provided such storage conforms to the quantity limits and requirements prescribed in the International Fire Code, as amended in Section 307.9.

B. Add Section 307.9 to the IBC to read:

307.9 Amendments. The following changes shall be made to the International Fire Code for the use of Exception ~~45~~ 13 in Section 307.1:

1. Change Section 314.1 of the IFC to read as follows:

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

2. Add new Section 314.5 to the IFC to read as follows:

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

1. The amount of smokeless powder each vender may store is limited to the storage arrangements and storage amounts established in Section 3306.5.2.1.

2. Smokeless powder shall remain in the manufacturer's original sealed container and the container shall remain sealed while inside the building. The repackaging of smokeless powder shall not be performed inside the building. Damaged containers shall not be repackaged inside the building and shall be immediately removed from the building in such manner to avoid spilling any powder.

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

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

3. Change Exception 4 and add Exceptions 10 and 11 to Section 3301.1 of the IFC as follows:

4. The possession, storage and use of not more than 15 pounds (6.75 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and any amount of small arms primers for hand loading of small arms ammunition for personal consumption.

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

11. The possession, storage and use of not more than 50 pounds (23 kg) of commercially manufactured sporting black powder, 100 pounds (45 kg) of smokeless powder, and small arms primers for hand loading of small arms ammunition for personal consumption in Group R-3 or R-5, or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5.

4. Change the definition of Smokeless Propellants in Section 3302.1 of the IFC as follows:

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

5. Change Section 3306.4 of the IFC to read as follows:

3306.4 Storage in residences. Propellants for personal use in quantities not exceeding 50 pounds (23 kg) of black powder or 100 pounds (45 kg) of smokeless powder shall be stored in original containers in occupancies limited to Group R-3 and R-5 or 200 pounds (91 kg) of smokeless powder when stored in the manufacturer's original containers in detached Group U structures at least 10 feet (3048 mm) from inhabited buildings and are accessory to Group R-3 or R-5. In other than Group R-3 or R-5, smokeless powder in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) shall be kept in a wooden box or cabinet having walls of at least one inch (25 mm) nominal thickness or equivalent.

6. Delete Sections 3306.4.1 and 3306.4.2 of the IFC.

7. Change Section 3306.5.1.1 of the IFC to read as follows:

3306.5.1.1 Smokeless propellant. No more than 100 pounds (45 kg) of smokeless propellants in containers of

eight pounds (3.6 kg) or less capacity shall be displayed in Group M occupancies.

8. Delete Section 3306.5.1.3 of the IFC.

9. Change Section 3306.5.2.1 of the IFC as follows:

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

1. Quantities exceeding 20 pounds (9 kg), but not exceeding 100 pounds (45 kg) shall be stored in portable wooden boxes having walls of at least one inch (25 mm) nominal thickness or equivalent.

2. Quantities exceeding 100 pounds (45 kg), but not exceeding 800 pounds (363 kg), shall be stored in storage cabinets having walls at least one inch (25 mm) nominal thickness or equivalent. Not more than 400 pounds (182 kg) shall be stored in any one cabinet, and cabinets shall be separated by a distance of at least 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of at least one hour.

3. Storage of quantities exceeding 800 pounds (363 kg), but not exceeding 5,000 pounds (2270 kg) in a building shall comply with all of the following:

3.1. The storage is inaccessible to unauthorized personnel.

3.2. Smokeless propellant shall be stored in nonportable storage cabinets having wood walls at least one inch (25 mm) nominal thickness or equivalent and having shelves with no more than 3 feet (914 mm) of vertical separation between shelves.

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

3.4. Cabinets shall be located against walls with at least 40 feet (12 192 mm) between cabinets. The minimum required separation between cabinets may be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades must extend a minimum of 10 feet (3048 mm) outward, be firmly attached to the wall, and be constructed of steel not less than 0.25 inch thick (6.4 mm), 2-inch (51 mm) nominal thickness wood, brick, or concrete block.

3.5. Smokeless propellant shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids, or oxidizing materials by a distance of 25 feet (7620 mm) or by a fire partition having a fire-resistance rating of 1 hour.

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

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

~~D. C.~~ Change Section 308.5.2 of the IBC to read:

308.5.2 Child care facility. A facility other than family day homes under Section 310.4 that provides supervision and personal care on less than a 24-hour basis for more than five children 2-1/2 years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than five but no more than 100 children 2-1/2 years or less of age, ~~when~~ where the rooms ~~where such~~ in which the children are cared for are located on ~~the~~ a level of exit discharge servicing such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

~~E. D.~~ Change occupancy classifications "R-1" and "R-4" and add new occupancy classification "R-5" to Section 310 of the IBC to read:

R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

Boarding houses (transient)

Hotels (transient)

Motels (transient)

Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3.

Exceptions:

1. Nonproprietor occupied bed and breakfast and other transient boarding facilities not more than three stories above grade plane in height with a maximum of 10 occupants total are permitted to be classified as either Group R-3 or Group R-5 provided that smoke alarms are installed in compliance with Section 907.2.10.1.2 for Group R-3 or Section 313.1 of the International Residential Code for Group R-5.

2. Proprietor occupied bed and breakfast and other transient boarding facilities not more than three stories above grade plane in height, that are also occupied as the residence of the proprietor, with a maximum of five guest room sleeping units provided for the transient occupants are permitted to be classified as either Group R-3 or R-5 provided that smoke alarms are installed in compliance with Section 907.2.10.1.2 for Group R-3 or Section 313.1 of the International Residential Code for Group R-5.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living

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facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code, or shall comply with the ~~International Residential Code with the additional requirement to provide~~ IRC provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.7.

Exception: Group homes licensed by the Virginia Department of ~~Mental Health, Mental Retardation and Substance Abuse~~ Behavioral Health and Developmental Services or the Virginia Department of Social Services that house no more than eight persons with one or more resident counselors shall be classified as Group R-2, R-3, R-4 or R-5. Not more than five of the persons may require physical assistance from staff to respond to an emergency situation.

R-5 Residential occupancies in detached one- and two-family dwellings, townhouses and accessory structures within the scope of the International Residential Code, also referred to as the "IRC."

~~F.~~ E. Add Section 310.3 to the IBC to read:

310.3 Group R-5. The construction of Group R-5 structures shall comply with the IRC. The amendments to the IRC set out in Section 310.6 shall be made to the IRC for its use as part of this code. In addition, all references to Section 101.2 in the IBC relating to the construction of such structures subject to the IRC shall be considered to be references to this section.

~~G.~~ F. Add Section 310.3.1 to the IBC to read:

310.3.1 Additional requirements. Methods of construction, materials, systems, equipment or components for Group R-5 structures not addressed by prescriptive or performance provisions of the IRC shall comply with applicable IBC requirements.

~~H.~~ G. Add Section 310.4 to the IBC to read:

310.4 Family day homes. Family day homes where program oversight is provided by the Virginia Department of Social Services shall be classified as Group R-2, R-3 or R-5.

Note: Family day homes may generally care for up to 12 children. See the DHCD Related Laws Package for additional information.

~~I.~~ H. Add Section 310.5 to the IBC to read:

310.5 Radon-resistant construction in Group R-3 and R-4 structures. Group R-3 and R-4 structures shall be subject to the radon-resistant construction requirements in Appendix

F in localities enforcing such requirements pursuant to Section R325 of the IRC.

~~J.~~ I. Add Section 310.6 to the IBC to read:

310.6 Amendments to the IRC. The following changes shall be made to the IRC for its use as part of this code:

~~1.~~ Add the following definitions to Section R202 to read:

~~Air impermeable insulation. An insulation having an air permeance equal to or less than 0.02 L/s-m² at 75 Pa pressure differential tested according to ASTM E2178 or E283.~~

~~Subsoil drain. A drain that collects subsurface water or seepage water and conveys such water to a place of disposal.~~

~~2.~~ Change the definition of "Story above grade" in Section R202 to read:

~~Story above grade. Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement meets any one of the following:~~

~~1. Is more than 6 feet (1829 mm) above the grade plane.~~

~~2. Is more than 6 feet (1829 mm) above the finished ground level for more than 50% of the total building perimeter.~~

~~3. Is more than 12 feet (3658 mm) above the finished ground level at any point.~~

~~3.~~ 1. Change Section R301.2.1 to read:

R301.2.1 Wind limitations. Buildings and portions thereof shall be limited by wind speed, as defined in Figure R301.2(1), and construction methods in accordance with this code. Basic wind speeds shall be determined from Table R301.2(4). Where different construction methods and structural materials are used for various portions of a building, the applicable requirements of this section for each portion shall apply. Where loads for wall coverings, curtain walls, roof coverings, exterior windows, skylights, garage doors and exterior doors are not otherwise specified, the loads listed in Table R301.2(2) adjusted for height and exposure using Table R301.2(3) shall be used to determine design load performance requirements for wall coverings, curtain walls, roof coverings, exterior windows, skylights, garage doors and exterior doors. Asphalt shingles shall be designed for wind speeds in accordance with Section R905.2.6. Wind speeds for localities in special wind regions, near mountainous terrain, and near gorges shall be based on elevation. Areas at 4,000 feet in elevation or higher shall use 110 V mph (48.4 m/s) and areas under 4,000 feet in elevation shall use 90 V mph

(39.6 m/s). Gorge areas shall be based on the highest recorded speed per locality or in accordance with local jurisdiction requirements determined in accordance with Section 6.5.4 of ASCE 7.

4. 2. Change Section R301.2.1.1 to read:

R301.2.1.1 Design criteria. Construction in regions where the basic wind speeds from Figure R301.2(4) equal or exceed 110 miles per hour (49 m/s) shall be designed in accordance with one of the following methods. The elements of design not addressed by those documents in items 1 through 4 shall be in accordance with this code.

1. American Forest and Paper Association (AF&PA) Wood Frame Construction Manual for One- and Two-Family Dwellings (WFCM); or

2. ~~Southern Building Code Congress International Standard for Hurricane Resistant Residential Construction (SSTD-10)~~ International Code Council (ICC) Standards for Residential Construction in High Wind Regions (ICC-600); or

3. Minimum Design Loads for Buildings and Other Structures (ASCE-7); or

4. American Iron and Steel Institute (AISI), Standard for Cold-Formed Steel Framing-Prescriptive Method for One- and Two-Family Dwellings (COFS/PM) ~~with Supplement to Standard for Cold-Formed Steel Framing-Prescriptive Method for One and Two Family Dwellings (AISI S230).~~

5. Concrete construction shall be designed in accordance with the provisions of this code.

6. Structural insulated panel (SIP) walls shall be designed in accordance with the provisions of this code.

5. Change Table R301.7 to read:

Table R301.7 Allowable Deflection of Structural Members ^{a,b,c,d}	
Structural Member	Allowable Deflection
Rafters having slopes greater than 3/12 with no finished ceiling attached to rafters	L/180
Interior walls and partitions	H/180
Floors and plastered ceilings	L/360
All other structural members	L/240
Exterior walls with plaster or stucco finish	H/360

Exterior walls – wind loads ^a with brittle finishes	H/240
Exterior walls – wind loads ^a with flexible finishes	H/120 ^d
Veneer masonry walls	L/600

Note: L = span length, H = span height.

^aThe wind load shall be permitted to be taken as 0.7 times the Component and Cladding loads for the purpose of determining deflection limits herein.

^bFor cantilever members, L shall be taken as twice the length of the cantilever.

^cFor aluminum structural members or panels used in roofs or walls of sunroom additions or patio covers, not supporting edge of glass or sandwich panels, the total load deflection shall not exceed L/60. For sandwich panels used in roofs or walls of sunroom additions or patio covers, the total load deflection shall not exceed L/120.

^dDeflection for exterior walls with interior gypsum board finish shall be limited to an allowable deflection of H/180.

6. Change Section R302.1 to read:

~~R302.1 Exterior walls. Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1.~~

Exceptions:

1. Walls, projections, openings or penetrations in walls perpendicular to the line use to determine the fire separation distance.

2. Walls of dwellings and accessory structures located on the same lot.

3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.

4. Detached garages accessory to a dwelling located within two feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding four inches (102 mm).

5. Foundation vents installed in compliance with this code are permitted.

3. Change the exception in Section R302.2 to require a common two-hour fire-resistance-rated wall instead of a one-hour fire-resistance-rated wall.

4. Add the following sentence to the end of Section R302.3 to read:

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Dwelling unit separation wall assemblies that are constructed on a lot line shall be constructed as required in Section R302.2 for townhouses.

7- 5. Add an exception to Section R303.8 to read:

Exception: Seasonal structures not used as a primary residence for more than 90 days per year, unless rented, leased or let on terms expressed or implied to furnish heat, shall not be required to comply with this section.

8- 6. Add Section R303.8.1 to read:

R303.8.1 Nonowner occupied required heating. Every dwelling unit or portion thereof which is to be rented, leased or let on terms either expressed or implied to furnish heat to the occupants thereof shall be provided with facilities in accordance with Section R303.8 during the period from October 15 to May 1.

9- 7. Add Section R303.9 to read:

R303.9 Insect screens. Every door, window and other outside opening required for ventilation purposes shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device.

10- 8. Add Section R306.5 to read:

R306.5 Water supply sources and sewage disposal systems. The water and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public or private water supply and a public or private sewer system. As provided for in Section 103.11 for functional design, water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health and the Virginia Department of Environmental Quality.

Note: See also the Memorandums of Agreement in the "Related Laws Package," which is available from the Virginia Department of Housing and Community Development.

11- 9. Change Section R310.1 to read:

R310.1 Emergency escape and rescue required. Basements and each sleeping room designated on the construction documents shall have at least one openable emergency escape and rescue opening. Such opening shall be directly to the exterior of the building or to a deck, screen porch or egress court, all of which shall provide access to a public street, public alley or yard. Where emergency escape and rescue openings are provided, they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead

enclosure shall comply with Section R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside, except that tilt-out or removable sash designed windows shall be permitted to be used. Emergency escape and rescue openings with a finished height below the adjacent ground elevation shall be provided with a window well in accordance with Section R310.2.

Exceptions:

1. Dwelling units equipped throughout with an approved automatic sprinkler system installed in accordance with NFPA 13, 13R or 13D.
2. Basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m²).

12- 10. Change Section R310.1.1 to read:

R310.1.1 Minimum opening area. All emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.530 m²), including the tilting or removal of the sash as the normal operation to comply with sections R310.1.2 and R310.1.3.

Exception: Grade floor openings shall have a minimum net clear opening of 5 square feet (0.465 m²).

13- 11. Change Section ~~R311.5.3.1~~ R311.7.4.1 to read:

~~R311.5.3.1~~ R311.7.4.1 Riser height. The maximum riser height shall be 8-1/4 inches (210 mm). The riser shall be measured vertically between the leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

14- 12. Change Section ~~R311.5.3.2~~ R311.7.4.2 to read:

~~R311.5.3.2~~ R311.7.4.2 Tread depth. The minimum tread depth shall be 9 inches (229 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Consistently shaped winders at the walkline shall be allowed within the same flight of stairs as rectangular treads and do not have to be within 3/8 inch (9.5 mm) of the rectangular tread depth. Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured ~~as above at a point 12 inches (305 mm) from the side where the treads are narrower~~ between the vertical planes of the foremost projection of adjacent treads at the intersection with the walkline. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point within the clear width of the stair. Within any flight of stairs, the ~~greatest~~ largest

winder tread depth at the ~~12-inch (305 mm) walk line walkline~~ shall not exceed the smallest winder tread by more than 3/8 inch (9.5 mm).

15- 13. Change Section ~~R311.5.5~~ R311.7.6 to read:

~~R311.5.5~~ R311.7.6 Stairway walking surface. The walking surface of treads and landings of stairways shall be level or sloped no steeper than one unit vertical in 48 inches horizontal (two-percent slope).

16- ~~Change Section R317.1 to read:~~

~~R317.1 Two family dwellings. Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than a 1-hour fire resistance rating when tested in accordance with ASTM E119. Fire resistance rated floor ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to and be tight against the underside of the roof sheathing. Dwelling unit separation wall assemblies, which are constructed on a lot line, shall be constructed as required in Section R317.1 for townhouses.~~

Exceptions:

~~1. A fire resistance rating of 1/2-hour shall be permitted in buildings located entirely on the same lot and equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13.~~

~~2. For two family dwellings located on the same lot, wall assemblies need not extend through attic spaces when the ceiling is protected by not less than 5/8 inch (15.9 mm) Type X gypsum board and an attic draft stop constructed as specified in Section R502.12.1 is provided above and along the wall assembly separating the dwellings. The structural framing supporting the ceiling shall also be protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent.~~

14. Replace Section R313 with the following:

Section R313.

Automatic Fire Sprinkler Systems.

R313.1 Townhouse automatic fire sprinkler systems. Notwithstanding the requirements of Section 103.8, where installed, an automatic residential fire sprinkler system for townhouses shall be designed and installed in accordance with NFPA 13D or Section P2904.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.2 One- and two-family dwellings automatic fire sprinkler systems. Notwithstanding the requirements of Section 103.8, where installed, an automatic residential

fire sprinkler system shall be designed and installed in accordance with NFPA 13D or Section P2904.

Exception: An automatic residential fire sprinkler system shall not be required for additions or alterations to existing buildings that are not already provided with an automatic residential fire sprinkler system.

17- 15. Add Section ~~R325~~ R324 Radon-Resistant Construction.

18- 16. Add Section ~~R325.1~~ R324.1 to read:

~~R325.1~~ R324.1 Local enforcement of radon requirements. Following official action under Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 of the Code of Virginia by a locality in areas of high radon potential, as indicated by Zone 1 on the U.S. EPA Map of Radon Zones (IRC Figure AF101), such locality shall enforce the provisions contained in Appendix F.

Exemption: Buildings or portions thereof with crawl space foundations which are ventilated to the exterior, shall not be required to provide radon-resistant construction.

19- 17. Add Section ~~R326~~ R325 Swimming Pools, Spas and Hot Tubs.

20- 18. Add Section ~~R326.1~~ R325.1 to read:

~~R326.1~~ R325.1 Use of Appendix G for swimming pools, spas and hot tubs. In addition to other applicable provisions of this code, swimming pools, spas and hot tubs shall comply with the provisions in Appendix G.

21- 19. Add Section ~~R327~~ R326 Patio Covers.

22- 20. Add Section ~~R327.1~~ R326.1 to read:

~~R327.1~~ R326.1 Use of Appendix H for patio covers. Patio covers shall comply with the provisions in Appendix H.

23- 21. Add Section ~~R328~~ R327 Sound Transmission.

24- 22. Add Section ~~R328.1~~ R327.1 to read:

~~R328.1~~ R327.1 Sound transmission between dwelling units. Construction assemblies separating dwelling units shall provide airborne sound insulation as required in Appendix K.

25- 23. Add Section ~~R328.2~~ R327.2 to read:

~~R328.2~~ R327.2 Airport noise attenuation. This section applies to the construction of the exterior envelope of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means or egress within airport noise zones when enforced by a locality pursuant to § 15.2-2295 of the Code of Virginia. The exterior

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envelope of such structures shall comply with Section 1207.4 of the state amendments to the IBC.

26. ~~Change Section R401.4 to read:~~

~~R401.4 Soil tests. Where quantifiable data created by sound soil science methodologies indicate expansive, compressible, shifting or unknown soil characteristics are likely to be present, the building official shall determine whether to require a soil test to determine the soil's characteristics at a particular location. This test shall be made by an approved agency using an approved method.~~

27. ~~24.~~ Change Section R403.1 to read:

R403.1 General. All exterior walls shall be supported on continuous solid or fully grouted masonry or concrete footings, wood foundations, or other approved structural systems which shall be of sufficient design to accommodate all loads according to Section R301 and to transmit the resulting loads to the soil within the limitations as determined from the character of the soil. Footings shall be supported on undisturbed natural soils or engineered fill.

Exception: One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, not exceeding 256 square feet (23.7824 m²) of building area, provided all of the following conditions are met:

1. The building eave height is 10 feet or less.
2. The maximum height from the finished floor level to grade does not exceed 18 inches.
3. The supporting structural elements in direct contact with the ground shall be placed level on firm soil and when such elements are wood they shall be approved pressure preservative treated suitable for ground contact use.
4. The structure is anchored to withstand wind loads as required by this code.
5. The structure shall be of light-frame construction whose vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gauge steel framing members, with walls and roof of light weight material, not slate, tile, brick or masonry.

28. ~~Change Section R404.1 to read as follows and delete Tables R404.1(1), R404.1(2) and R404.1(3):~~

~~R404.1 Concrete and masonry foundation walls. Concrete and masonry foundation walls shall be selected and constructed in accordance with the provisions of Section R404 or in accordance with ACI 318, ACI 332,~~

32. ~~Add Table R502.2.2.1 to read:~~

~~NCMA TR68 A or ACI 530/ASCE 5/TMS 402 or other approved structural standards.~~

29. ~~Change Section R408.1 to read:~~

~~R408.1 Ventilation. The under floor space between the bottom of the floor joists and the earth under any building (except space occupied by a basement) shall have ventilation openings through foundation walls or exterior walls. The minimum net area of ventilation openings shall not be less than one square foot (0.0929 m²) for each 150 square feet (14 m²) of under floor space area. One such ventilating opening shall be within three feet (914 mm) of each corner of the building.~~

~~Exception: When the exposed earth is covered with a continuous vapor barrier, the minimum net area of ventilation openings shall be not less than one square foot (0.0929 m²) for each 1,500 square feet (139 m²) of under floor space area. Joints of the vapor retarder shall overlap by six inches (152 mm).~~

30. ~~Change Section R408.2 to read:~~

~~R408.2 Openings for under floor ventilation. Ventilation openings shall be covered for their height and width with any of the following materials provided that the least dimension of the covering shall not exceed 1/4 inch (6.4 mm):~~

1. ~~Perforated sheet metal plates not less than 0.070 inch (1.8 mm) thick.~~
2. ~~Expanded sheet metal plates not less than 0.047 inch (1.2 mm) thick.~~
3. ~~Cast iron grill or grating.~~
4. ~~Extruded load bearing brick vents.~~
5. ~~Hardware cloth of 0.035 inch (0.89 mm) wire or heavier.~~
6. ~~Corrosion resistant wire mesh, with the least dimension being 1/8 inch (3.2 mm).~~

31. ~~Add Section R502.2.2.1 to read:~~

~~R502.2.2.1 Deck ledger connection to band joist. For residential applications and a total design load of 50 psf, the connection between a pressure preservative treated southern pine (or approved decay resistant species) deck ledger and a two-inch nominal band joist bearing on a sill plate or wall plate shall be constructed with 1/2-inch lag screws or bolts with washers per Table R502.2.2.1.~~

Table R502.2.2.1

Fastener Spacing for a Residential Southern Pine Deck Ledger and a 2-inch Nominal Solid Sawn Band Joist (50-psf total load)^e

Joist Span (ft)	6' and less	6'-1" to 8'	8'-1" to 10'	10'-1" to 12'	12'-1" to 14'	14'-1" to 16'	16'-1" to 18'
	On-Center Spacing of Fasteners ^{d,e}						
1/2" x 4" Lag Screw ^{a,b}	30	23	18	15	13	11	10
1/2" Bolt with washers	36	36	34	29	24	21	19

^aThe maximum gap between the face of the ledger board and face of the house band joist shall be 1/2 inch.

^bThe tip of the lag screw shall fully extend beyond the inside face of the band joist.

^cLedgers shall be flashed to prevent water from contacting the house band joist.

^dLag screws and bolts shall be staggered as set out in Section R502.2.2.1.1.

^eDeck ledger shall be 2x8 PPT No. 2 Southern Pine (minimum) or other approved method and material as established by standard engineering practice.

33. Add Section R502.2.2.1.1 to read:

~~R502.2.2.1.1 Placement of lag screws or bolts in residential deck ledgers. The lag screws or bolts shall be placed two inches in from the bottom or top of the deck ledgers and two inches in from the ends. The lag screws or bolts shall be staggered from the top to the bottom along the horizontal run of the deck ledger.~~

34. ~~25.~~ Change Section R506.2.1 to read:

R506.2.1 Fill. Fill material shall be free of vegetation and foreign material and shall be natural nonorganic material that is not susceptible to swelling when exposed to moisture. The fill shall be compacted to assure uniform support of the slab, and except where approved, the fill depth shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth.

Exception: Material other than natural material may be used as fill material when accompanied by a certification from an RDP and approved by the building official.

35. ~~26.~~ Change Section R506.2.2 to read:

R506.2.2 Base. A 4-inch-thick (102 mm) base course consisting of clean graded sand, gravel or crushed stone passing a 2-inch (51 mm) sieve shall be placed on the prepared subgrade when the slab is below grade.

Exception: A base course is not required when the concrete slab is installed on well drained or sand-gravel mixture soils classified as Group I according to the United Soil Classification System in accordance with Table R405.1. Material other than natural material may be used as base course material when accompanied by a

certification from an RDP and approved by the building official.

36. ~~27.~~ Replace Section R602.10, including all subsections, with the following:

R602.10 Wall bracing. The use of this section is subject to the following clarification of cross-references:

1. In Sections R301.2.2.1.1 and R301.2.2.4.1, delete the references to Table R602.10.1.
2. In Section R301.3, delete the exception to Item 1.
3. References to Table R602.10.1 in all other provisions of the IRC except those in Items 1 and 2 above shall be references to Table R602.10.1.5 of this section.
4. In Section R403.1.6, delete the sentence that reads, "In Seismic Design Categories D₀, D₁ and D₂, anchor bolts shall be spaced at 6 feet (1829 mm) on center and located within 12 inches (304 mm) of the ends of each plate section at interior braced wall lines when required by Section R602.10.9 to be supported on a continuous foundation." In addition, all references to Figure R602.10.5 in Section R403.1.6 shall be references to Figure R602.10.3.3(1) of this section.
5. Change the reference in Section R502.2.1 from Section R602.10.8 to Section R602.10.5 of this section.

All new buildings, additions and conversions shall be braced in accordance with this section. Where a building, or portion thereof, does not comply with one or more of the bracing requirements in this section, those portions shall be designed and constructed in accordance with the International Building Code. For structures in areas

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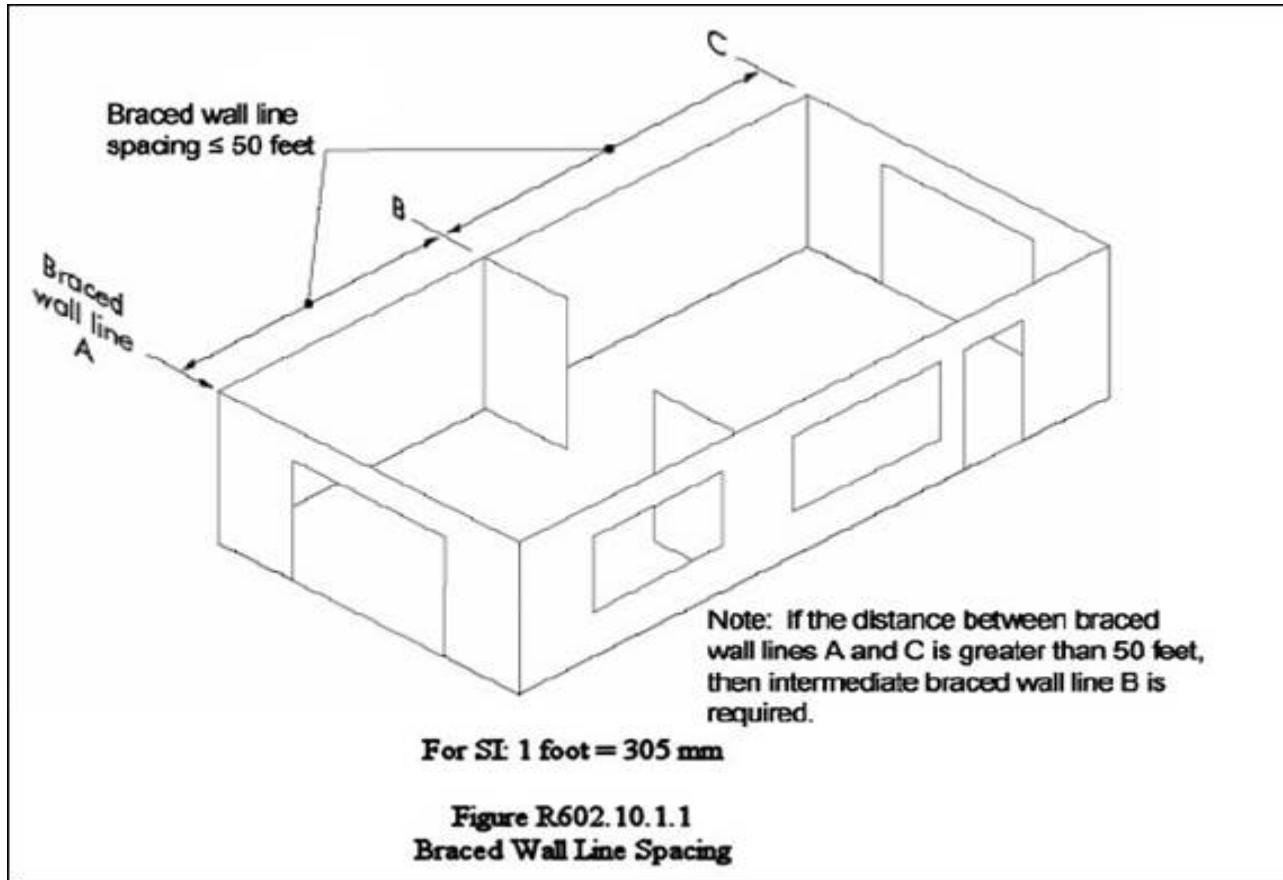
where the wind speed from Table R301.2(1) is 110 mph or greater, an engineered design is required.

The building official may require the permit applicant to identify and locate on the construction documents bracing methods utilized.

R602.10.1 Braced wall lines. Braced wall lines shall be straight lines through the building plan at each level provided with braced wall panels to resist lateral load.

The percentage, location and construction of braced wall panels shall be as specified in this section.

R602.10.1.1 Spacing of braced wall lines. In each story, spacing of parallel braced wall lines shall not exceed 50 feet (15 240 mm) as shown in Figure R602.10.1.1. When braced wall lines exceed a spacing of 50 feet (15 240 mm), intermediate braced wall line(s) shall be provided. Each end of a braced wall line shall intersect perpendicularly with other braced wall lines or their projections.



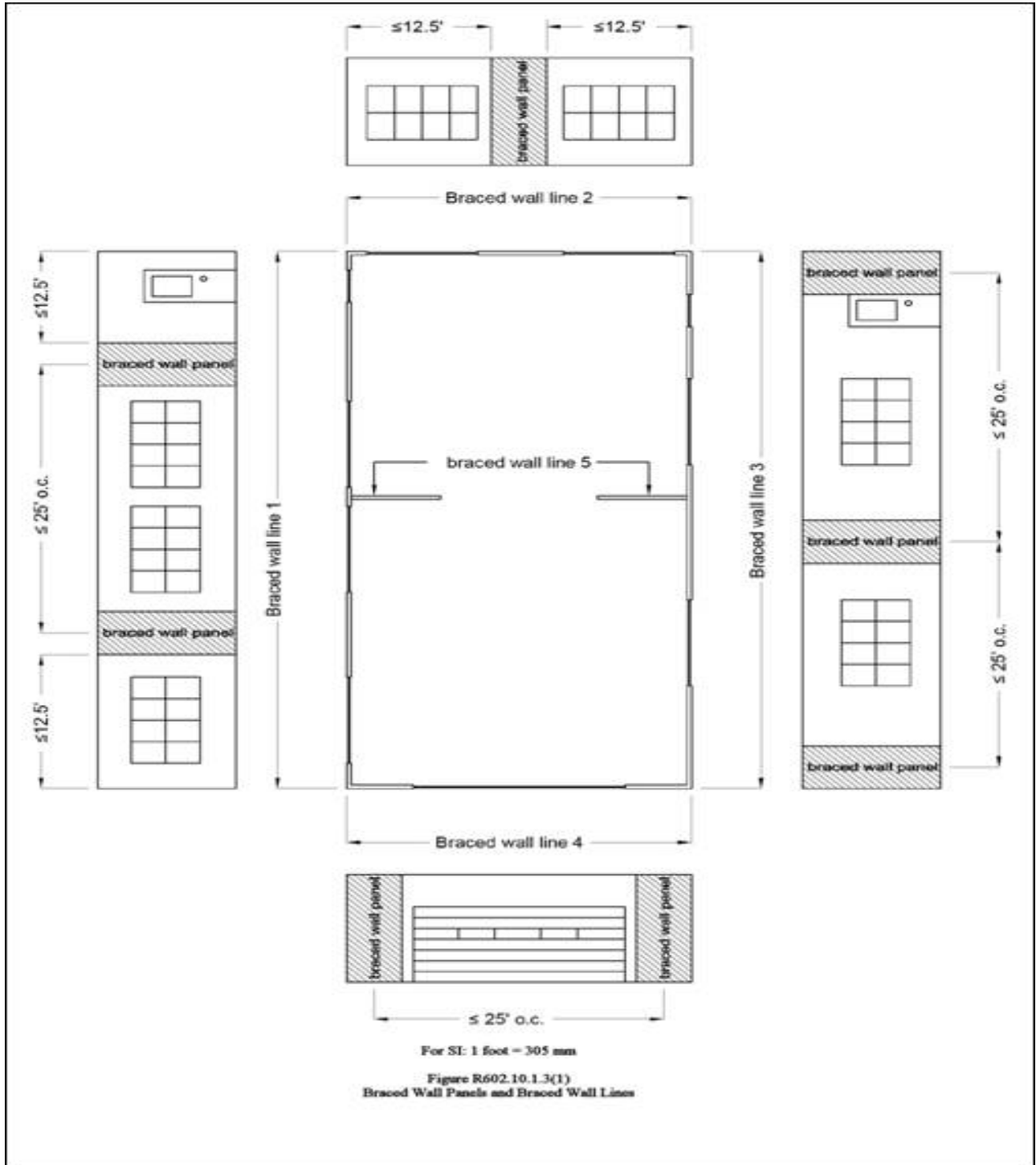
R602.10.1.2 Braced wall panels. Braced wall panels shall be full-height sections of wall constructed along a braced wall line to resist lateral loads in accordance with the intermittent bracing methods specified in Section R602.10.2 or the continuous sheathing methods specified in Section R602.10.3. Mixing of bracing methods shall be permitted as follows:

1. Mixing bracing methods from story to story shall be permitted.
2. Mixing bracing methods from braced wall line to braced wall line within a story shall be permitted, except that continuous sheathing methods shall conform to the additional requirements of Section R602.10.3.
3. Mixing intermittent bracing methods along a braced wall line shall be permitted for single-family dwellings in Seismic Design Categories A, B and C and townhouses in Seismic Design Categories A and B. The required percentage of bracing for the braced wall line with mixed methods shall use the higher bracing percentage, per Table R602.10.1.5, of all methods used.

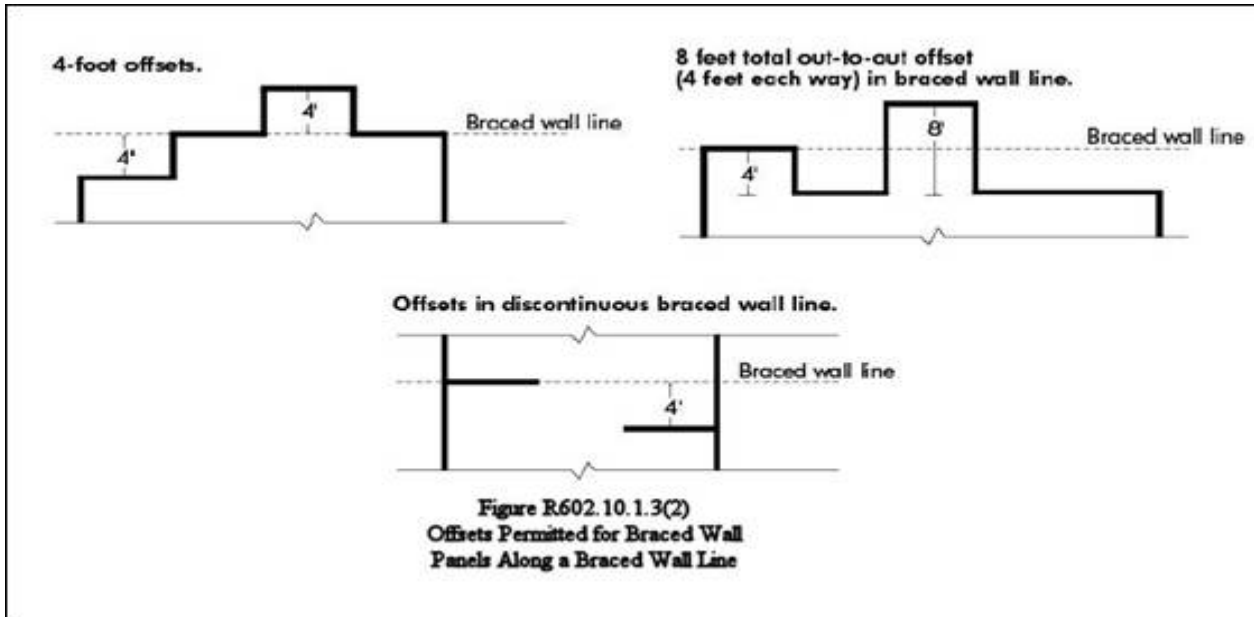
R602.10.1.3 Braced wall panel location. Braced wall panels shall be located at least every 25 feet (7620 mm) on center and shall begin no more than 12.5 feet (3810 mm) from each end of a braced wall line or its projection as shown in Figure

R602.10.1.3(1) and Figure R602.10.4, but not less than the percentages given in Table R602.10.1.5. Braced wall lines with continuous sheathing shall conform to the additional requirements of Section R602.10.3.3.

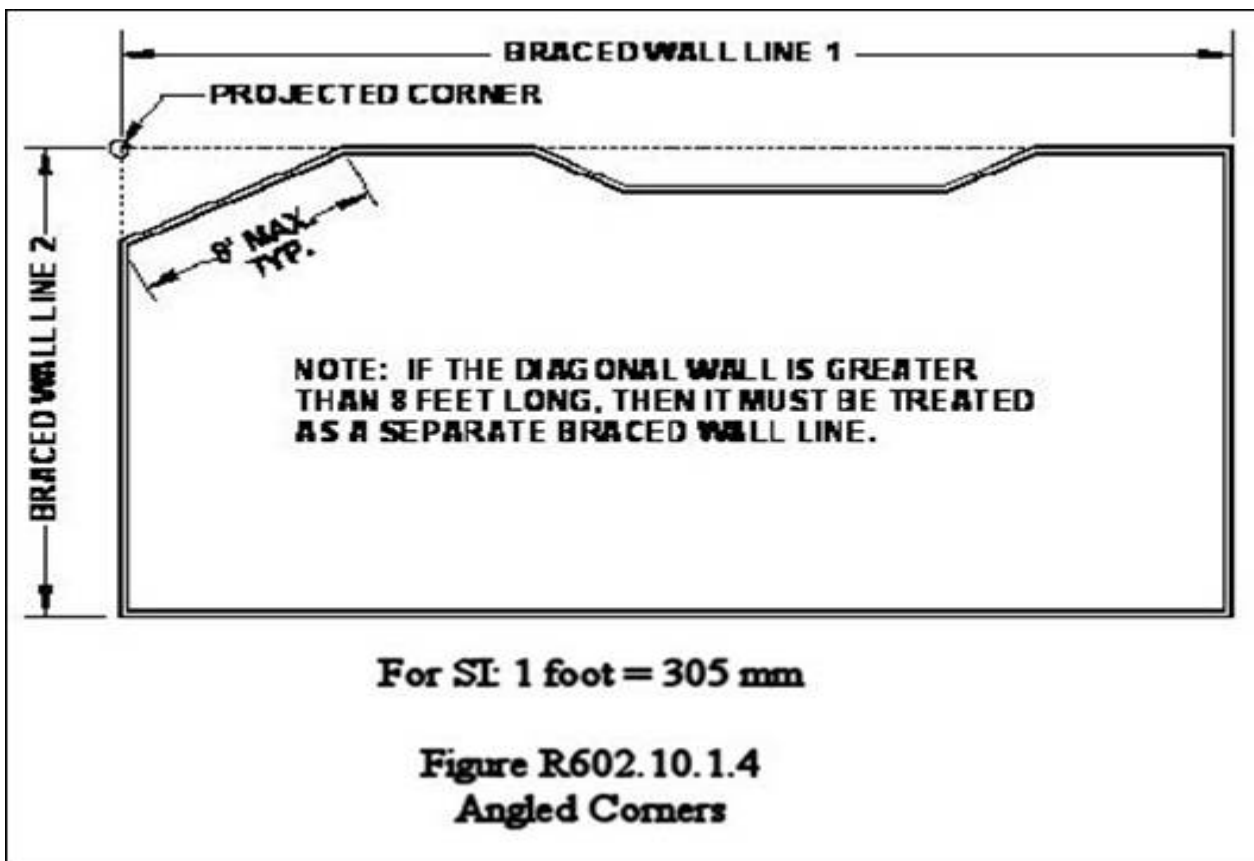
All braced wall panels shall be permitted to be offset out-of-plane from the designated braced wall line up to 4 feet (1219 mm) provided the total out-to-out offset in any braced wall line is not more than 8 feet (2438 mm) as shown in Figure R602.10.1.3(2).





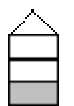
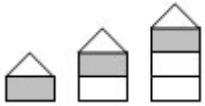
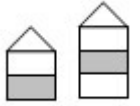
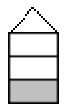
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R602.10.1.4 Angled walls. The walls of a braced wall line shall be permitted to angle out of plane for a maximum diagonal length of 8 feet (2438 mm). Where the angled wall occurs at a corner, the length of the braced wall line shall be measured from the projected corner as shown in Figure R602.10.1.4. Where the diagonal length is greater than 8 feet (2438 mm), it shall be considered its own braced wall line.



R602.10.1.5 Minimum required percentage of bracing. The minimum required percentage of bracing along each braced wall line shall be in accordance with Table R602.10.1.5 and shall be the greater of that required by the Seismic Design Category or the design wind speed.

Table R602.10.1.5 ^{a,b,c} Minimum Required Percentage of Wall Bracing						
Seismic Design Category (SDC) or Wind Speed	Floor		Minimum Required Percentage of Full-height Bracing per Wall Line			
			Braced wall line spacing less than or equal to 35'		Braced wall line spacing greater than 35' and less than or equal to 50'	
			Methods WSP, CS-WSP, CS-G, CS-PF	All other methods ^d	Methods WSP, CS-WSP, CS-G, CS-PF	All other methods ^d
SDC A, B or wind speed ≤100 mph		One-story house or top floor of a two- or three-story house.	16%	16%	23%	23%
		First floor of a two-story or second floor of a three-story house.	16%	25%	23%	36%
		First floor of a three-story house.	25%	35%	36%	50%
SDC C or wind speed <110 mph		One-story house or top floor of a two- or three-story house.	16%	25%	23%	36%
		First floor of a two-story or second floor of a three-story house.	30%	45%	43%	64%
		First floor of a three-story house.	45%	60%	64%	86%

For SI: 1 foot = 305 mm

^aFoundation cripple wall panels shall be braced in accordance with Section R602.10.8.

^bMethods of bracing shall be as described in Sections R602.10.2 and R602.10.3.










^cThe total amount of bracing required for a given braced wall line shall be the product of the minimum required percentage and all the applicable adjustment factors described in Sections R602.10.4, R602.10.7 and R602.10.8.


^dFor Method GB, the percentage required shall be doubled for one-sided applications.

Regulations

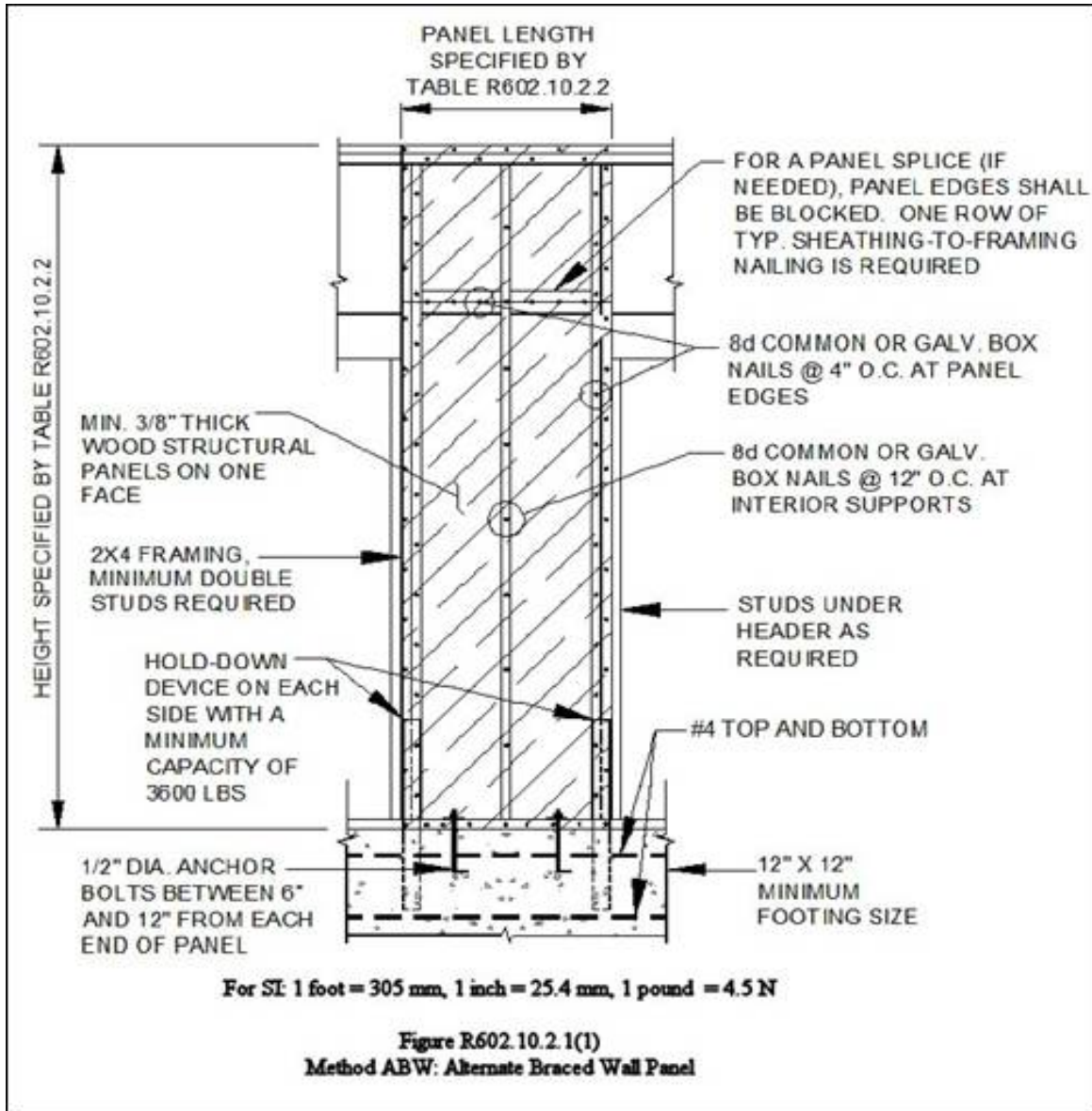
R602.10.2 Intermittent bracing methods. Intermittent braced wall panels shall comply with this section. The location of each panel shall be identified on the construction documents.

R602.10.2.1 Intermittent braced wall panels. Intermittent braced wall panels shall be constructed in accordance with one of the methods listed in Table R602.10.2.1.

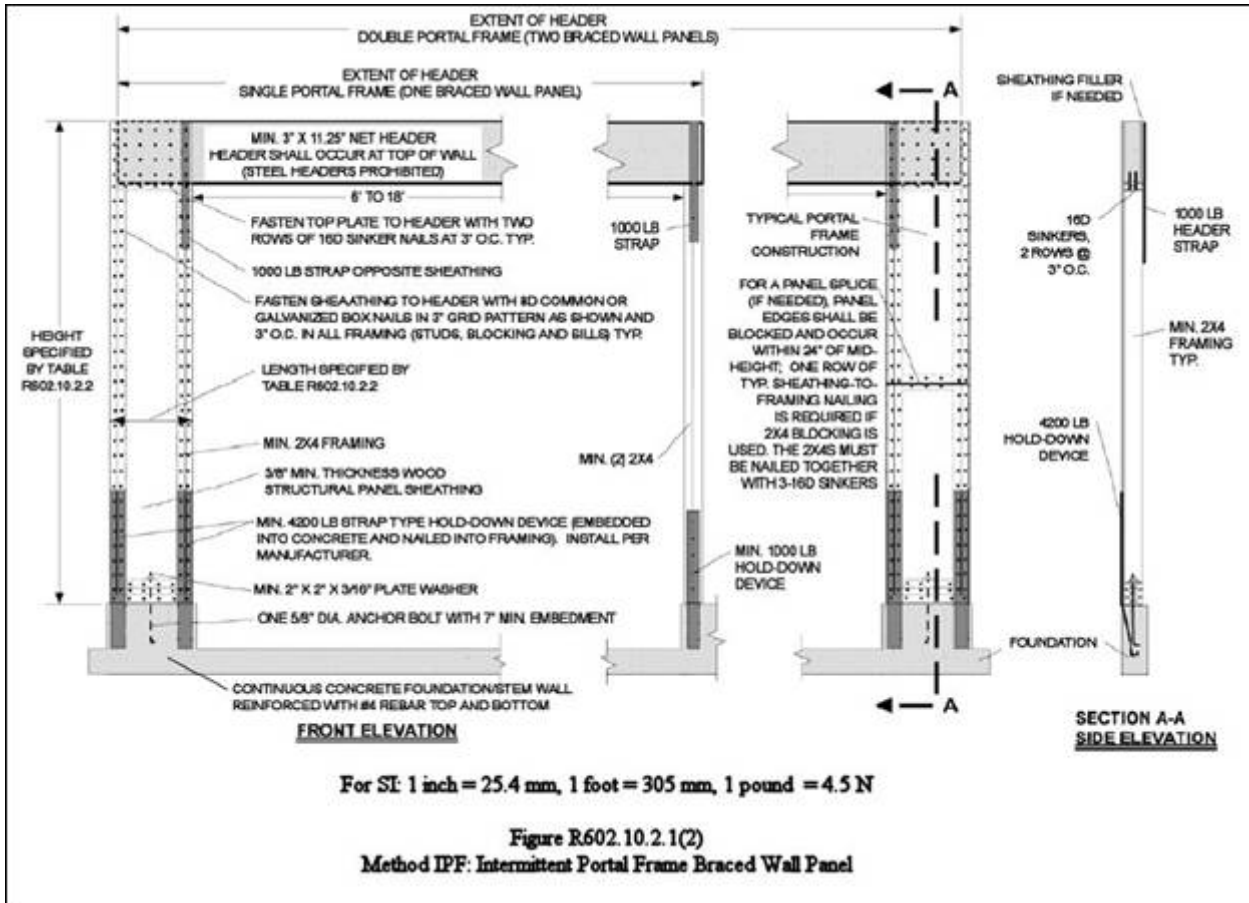
Table R602.10.2.1 Intermittent Bracing Methods				
Method	Material	Minimum Thickness	Figure	Connection Criteria
LIB	Let-in-bracing	1x4 wood or approved metal straps at 45° to 60° angles		Wood: 2-8d nail per stud Metal: per manufacturer
DWB	Diagonal wood board at 24" spacing	5/8"		2-8d (2-1/2" x 0.113") nails or 2 staples, 1-3/4" per stud
WSP	Wood structural panel	3/8"		6d common (2" x 0.113" nails at 6" spacing (panel edges) and at 12" spacing (intermediate supports) or 16 ga. x 1-3/4" staples: at 3" spacing (panel edges) at 6" spacing (intermediate supports)
SFB	Structural fiberboard sheathing	1/2" or 25/32" for 16" stud spacing only		1-1/2" galvanized roofing nails or 8d common (2-1/2" x 0.113") nails at 3" spacing (panel edges) at 6" spacing (intermediate supports)
GB	Gypsum board	1/2"		Nails at 7" spacing at panel edges including top and bottom plates: for exterior sheathing nail size, see Table R602.3(1); for interior gypsum board nail size, see Table R702.3.5
PBS	Particleboard sheathing	3/8" or 1/2" for 16" stud spacing only		1-1/2" galvanized roofing nails or 8d common (2-1/2" x 0.113") nails at 3" spacing (panel edges) at 6" spacing (intermediate supports)
PCP	Portland cement plaster	See Section R703.6		1-1/2", 11 gage, 7/16" head nails at 16" spacing or 7/16", 16 gage staples at 6" spacing
HPS	Hardboard panel siding	7/16"		0.092" dia., 0.225" head nails with length to accommodate 1-1/2" penetration into studs at 4"
ABW	Alternate braced wall	See Figure R602.10.1(1)		See Figure R602.10.1(1)

IPF	Intermittent portal frame	See Figure R602.10.1(2)		See Figure R602.10.1(2)
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For SI: 1 inch = 25.4 mm, 1 foot = 305 mm





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R602.10.2.2 Minimum length of intermittent braced wall panels. The minimum length of each intermittent braced wall panel shall comply with Table R602.10.2.2. For Methods DWB, WSP, SFB, GB, PBS, PCP and HPS, each panel shall cover at least three studs where studs are spaced 16 inches (406 mm) on center or at least two studs where studs are spaced 24 inches (610 mm) on center. Only those full-height braced wall panels complying with the length requirements of Table R602.10.2.2(1) shall be permitted to contribute towards the minimum required percentage of bracing.

Exception: For Methods DWB, WSP, SFB, PBS, PCP and HPS, panel lengths less than the dimensions shown in Table R602.10.2.2 shall be permitted provided the effective lengths in accordance with Table R602.10.2(2) are used in place of actual lengths when determining compliance with the percentage of bracing required by Table R602.10.1.5.

Table R602.10.2.2(1)
 Minimum Length of Intermittent Braced Wall Panels^{a,b}

Bracing Method	Floor		Height of Intermittent Braced Wall Panel				
			8'	9'	10'	11'	12'
DWB, WSP, SFB, GB ^c , PBS, PCP, HPS	All		48"	48"	48"	53"	58"
ABW	All		28"	32"	34"	38"	42"
IPF		One-story house	16"	16"	16"	18"	20"
		First floor of a two-story house	24"	24"	24"	27"	29"

For SI: 1 foot = 305 mm, 1 inch = 25.4 mm

^aInterpolation shall be permitted.

^bWhen determining compliance with the percentage of bracing required by Table R602.10.1.5, the effective length of Method LIB shall be equivalent to 48" (1219 mm) provided it complies with the Table R602.10.2.1.

^cGypsum board applied to both sides of the braced wall panel; where the gypsum board is applied to one side, the required length shall be doubled.

Table R602.10.2(2)
Effective Lengths for Brace Wall Panels When Determining Percentage of Bracing^a

Actual Length of Braced Wall Panel	Wall Height		
	8'	9'	10'
48"	48"	48"	48"
42"	36"	N/A	N/A
36"	27"	N/A	N/A

For SI: 1 inch = 25.4 mm




^aInterpolation is permitted.

R602.10.2.3 Adhesive attachment of sheathing in Seismic Design Category C. Adhesive attachment of wall sheathing shall not be permitted in Seismic Design Category C.

R602.10.3 Continuous sheathing methods. Braced wall lines with continuous sheathing constructed in accordance with this section shall be permitted.

R602.10.3.1 Continuous sheathing braced wall panels. Continuous sheathing methods require structural panel sheathing to be used on all sheathable surfaces of a braced wall line including areas above and below openings and gable end walls. Braced wall panels shall be constructed in accordance with one of the methods listed in Table R602.10.3.1.

Table R602.10.3.1
Continuous Sheathing Methods

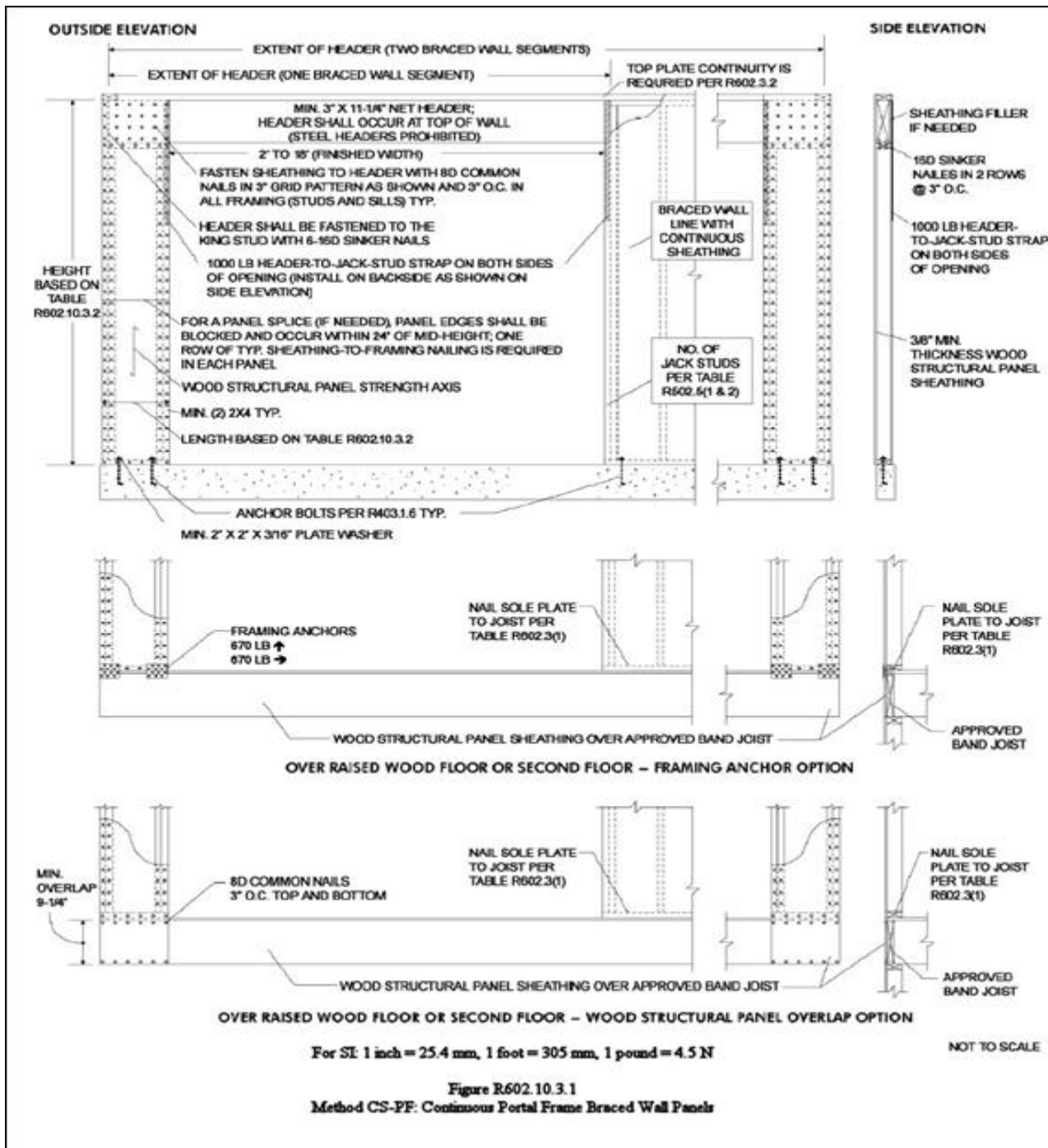
Method	Material	Minimum Thickness	Figure	Connection Criteria
CS-WSP	Wood structural panel	3/8"		6d common (2" x 0.113") nails at 6" spacing (panel edges) and at 12" spacing (intermediate supports) or 16 ga. x 1-3/4" staples: at 3" spacing (panel edges) and 6" spacing (intermediate supports)
CS-G ^a	Wood structural panel supporting roof load only adjacent garage openings	3/8"		See Method CS-WSP
CS-PF ^b	Continuous portal frame	See Figure R602.10.3.1		See Figure R602.10.3.1

For SI: 1 inch = 25.4 mm

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^aApplies to one wall of a garage only.

^bThe number of continuous portal frame panels in a braced wall line shall not exceed four. Continuous portal frame panels shall not be stacked vertically in multi-story buildings.



R602.10.3.2 Length of braced wall panels with continuous sheathing. Braced wall panels along a braced wall line with continuous sheathing shall be full-height with a length based on the adjacent clear opening height in accordance with Table R602.10.3.2. Where a panel has an opening on either side of differing heights, the taller opening shall govern when determining the panel length from Table R602.10.3.2. Only those full-height braced wall panels complying with the length requirements of Table R602.10.3.2 shall be permitted to contribute towards the minimum required percentage of bracing

per Table R602.10.1.5. For Method CS-PF, wall height shall be measured from the top of the header to the bottom of the bottom plate as shown in Figure R602.10.4.3.1.

Table R602.10.3.2
Length Requirements for Braced Wall Panels In a Braced Wall Line with Continuous Sheathing^a

Method	Adjacent Clear Opening Height	Wall Height				
		8'	9'	10'	11'	12'
CS-WSP	64"	24"	27"	30"	33"	36"
	68"	26"	27"	30"	33"	36"
	72"	28"	27"	30"	33"	36"
	76"	29"	30"	30"	33"	36"
	80"	31"	33"	30"	33"	36"
	84"	35"	36"	33"	36"	36"
	88"	39"	39"	36"	38"	36"
	92"	44"	42"	39"	41"	36"
	96"	48"	45"	42"	43"	39"
	100"		48"	45"	47"	42"
	104"		51"	48"	48"	44"
	108"		54"	51"	51"	47"
	112"			54"	53"	50"
	116"			57"	56"	53"
	120"			60"	58"	55"
	124"				61"	58"
	128"				63"	61"
132"				66"	64"	
136"					66"	
140"					69"	
144"					72"	
CS-G	≤120"					36"
CS-PF	≤120"					24"

For SI: 1 inch = 25.4 mm, 1 foot = 305 mm

^aInterpolation is permitted.

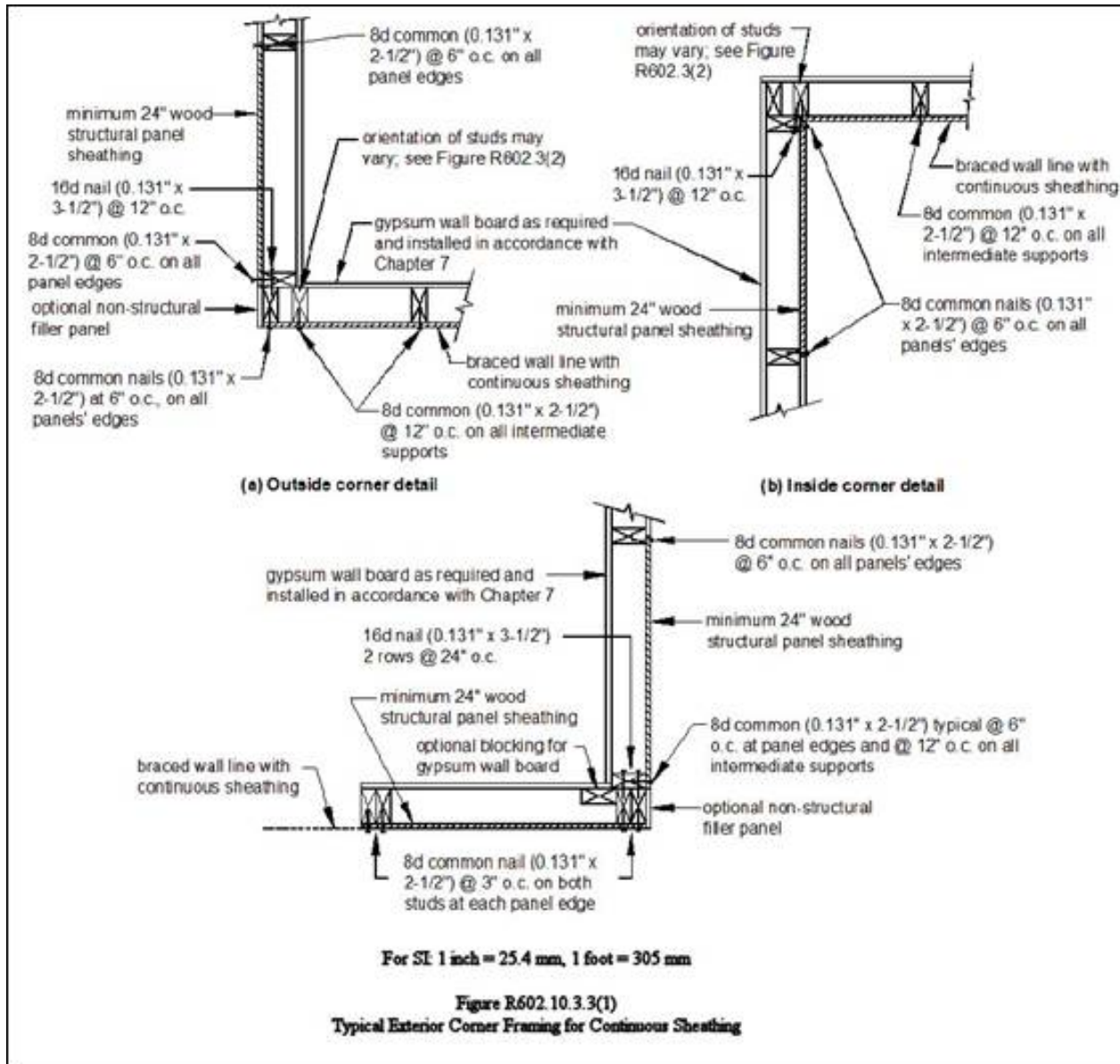
R602.10.3.3 Braced wall panel location and corner construction. Full-height wall panels complying with the length requirements of Table R602.10.3.2 shall be located at each end of a braced wall line with continuous sheathing and at least every 25 feet (7620 mm) on center.

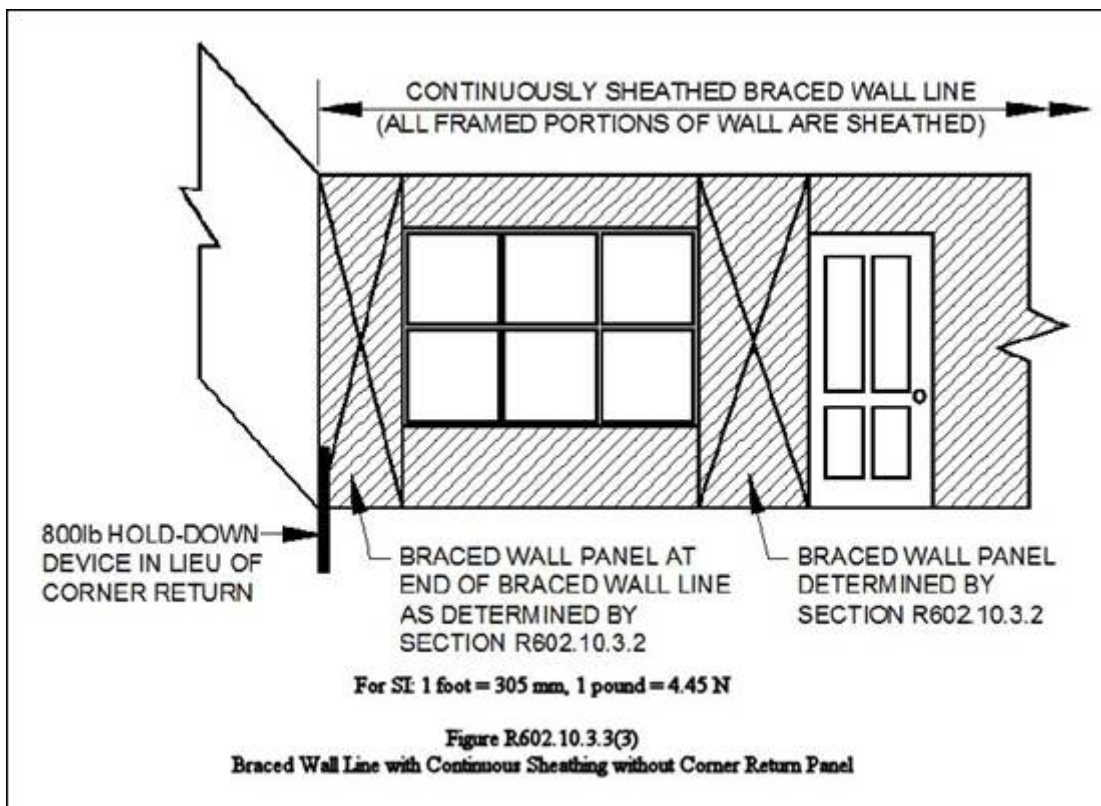
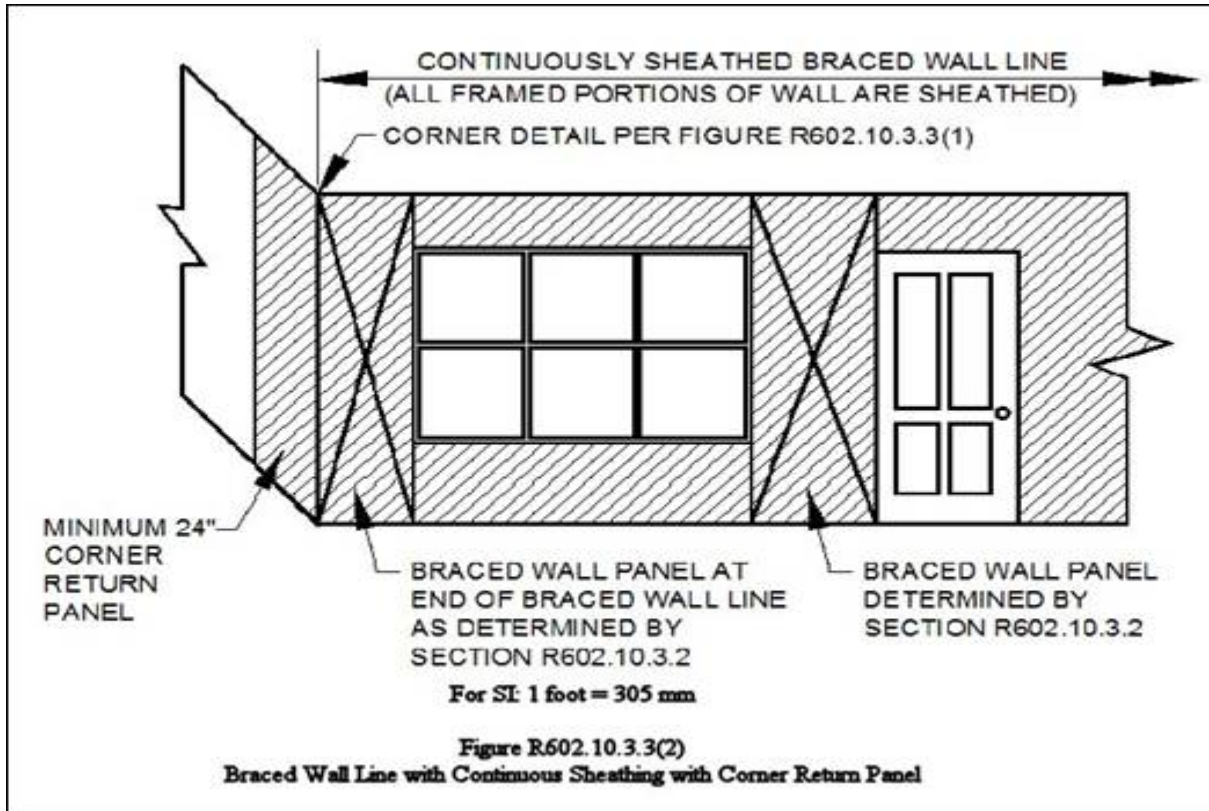
A minimum 24 inch (610 mm) wood structural panel corner return shall be provided at both ends of a braced wall line with continuous sheathing in accordance with Figures R602.10.3.3(1) and R602.10.3.3(2). In lieu of the corner return, a hold-down device with a minimum uplift design value of 800 lb (3560 N) shall be fastened to the corner stud and to the foundation or framing below in accordance with Figure R602.10.3.3(3).

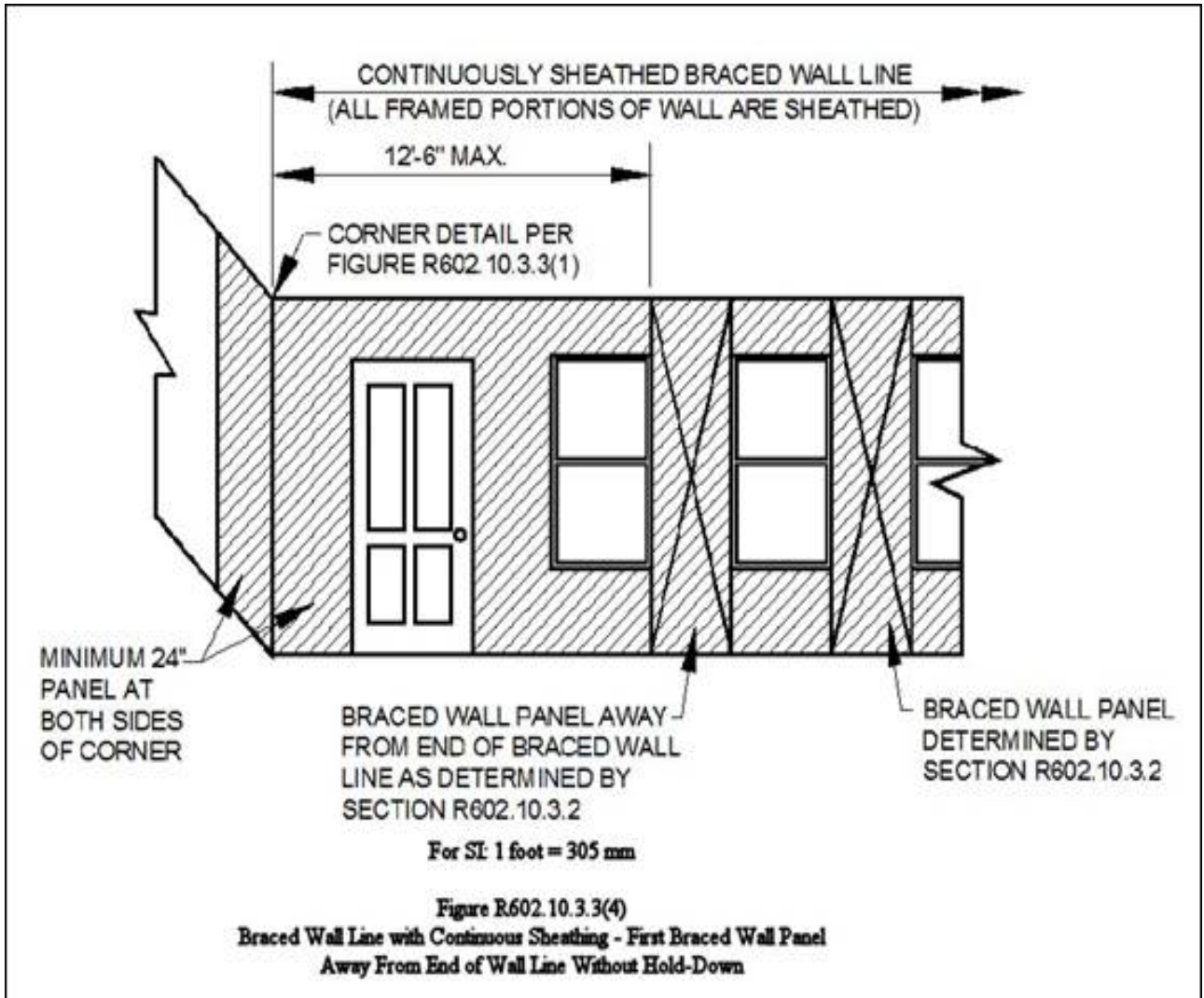
Regulations

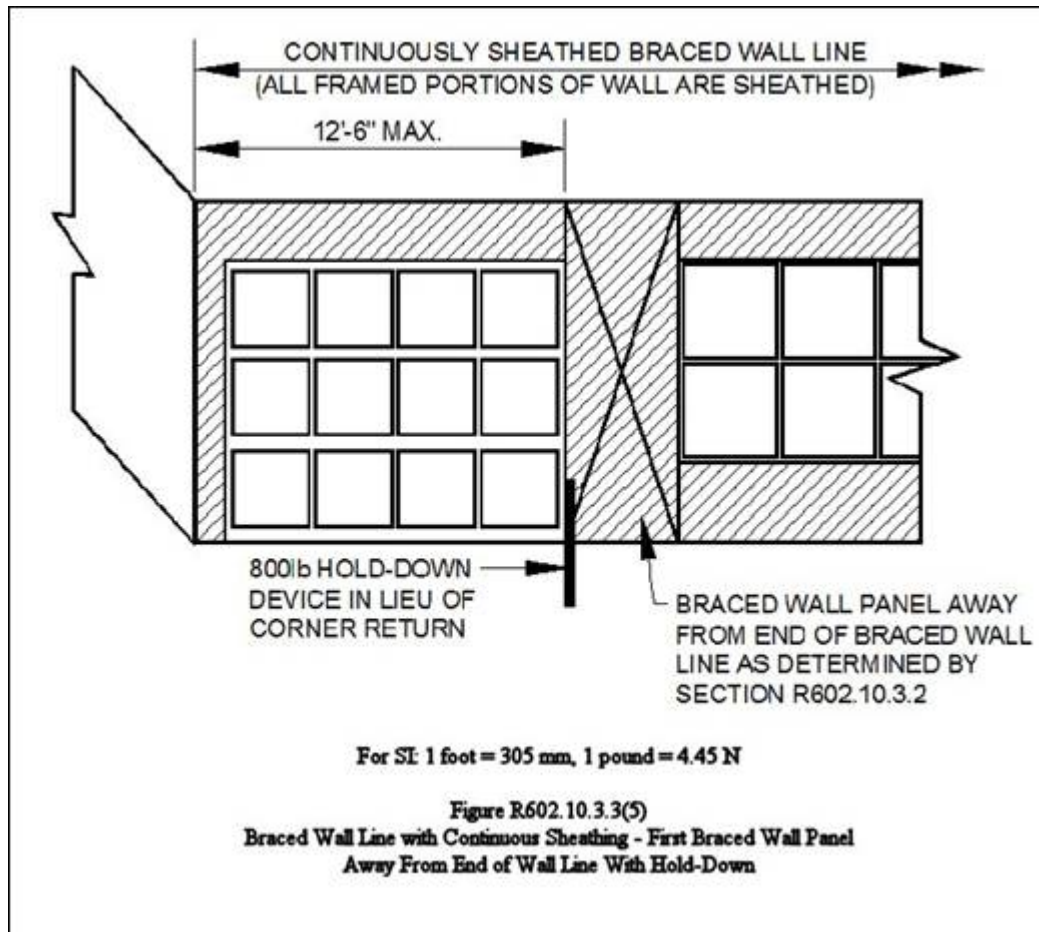
Exception: The first braced wall panel shall be permitted to begin 12.5 feet (3810 mm) from each end of the braced wall line provided one of the following is satisfied:

1. A minimum 24 inch (610 mm) long, full-height wood structural panel is provided at both sides of a corner constructed in accordance with Figures R602.10.3.3(1) and R602.10.3.3(4); or
2. The braced wall panel closest to the corner shall have a hold-down device with a minimum uplift design value of 800 lb (3560 N) fastened to the stud at the edge of the braced wall panel closest to the corner and to the foundation or framing below in accordance with Figure R602.10.3.3(5).









R602.10.4 Braced wall panel finish material. Braced wall panels shall have 1/2-inch thick gypsum board installed on the side of the wall opposite the bracing material and fastened in accordance with Table R702.3.5.

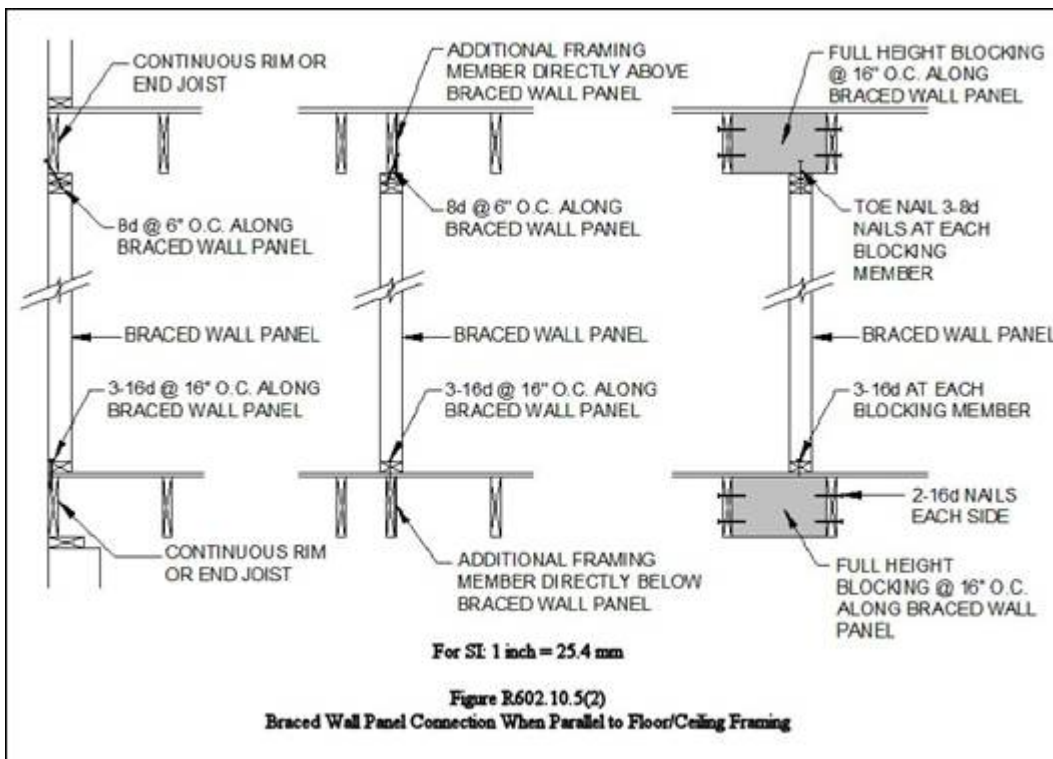
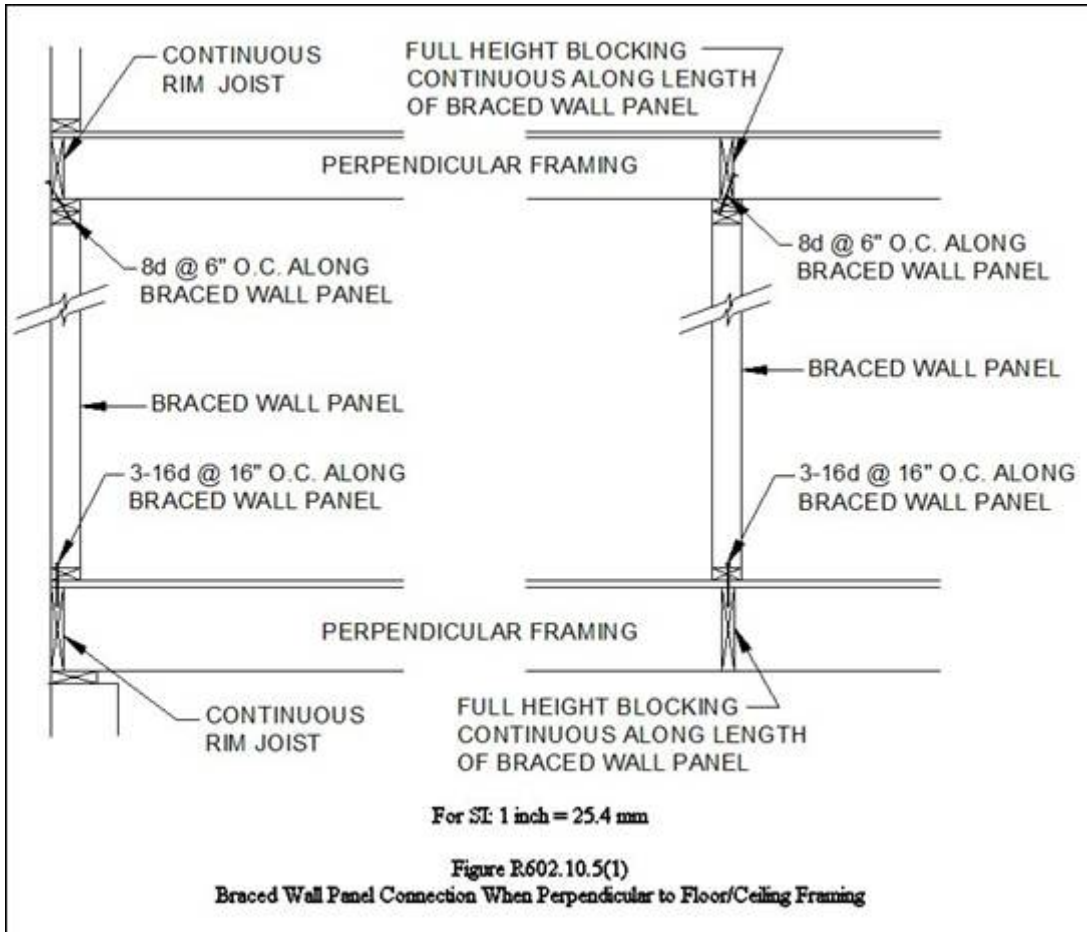
Exceptions:

1. Braced wall panels that are constructed in accordance with Methods GB, ABW, IPF and CS-PF.
2. When an approved interior finish material with an in-plane shear resistance equivalent to gypsum board is installed.
3. For Methods DWB, WSP, SFB, PBS, PCP, and HPS, interior gypsum board may be partially or entirely omitted provided the minimum required percentage of bracing in Table R602.10.1.5 is multiplied by an adjustment factor of 1.5.

R602.10.5 Braced wall panel connections. Braced wall panels shall be connected to floor/ceiling framing or foundations as follows:

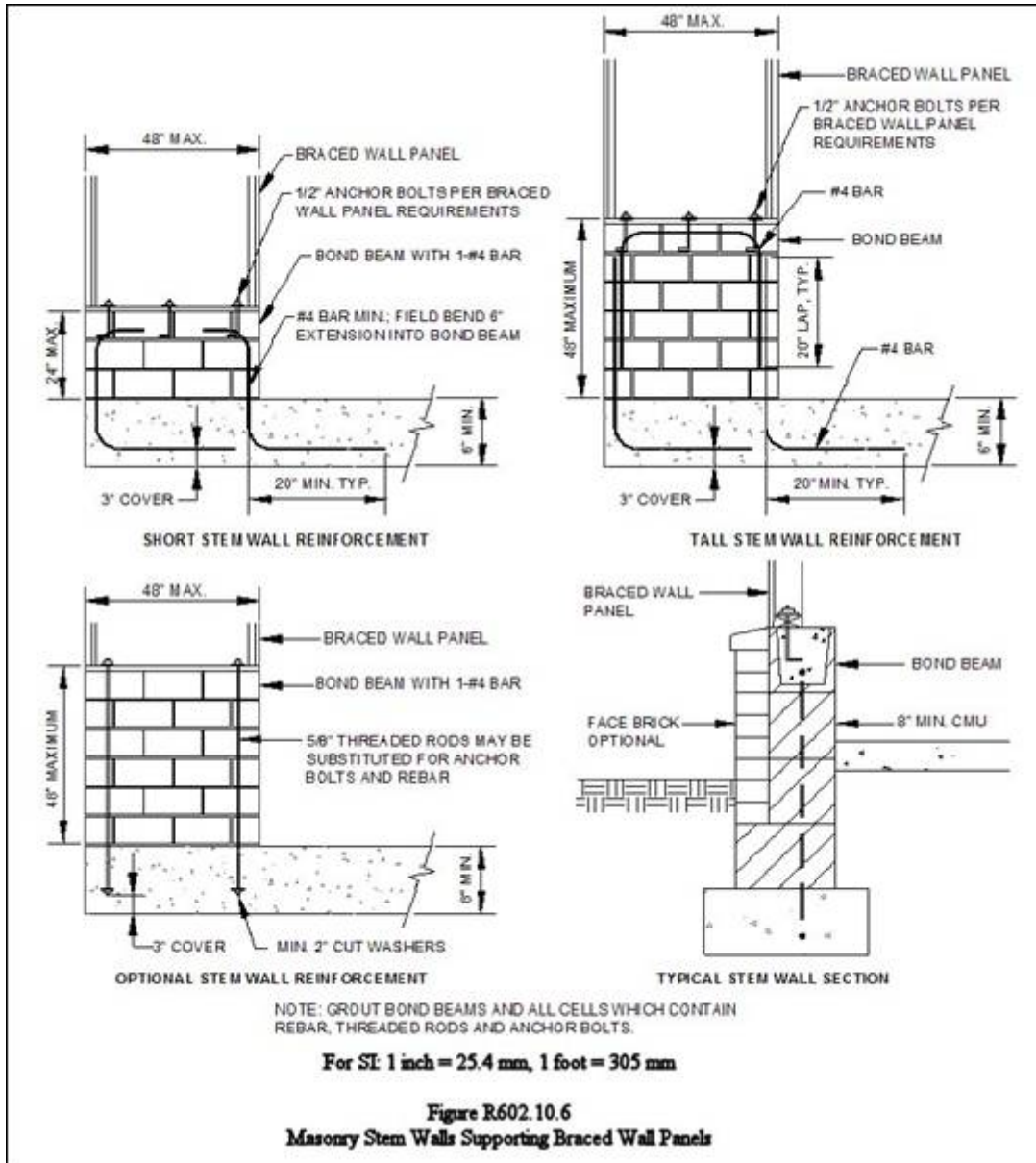
1. Where framing is perpendicular to a braced wall panel above or below, a rim joist or blocking shall be provided along the entire length of the braced wall panel in accordance with Figure R602.10.5(1). Fastening of wall plates to framing, rim joist or blocking shall be in accordance with Table R602.3(1).
2. Where framing is parallel to a braced wall panel above or below, a rim joist, end joist or other parallel framing member shall be provided directly above and below the panel in accordance with Figure R602.10.5(2). Where a parallel framing member cannot be located directly above and below the panel, full-depth blocking at 16 inch (406 mm) spacing shall be provided between the parallel framing members to each side of the braced wall panel in accordance with Figure R602.10.5(2). Fastening of blocking and wall plates shall be in accordance with Table R602.3(1).
3. Connections of braced wall panels to concrete or masonry shall be in accordance with Section R403.1.6.

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R602.10.6 Braced wall panel support. Braced wall panels shall be supported as follows:

1. Braced wall panels shall be permitted to be supported on cantilevered floor joists meeting the cantilever limits of Section R502.3.3 provided joists are blocked at the nearest bearing wall location.
2. Elevated post or pier foundations supporting braced wall panels shall be designed in accordance with accepted engineering practice.
3. Masonry stem walls supporting braced wall panels with a length of 48 inches (1220 mm) or less shall be reinforced in accordance with Figure R602.10.6. Masonry stem walls supporting braced wall panels with a length greater than 48 inches (1220 mm) shall be constructed in accordance with Section R403.1. Braced wall panels constructed in accordance with Methods ABW and IPF shall not be permitted to attach to masonry stem walls.



R602.10.7 Panel joints. All vertical joints of braced wall panel sheathing shall occur over and be fastened to common studs. Horizontal joints in braced wall panels shall occur over and be fastened to common blocking of

a minimum 1-1/2 inch (38 mm) thickness. Panel joints for Method IPF shall be constructed in accordance with Figure R602.10.2.1(2). Panel joints for Method CS-PF shall be constructed in accordance with Figure R602.10.3.1.

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Exception: Blocking at horizontal joints shall not be required in braced wall panels constructed using Methods WSP, SFB, GB, PBS or HPS where the percentage of bracing required by Table R602.10.1.5 is multiplied by an adjustment factor of 2.0.

R602.10.8 Cripple wall bracing. Cripple walls shall be braced with a percentage and type of bracing as required for the wall above in accordance with Table R602.10.1.5 with the following modifications for cripple wall bracing:

1. The bracing percentage as determined from Table R602.10.1.5 shall be multiplied by an adjustment factor of 1.15, and
2. The wall panel spacing shall be decreased from 25 feet (7620 mm) to 18 feet (5486 mm).

Cripple walls shall be permitted to be redesignated as the first story walls for purposes of determining wall bracing requirements. If the cripple walls are redesignated, the stories above the redesignated story shall be counted as the second and third stories respectively.

~~37.~~ 28. Change Section ~~R613.2~~ R612.2 to read:

~~R613.2~~ R612.2 Window sills. In dwelling units, where the opening of an operable window is located more than 72 inches (1829 mm) above the finished grade or surface below, the lowest part of the clear opening of the window shall be a minimum of 18 inches (457 mm) above the finished floor of the room in which the window is located. ~~Glazing between the floor and 18 inches (457 mm) shall be fixed or have openings through which Operable sections of windows shall not permit openings that allow passage of a 4-inch-diameter (102 mm) sphere cannot pass where such openings are located within 18 inches (457 mm) of the finished floor.~~

Exceptions:

1. Windows whose openings will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening when the opening is in its largest opened position.
2. Openings that are provided with window fall prevention devices that comply with Section R612.3.
- 2- 3. Openings that are provided with window guards fall protection devices that comply with ASTM F 2006 or F 2090.
4. Windows that are provided with opening limiting devices that comply with Section R612.4.

~~38.~~ Change Section R806.4 and add Table R806.4 to read:

~~R806.4 Unvented attic assemblies. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) shall be permitted if all the following conditions are met:~~

1. ~~The unvented attic space is completely contained within the building thermal envelope.~~
2. ~~No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly.~~
3. ~~Where wood shingles or shakes are used, a minimum 1/4 inch (6 mm) vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.~~
4. ~~In climate zones 5, 6, 7 and 8, any air impermeable insulation shall be a vapor retarder, or shall have a vapor retarder coating or covering in direct contact with the underside of the insulation.~~
5. ~~Either Items a, b or c shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing.~~
 - a. ~~Air impermeable insulation only. Insulation shall be applied in direct contact to the underside of the structural roof sheathing.~~
 - b. ~~Air permeable insulation only. In addition to the air permeable installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified in Table R806.4 for condensation control.~~
 - e. ~~Air impermeable and air permeable insulation. The air impermeable insulation shall be applied in direct contact to the underside of the structural roof sheathing as specified in Table R806.4 for condensation control. The air permeable insulation shall be installed directly under the air impermeable insulation.~~

Climate Zone	Minimum Rigid Board or Air-impermeable Insulation R-value ^a
2B and 3B tile roof only	0 (none required)
1, 2A, 2B, 3A, 3B, 3C	R-5
4C	R-10
4A, 4B	R-15
5	R-20
6	R-25
7	R-30
8	R-35

^aContributes to but does not supersede Chapter 11 energy requirements.

39. ~~29.~~ Change Section M1502.6 M1502.4.4.1 to read:

~~M1502.6 M1502.4.4.1 Duct Specified length. The maximum length of a clothes dryer the exhaust duct shall not exceed be 35 feet (10 668 mm) from the dryer location to the wall or roof termination connection to the transition duct from the dryer to the outlet terminal. The maximum length of the duct shall be reduced 2.5 feet (762 mm) for each 45-degree (0.8 rad) bend and five feet (1524 mm) for each 90-degree (1.6 rad) bend. The Where fittings are used the maximum length of the exhaust duct does not include the transition duct shall be reduced in accordance with Table M1502.4.4.1.~~

~~Exceptions:~~

~~1. Where the make and model of the clothes dryer to be installed is known and the manufacturer's installation instructions for the dryer are provided to the building official, the maximum length of the exhaust duct, including any transition duct, shall be permitted to be in accordance with the dryer manufacturer's installation instructions.~~

~~2. Where large radius 45-degree (0.8 rad) and 90-degree (1.6 rad) bends are installed, determination of the equivalent length of clothes dryer exhaust duct for each bend by engineering calculation in accordance with the ASHRAE Fundamentals Handbook shall be permitted.~~

40. Change Section M1701.1 to read as follows and delete the remainder of Chapter 17:

~~M1701.1 Scope. Solid fuel burning appliances shall be provided with combustion air, in accordance with the appliance manufacturer's installation instructions. Oil-fired appliances shall be provided with combustion air in accordance with NFPA 31. The methods of providing combustion air in this chapter do not apply to fireplaces, fireplace stoves and direct-vent appliances. The requirements for combustion and dilution air for gas-fired appliances shall be in accordance with Chapter 24.~~

41. ~~30.~~ Add Section M1801.1.1 to read:

M1801.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall

certify to the building official that the requirements of Items 1 and 2 of this section are met.

42. Change Section G2411.1 to read:

~~G2411.1 Gas pipe bonding. Each above ground portion of a gas piping system that is likely to become energized shall be electrically continuous and bonded to an effective ground fault current path. Gas piping shall be considered to be bonded where it is connected to appliances that are connected to the equipment grounding conductor of the circuit supplying that appliance.~~

~~CSST gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service piping enters the building. The bonding conductor size shall be not less than #6 AWG copper wire or equivalent.~~

43. Add Section G2415.17 to read:

~~404.17 Isolation. Metallic piping and metallic tubing that conveys fuel gas from an LP gas storage container shall be provided with an approved dielectric fitting to electrically isolate the underground portion of the pipe or tube from the above ground portion that enters a building. Such dielectric fitting shall be installed above ground, outdoors.~~

31. Add Section G2425.1.1 to read:

G2425.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects, or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

44. ~~32.~~ Change Section P2602.1 to read:

P2602.1 General. The water and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public or private water supply and a public or private sewer system. As provided for in Section 103.11 of Part I of the Virginia Uniform Statewide Building Code (13VAC5-63) for functional design, water supply sources and sewage disposal systems are regulated and approved by the Virginia

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Department of Health and the Virginia Department of Environmental Quality.

Note: See also the Memorandums of Agreement in the "Related Laws Package," which is available from the Virginia Department of Housing and Community Development.

45- ~~33.~~ Change Section P2903.5 to read:

P2903.5 Water hammer. The flow velocity of the water distribution system shall be controlled to reduce the possibility of water hammer. A water-hammer arrestor shall be installed where quick-closing valves are utilized, unless otherwise approved. Water hammer arrestors shall be installed in accordance with manufacturer's specifications. Water hammer arrestors shall conform to ASSE 1010.

46- ~~34.~~ Add Section P3002.2.1 to read:

P3002.2.1 Tracer wire. Nonmetallic sanitary sewer piping that discharges to public systems shall be locatable. An insulated copper tracer wire, 18 AWG minimum in size and suitable for direct burial or an equivalent product, shall be utilized. The wire shall be installed in the same trench as the sewer within 12 inches (305 mm) of the pipe and shall be installed from within five feet of the building wall to the point where the building sewer intersects with the public system. At a minimum, one end of the wire shall terminate above grade in an accessible location that is resistant to physical damage, such as with a cleanout or at the building wall.

47- Replace Section P3007, Sumps and Ejectors, with the following:

~~Section P3007.~~

~~Sumps and Ejectors.~~

~~P3007.1 Building subdrains. Building subdrains that cannot be discharged to the sewer by gravity flow shall be discharged into a tightly covered and vented sump from which the liquid shall be lifted and discharged into the building gravity drainage system by automatic pumping equipment or other approved method. In other than existing structures, the sump shall not receive drainage from any piping within the building capable of being discharged by gravity to the building sewer.~~

~~P3007.2 Valves required. A check valve and a full open valve located on the discharge side of the check valve shall be installed in the pump or ejector discharge piping between the pump or ejector and the gravity drainage system. Access shall be provided to such valves. Such valves shall be located above the sump cover required by Section P3007.3.2 or, where the discharge pipe from the ejector is below grade, the valves shall be accessibly~~

~~located outside the sump below grade in an access pit with a removable access cover.~~

~~P3007.3 Sump design. The sump pump, pit and discharge piping shall conform to the requirements of Sections P3007.3.1 through P3007.3.5.~~

~~P3007.3.1 Sump pump. The sump pump capacity and head shall be appropriate to anticipated use requirements.~~

~~P3007.3.2 Sump pit. The sump pit shall be not less than 18 inches (457 mm) in diameter and 24 inches (610 mm) deep, unless otherwise approved. The pit shall be accessible and located such that all drainage flows into the pit by gravity. The sump pit shall be constructed of tile, concrete, steel, plastic or other approved materials. The pit bottom shall be solid and provide permanent support for the pump. The sump pit shall be fitted with a gastight removable cover adequate to support anticipated loads in the area of use. The sump pit shall be vented in accordance with Chapter 31.~~

~~P3007.3.3 Discharge piping. Discharge piping shall meet the requirements of Section P3007.2.~~

~~P3007.3.4 Maximum effluent level. The effluent level control shall be adjusted and maintained to at all times prevent the effluent in the sump from rising to within 2 inches (51 mm) of the invert of the gravity drain inlet into the sump.~~

~~P3007.3.5 Ejector connection to the drainage system. Pumps connected to the drainage system shall connect to the building sewer or shall connect to a wye fitting in the building drain a minimum of 10 feet (3048 mm) from the base of any soil stack, waste stack or fixture drain. Where the discharge line connects into horizontal drainage piping, the connection shall be made through a wye fitting into the top of the drainage piping.~~

~~P3007.4 Sewage pumps and sewage ejectors. A sewage pump or sewage ejector shall automatically discharge the contents of the sump to the building drainage system.~~

~~P3007.5 Macerating toilet systems. Macerating toilet systems shall comply with CSA B45.9 or ASME A112.3.4 and shall be installed in accordance with the manufacturer's installation instructions.~~

~~P3007.6 Capacity. A sewage pump or sewage ejector shall have the capacity and head for the application requirements. Pumps or ejectors that receive the discharge of water closets shall be capable of handling spherical solids with a diameter of up to and including 2 inches (51 mm). Other pumps or ejectors shall be capable of handling spherical solids with a diameter of up to and including one inch (25.4 mm). The minimum capacity of a pump or ejector based on the diameter of the discharge pipe shall be in accordance with Table 3007.6.~~

Exceptions:

1. Grinder pumps or grinder ejectors that receive the discharge of water closets shall have a minimum discharge opening of 1.25 inches (32 mm).
2. Macerating toilet assemblies that serve single water closets shall have a minimum discharge opening of 0.75 inch (19 mm).

Polyvinyl chloride (PVC) plastic pipe (type sewer pipe, PS25, PS50 or PS100)	ASTM D 2729; ASTM F 891; CSA B182.2; CSA B182.4
Stainless steel drainage systems, Type 316L	ASME A112.3.1
Vitrified clay pipe	ASTM C 4; ASTM C 700

Diameter of Discharge Pipe (inches)	Capacity of Pump or Ejector (gpm)
2	21
2-1/2	30
3	46

For SI: 1 inch = 25.4 mm, 1 gallon per minute = 3.785 L/m

48. Change the title of Chapter 32 to read:

Chapter 32.

Traps and Storm Drainage.

49. Add Section P3202, Storm Drainage, to read:

Section P3202.

Storm Drainage.

P3202.1 Scope. The provisions of this section shall govern the materials, design, construction and installation of storm drainage.

P3202.2 Subsoil drains. Subsoil drains shall be open-jointed, horizontally split or perforated pipe conforming to one of the standards listed in Table P3202.2. Such drains shall not be less than 4 inches (102 mm) in diameter. Where the building is subject to backwater, the subsoil drain shall be protected by an accessibly located backwater valve. Subsoil drains shall not be required to have either a gas-tight cover or vent. The sump and pumping system shall comply with Section P3202.3.

Material	Standard
Asbestos cement pipe	ASTM C 508
Cast iron pipe	ASTM A 74; ASTM A 888; CISPI 301
Polyethylene (PE) plastic pipe	ASTM F 405; CSA B182.1; CSA B182.6; CSA B182.8

~~P3202.3 Pumping system. The sump pump, pit and discharge piping shall conform to Section P3202.3.1 through P3202.3.4.~~

~~P3202.3.1 Pump capacity and head. The sump pump shall be of a capacity and head appropriate to anticipated use requirements.~~

~~P3202.3.2 Sump pit. The sump pit shall not be less than 18 inches (457 mm) in diameter and 24 inches (610 mm) deep, unless otherwise approved. The pit shall be accessible and located such that all drainage flows into the pit by gravity. The sump pit shall be constructed of tile, steel, plastic, cast iron, concrete or other approved material, with a removable cover adequate to support anticipated loads in the area of use. The pit floor shall be solid and provide permanent support for the pump.~~

~~P3202.3.3 Electrical. Electrical outlets shall meet the requirements of Chapters 33 through 42.~~

~~P3202.3.4 Piping. Discharge piping shall meet the requirements of Sections P3002.1, P3002.2, P3002.3 and P3003. Discharge piping shall include an accessible full flow check valve. Pipe and fittings shall be the same size as, or larger than, pump discharge tapping.~~

50. Add Section G2425.1.1 to read:

G2425.1.1 Equipment changes. Upon the replacement or new installation of any fuel burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

51. ~~35.~~ Add Section E3501.8 E3601.8 to read:

E3501.8 E3601.8 Energizing service equipment. The building official shall give permission to energize the electrical service equipment of a one- or two-family

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dwelling unit when all of the following requirements have been approved:

1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.
2. The grounding electrode system shall be installed and terminated.
3. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
4. Service equipment covers shall be installed.
5. The building roof covering shall be installed.
6. Temporary electrical service equipment shall be suitable for wet locations unless the interior is dry and protected from the weather.

52. Add the following referenced standards to Chapter 43:

Standard reference number	Title	Referenced in code section number
ASTM C4 03	Specification for Clay Drain Tile and Perforated Clay Drain Tile	P3202.3
ASTM C508-00	Specification for Asbestos-Cement Underdrain Pipe	P3202.3
ASTM D2729-96a	Specification for Poly (Vinyl Chloride) (PVC) Sewer Pipe and Fittings	P3202.3
ASTM E2178-03	Standard Test Method for Air Permeance of Building Materials	R202
ASTM F405-97	Specification for Corrugated Polyethylene (PE) Tubing and Fittings	P3202.3
CSA B182.1-02	Plastic Drain and Sewer Pipe and Pipe Fittings	P3202.3
CSA B182.6-02	Profile Polyethylene Sewer Pipe and Fittings for Leak-Proof Sewer Applications	P3202.3
CSA B182.8-02	Profile Polyethylene Storm Sewer and Drainage Pipe and Fittings	P3202.3

13VAC5-63-220. Chapter 4 Special detailed requirements based on use and occupancy.

A. Add Section 407.8 407.9 to the IBC to read:

~~407.8~~ 407.9 Special locking arrangement. Means of egress doors shall be permitted to contain locking devices restricting the means of egress in areas in which the clinical needs of the patients require restraint of movement, where all of the following conditions are met:

1. The locks release upon activation of the fire alarm system or the loss of power.
2. The building is equipped with an approved automatic sprinkler system in accordance with Section 903.3.1.1.
3. A manual release device is provided at a nursing station responsible for the area.
4. A key-operated switch or other manual device is provided adjacent to each door equipped with the locking device. Such switch or other device, when operated, shall result in direct interruption of power to the lock -- independent of the control system electronics.
5. All staff shall have keys or other means to unlock the switch or other device or each door provided with the locking device.

B. Add Section 407.9 407.10 to the IBC to read:

~~407.9~~ 407.10 Emergency power systems. Emergency power shall be provided for medical life support equipment, operating, recovery, intensive care, emergency rooms, fire detection and alarm systems in any Group I-2 occupancy licensed by the Virginia Department of Health as a hospital, nursing home or hospice facility.

C. Change Section 408.2 of the IBC to read:

~~408.2 Other occupancies. Buildings or portions of buildings in Group I-3 occupancies where security operations necessitate the locking of required means of egress shall be permitted to be classified as a different occupancy. Occupancies classified as other than Group I-3 shall meet the applicable requirements of this code for that occupancy provided provisions are made for the release of occupants at all times. Where the provisions of this code for occupancies other than Group I-3 are more restrictive than the provisions for Group I-3 occupancies, the Group I-3 occupancy provisions shall be permitted to be used.~~

~~Means of egress from detention and correctional occupancies that traverse other use areas shall, as a minimum, conform to requirements for detention and correctional occupancies.~~

~~Exception: It is permissible to exit through a horizontal exit into other contiguous occupancies that do not conform to detention and correctional occupancy egress provisions but that do comply with requirements set forth in the~~

appropriate occupancy, as long as the occupancy is not a high-hazard use.

~~D. Add a new Section 408.3.4 to the IBC to read as follows and renumber existing Sections 408.3.4, 408.3.5 and 408.3.6 to become Sections 408.3.5, 408.3.6 and 408.3.7 respectively:~~

~~408.3.4 Ships ladders. Ships ladders in accordance with Section 1009.12 shall be permitted from facility observation or control rooms.~~

~~E. Change Section 408.3.6 of the IBC to read:~~

~~408.3.6 Sallyports. A sallyport shall be permitted in a means of egress where there are provisions for continuous and unobstructed passage through the sallyport during an emergency egress condition. A sallyport is a security vestibule with two or more doors where the intended purpose is to prevent continuous and unobstructed passage by allowing the release of only one door at a time.~~

~~F. Add Section 408.3.8 to the IBC to read:~~

~~408.3.8 Guard tower doors. A hatch or trap door not less than 16 square feet (.929 m²) in area through the floor and having minimum dimensions of not less than two feet (609.6 mm) in any direction shall be permitted to be used to access guard towers.~~

~~G. Add Section 408.5.1 to the IBC to read:~~

~~408.5.1 Noncombustible shaft openings in communicating floor levels. Where vertical openings are permitted without enclosure protection in accordance with Section 408.5, noncombustible shafts such as plumbing chases shall also be permitted without enclosure protection. Where additional stories are located above or below, the shaft shall be permitted to continue with fire and smoke damper protection provided at the fire resistance rated floor/ceiling assembly between the noncommunicating stories.~~

~~H. Change Section 408.8 of the IBC to read:~~

~~408.8 Windowless buildings. For the purposes of this section, a windowless building or portion of a building is one with nonopenable windows, windows not readily breakable or without windows. Windowless buildings shall be provided with an engineered smoke control system to provide a tenable environment for exiting from the smoke compartment in the area of fire origin in accordance with Section 909 for each windowless smoke compartment.~~

~~C. Delete Section 410.5.3 of the IBC, add new Section 410.6 to the IBC and renumber Sections 410.6 and 410.7 of the IBC to Sections 410.7 and 410.8 respectively.~~

~~410.6 Means of egress. Except as modified or as provided for in this section, the provisions of Chapter 10 shall apply.~~

~~410.6.1 Arrangement. Where two or more exits or exit access doorways are required per Section 1015.1 from the stage or area beneath the stage, at least one exit or exit~~

access doorway shall be provided on each side of the stage or area beneath the stage.

410.6.2 Stairway and ramp enclosure. Stairways and ramps serving the stage are not required to be enclosed.

410.6.3 Fly gallery. At least one exit or exit access shall be provided from fly galleries and the maximum length of exit access travel shall not exceed 300 feet (91 440 mm) for buildings without a sprinkler system and 400 feet (121 920 mm) for buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1. The following exit access components are permitted when serving only the fly gallery:

1. Unenclosed interior stairs.

2. Spiral stairs.

3. Stairways with a minimum width of 22 inches (559 mm).

4. Alternating tread devices.

5. Permanently installed ladders.

~~I. D. Add Section 415.1.1 to the IBC to read:~~

~~415.1.1 Flammable and combustible liquids. Notwithstanding the provisions of this chapter, the storage, handling, processing, and transporting of flammable and combustible liquids shall be in accordance with the mechanical code and the fire code listed in Chapter 35 of this code. Regulations governing the installation, repair, upgrade, and closure of underground and aboveground storage tanks under the Virginia State Water Control Board regulations 9VAC25-91 and 9VAC25-580 are adopted and incorporated by reference to be an enforceable part of this code. Where differences occur between the provisions of this code and the incorporated provisions of the State Water Control Board regulations, the provisions of the State Water Control Board regulations shall apply.~~

~~J. E. Add IBC Section 421.4 424 Manufactured Homes and Industrialized Buildings.~~

~~K. F. Add Section 421.4 424.1 to the IBC to read:~~

~~421.4 424.1 General. The provisions of this section shall apply to the installation or erection of manufactured homes subject to the Virginia Manufactured Home Safety Regulations (13VAC5-95) and industrialized buildings subject to the Virginia Industrialized Building Safety Regulations (13VAC5-91).~~

~~L. G. Add Section 421.2 424.2 to the IBC to read:~~

~~421.2 424.2 Site work for manufactured homes. The aspects for the installation and set up of a new manufactured home is generally subject to the requirements of covered by this code rather than the Virginia Manufactured Home Safety Regulations~~

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(13VAC5-95) include, but are not limited to, footings, foundations systems, anchoring of the home, exterior, interior close-up, and additions and alterations done during initial installation. Under those regulations, the building official is responsible for assuring that the installation complies. Such aspects shall be subject to and shall comply with the manufacturer's installation instructions and any special conditions or limitations of use stipulated by the label provided by the manufacturer of the home. To the extent that any aspect of the installation is not provided for in the manufacturer's installation instructions, then the installation shall comply with 24 CFR Part 3285 – Model Manufactured Home Installation Standards. In the case where do not address any aspect enumerated above or when the manufacturer's installation instructions for a manufactured home are not available, such aspects shall be subject to and comply with 24 CFR Part 3285 – Model Manufactured Home Installation Standards shall be substituted for the manufacturer's installation instructions. To the extent that the manufacturer's installation instructions and 24 CFR Part 3285 do not address any aspect enumerated above, the installer must first attempt to obtain Design Approval Primary Inspection Agency (DAPIA) as defined in 24 CFR Part 3285.5, approved designs and instructions prepared by the manufacturer; or if designs and instructions are not available from the manufacturer, obtain an alternate design prepared and certified by an RDP that is consistent with the manufactured home design, conforms to the requirements of the Manufactured Housing Consensus Committee (MHCCS) as defined in 24 CFR Part 3285.5, and has been approved by the manufacturer and the DAPIA. Foundations, stoops, Stoops, decks, porches, alterations and additions associated with and used manufactured homes are subject to the requirements shall comply with the provisions of this code and all administrative requirements of this code for permits, inspections and certificates of occupancy are also applicable. The requirements of, which shall include the option of using the IRC shall be permitted to be used for the technical requirements for such construction work. In addition, the installation and set up of the home and the use of Appendix E of the IRC entitled, "Manufactured Housing used as Dwellings," shall be an acceptable alternative to this code for construction work associated with the installation of manufactured homes and for additions, alterations and repairs to manufactured homes the home. Additionally, all applicable provisions of Chapter 1 of this code, including but not limited to requirements for permits, inspections, certificates of occupancy and requiring compliance, are applicable to the installation and set up of a manufactured home. Where the installation or erection of a manufactured home utilizes components that are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is performed and approved prior to concealment of such components, unless the

building official has agreed to an alternative method of verification.

~~M. H.~~ Add Section ~~421.3~~ 424.3 to the IBC to read:

~~421.3~~ 424.3 Wind load requirements for manufactured homes. Manufactured homes shall be anchored to withstand the wind loads established by the federal regulation for the area in which the manufactured home is installed. For the purpose of this code, Wind Zone II of the federal regulation shall include the cities of Chesapeake, Norfolk, Portsmouth, and Virginia Beach.

~~N. I.~~ Add Section ~~421.4~~ 424.4 to the IBC to read:

~~421.4~~ 424.4 Skirting requirements for manufactured homes. As used in this section, "skirting" means a weather-resistant material used to enclose the space from the bottom of the manufactured home to grade. Manufactured homes installed or relocated shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches (457 mm) in any dimension and not less than three square feet (.28 m²) in area. The access panel or door shall not be fastened in a manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of this code.

~~O. J.~~ Add Section ~~421.5~~ 424.5 to the IBC to read:

~~421.5~~ 424.5 Site work for industrialized buildings. Site work for the erection and installation of an industrialized building is generally subject to the requirements of the Virginia Industrialized Building Safety Regulations (13VAC5-91) and the building official has certain enforcement responsibilities under those regulations shall comply with the manufacturer's installation instructions. To the extent that any aspect of the erection or installation of an industrialized building is not covered by those regulations the manufacturer's installation instructions, this code shall be applicable. In addition, all administrative requirements of this code for permits, inspections and certificates of occupancy are also applicable. The requirements, including the use of the IRC shall be permitted to be used for any construction work that is subject to this code where the industrialized building would be classified as a Group R-5 building. In addition, all administrative requirements of this code for permits,

inspections, and certificates of occupancy are also applicable. Further, the building official may require the 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 instructions, including, but not limited to, footings, foundations, supporting structures, proper anchorage, and the completion of the plumbing, mechanical, and electrical systems. Where the installation or erection of an industrialized building utilizes components that are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is performed and approved prior to concealment of such components, unless the building official has agreed to an alternative method of verification.

~~P.~~ K. Add Section 421.6 424.6 to the IBC to read:

421.6 424.6 Relocated industrialized buildings; alterations and additions. Industrialized buildings constructed prior to January 1, 1972, shall be subject to Section 117 when relocated. Alterations and additions to any existing industrialized buildings shall be subject to pertinent provisions of this code. Building officials shall be permitted to require the submission of plans and specifications for the model to aid in the evaluation of the proposed alteration or addition. Such plans and specifications shall be permitted to be submitted in electronic or other available format acceptable to the building official.

13VAC5-63-230. Chapter 7 Fire-resistant-rated construction.

A. ~~Add~~ Change Section ~~701.2 to~~ 703.6 of the IBC to read:

~~701.2~~ 703.6 Fire-resistance assembly marking. Concealed fire walls, vertical fire separation assemblies, fire barriers, fire partitions and smoke barriers shall be designated above ceilings and on the inside of all ceiling access doors which provide access to such fire rated assemblies by signage having letters no smaller than one inch (25.4 mm) in height. Such signage shall indicate the fire-resistance rating of the assembly and the type of assembly and be provided at horizontal intervals of no more than eight feet (2438 mm).

Note: An example of suggested formatting for the signage would be "ONE HOUR FIRE PARTITION."

B. Delete Sections ~~707.14.1 and 707.14.2 of the IBC, including all subsections of Section 707.14.2~~ 708.14.1 through 708.14.2.11.

C. ~~Add exception 4 to Section 715.4.3 of the IBC to read:~~

~~4. Horizontal sliding doors in smoke barriers that comply with Section 408.3 are permitted in smoke barriers in occupancies in Group I-3.~~

~~D.~~ Add an exception to Section 715.5.4 of the IBC to read:

~~Exception: Security glazing protected on both sides by an automatic sprinkler system shall be permitted in doors and windows in smoke barriers in Group I-3 occupancies. Individual panels of glazing shall not exceed 1,296 square inches (0.84 m²), shall be in a gasketed frame and installed in such a manner that the framing system will deflect without breaking (loading) glazing before the sprinkler system operates. The sprinkler system shall be designed to wet completely the entire surface of the affected glazing when actuated.~~

~~E.~~ C. Change Section 716.5.3 of the IBC to read:

716.5.3 Penetrations of shaft enclosures. Shaft enclosures that are permitted to be penetrated by ducts and air transfer openings shall be protected with approved fire and smoke dampers installed in accordance with their listing.

Exceptions:

1. Fire and smoke dampers are not required where steel exhaust subducts extend at least 22 inches (559 mm) vertically in exhaust shafts provided there is a continuous airflow upward to the outside.
2. Fire dampers are not required where penetrations are tested in accordance with ASTM E 119 as part of the fire-resistance rated assembly.
3. Fire and smoke dampers are not required where ducts are used as part of an approved smoke-control system in accordance with Section 909.
4. Fire and smoke dampers are not required where the penetrations are in parking garage exhaust or supply shafts that are separated from other building shafts by not less than two-hour fire-resistance-rated construction.
5. Smoke dampers are not required where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

13VAC5-63-240. Chapter 9 Fire protection systems.

A. Add the following definitions to Section 902 of the IBC to read:

Emergency communication equipment. Emergency communication equipment, includes, but is not limited to, two-way radio communications, signal booster, bi-directional amplifiers, radiating cable systems or internal multiple antenna, or a combination of the foregoing.

Emergency public safety personnel. Emergency public safety personnel includes firefighters, emergency medical personnel, law-enforcement officers and other emergency public safety personnel routinely called upon to provide emergency assistance to members of the public in a wide variety of emergency situations, including, but not limited

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to, fires, medical emergencies, violent crimes and terrorist attacks.

B. Change the following definition in Section 902 of the IBC to read:

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

C. Change Section 903.2.1.2 of the IBC to read:

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (~~465 m²~~) (464.5m²);
2. The fire area has an occupant load of 100 or more in night clubs or 300 or more in other Group A-2 occupancies; or
3. The fire area is located on a floor other than ~~the a~~ level of exit discharge servicing such occupancies.

D. Change Item 2 of Section 903.2.1.3 of the IBC to read:

2. In Group A-3 occupancies other than churches, the fire area has an occupant load of 300 or more- ; or

E. Change Section ~~903.2.7~~ 903.2.8 of the IBC to read:

903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area, except in the following Group R-2 occupancies when the necessary water pressure or volume, or both, for the system is not available:

Exceptions:

1. Buildings which do not exceed two stories, including basements which are not considered as a story above grade, and with a maximum of 16 dwelling units per fire area. Each dwelling unit shall have at least one door opening to an exterior exit access that leads directly to the exits required to serve that dwelling unit.
2. Buildings where all dwelling units are not more than two stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit and a two-hour fire barrier is provided between each pair of dwelling units. Each bedroom of a dormitory or boarding house shall be considered a dwelling unit under this exception.

F. Add Item 6 to Section 903.3.1.1.1 of the IBC to read:

6. Elevator machine rooms and elevator machine spaces for occupant evacuation elevators.

~~F.~~ G. Add Section 903.3.1.2.2 to the IBC to read:

903.3.1.2.2 Attics. Sprinkler protection shall be provided for attics in buildings of Type III, IV or V construction in Group R-2 occupancies that are designed or developed and marketed to senior citizens 55 years of age or older and in Group I-1 occupancies in accordance with Section 6.7.2 of NFPA 13R.

~~G.~~ H. Change Section 903.4.2 of the IBC to read:

903.4.2 Alarms. Approved audible devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system. Group R-2 occupancies that contain 16 or more dwelling units or sleeping units, any dwelling unit or sleeping unit two or more stories above the lowest level of exit discharge, or any dwelling unit or sleeping unit more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit shall provide a manual fire alarm box at an approved location to activate the suppression system alarm.

~~H.~~ I. Add an exception to Section 905.2 of the IBC to read:

Exception: The residual pressure of 100 psi for 2-1/2 inch hose connection and 65 psi for 1-1/2 inch hose connection is not required in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and where the highest floor level is not more than 150 feet above the lowest level of fire department vehicle access.

~~I.~~ J. Change Item 1 of Section 906.1 of the IBC to read:

~~906.1 General. Portable fire extinguishers shall be provided in occupancies and locations as required by the International Fire Code.~~

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

Exceptions:

1. ~~Group R-2 occupancies~~ In Group A, B, and E occupancies equipped throughout with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in Items 2 through 6.
2. In Group I-3 occupancies, portable fire extinguishers shall be permitted to be located at staff locations and the

access to such extinguishers shall be permitted to be locked.

J. ~~K.~~ Change Section 907.2.1.1 of the IBC to read:

907.2.1.1 System initiation in Group A occupancies with a occupant load of 1,000 or more and in certain night clubs. Activation of the fire alarm in Group A occupancies with an occupant load of 1,000 or more and in night clubs with an occupant load of 300 or more shall initiate a signal using an emergency voice and alarm communications system in accordance with ~~NEPA 72~~ Section 907.5.2.2.

Exception: Where approved, the prerecorded announcement is allowed to be manually deactivated for a period of time, not to exceed three minutes, for the sole purpose of allowing a live voice announcement from an approved, constantly attended location.

~~K.~~ Change Section 907.2.9 of the IBC to read:

~~907.2.9 Group R-2. A manual fire alarm system shall be installed in Group R-2 occupancies.~~

~~Exceptions:~~

~~1. A fire alarm system is not required in buildings not over two stories in height where all dwelling units or sleeping rooms and contiguous attic and crawl spaces are separated from each other and public or common areas by at least one-hour fire partitions and each dwelling unit or sleeping room has an exit directly to a public way, exit court or yard.~~

~~2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:~~

~~2.1. The building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2; and~~

~~2.2. The notification appliances will activate upon sprinkler flow.~~

L. Change ~~Add an exception to~~ Section ~~907.9.2~~ 907.5.2.1.1 of the IBC to read:

~~907.9.2 Audible alarms. Audible alarm notification appliances shall be provided and shall sound a distinctive sound that is not to be used for any purpose other than that of a fire alarm. The audible alarm notification appliances shall provide a sound pressure level of 15 decibels (dBA) above the average ambient sound level or 5 dBA above the maximum sound level having a duration of at least 60 seconds, whichever is greater, in every occupied space within the building. The minimum sound pressure levels shall be: 70 dBA in occupancies in Groups R and I-1; 90 dBA in mechanical equipment rooms and 60 dBA in other occupancies. The maximum sound pressure level for audible alarm notification appliances shall be 120 dBA at the minimum hearing distance from the audible appliance.~~

~~Where the average ambient noise is greater than 105 dBA, visible alarm notification appliances shall be provided in accordance with NEPA 72 and audible alarm notification appliances shall not be required.~~

~~Exceptions~~ Exception:

~~1. Visible alarm notification appliances shall be allowed in lieu of audible alarm notification appliances in critical-care areas of Group I-2 occupancies.~~

~~2. Sound pressure levels in Group I-3 occupancies shall be permitted to be limited to only the notification of occupants in the affected smoke compartment.~~

M. Change Section 909.6 of the IBC to read:

909.6 Pressurization method. When approved by the building official, the means of controlling smoke shall be permitted by pressure differences across smoke barriers. Maintenance of a tenable environment is not required in the smoke-control zone of fire origin.

N. ~~Add~~ Change the title of IBC Section ~~913~~ 915 to read:

In-Building Emergency Communications Coverage.

O. ~~Add~~ Change Section ~~913.1~~ to 915.1 of the IBC to read:

~~913.1~~ 915.1 General. In-building emergency communication equipment to allow emergency public safety personnel to send and receive emergency communications shall be provided in new buildings and structures in accordance with this section.

Exceptions:

1. Buildings of Use Groups A-5, I-4, within dwelling units of R-2, R-3, R-4, R-5, and U.

2. Buildings of Type IV and V construction without basements.

3. Above grade single story buildings of less than 20,000 square feet.

4. Buildings or leased spaces occupied by federal, state, or local governments, or the contractors thereof, with security requirements where the building official has approved an alternative method to provide emergency communication equipment for emergency public safety personnel.

5. Where the owner provides technological documentation from a qualified individual that the structure or portion thereof does not impede emergency communication signals.

P. Add Sections ~~913.2, 913.2.1, 913.2.2 and 913.2.3~~ 915.2, 915.2.1, 915.2.2, and 915.2.3 to the IBC to read:

~~913.2~~ 915.2 Where required. For localities utilizing public safety wireless communications, new buildings and structures shall be equipped throughout with dedicated

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infrastructure to accommodate and perpetuate continuous emergency communication.

~~912.2.1~~ 915.2.1 Installation. Radiating cable systems, such as coaxial cable or equivalent, shall be installed in dedicated conduits, raceways, plenums, attics, or roofs, compatible for these specific installations as well as other applicable provisions of this code.

~~913.2.2~~ 915.2.2 Operations. The locality will assume all responsibilities for the installation and maintenance of additional emergency communication equipment. To allow the locality access to and the ability to operate such equipment, sufficient space within the building shall be provided.

~~913.2.3~~ 915.2.3 Inspection. In accordance with Section 113.3, all installations shall be inspected prior to concealment.

Q. Add Section ~~913.3~~ 915.3 to the IBC to read:

~~913.3~~ 915.3 Acceptance test. Upon completion of installation, after providing reasonable notice to the owner or their representative, emergency public safety personnel 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. Any noted deficiencies shall be provided in an inspection report to the owner or the owner's representative.

13VAC5-63-245. Chapter 10 Means of egress.

A. Change Section 1004.3 of the IBC to read:

1004.3 Posting of occupant load. Every room or space that is an assembly occupancy and where the occupant load of that room or space is 50 or more shall have the occupant load of the room or space posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and shall be maintained by the owner or authorized agent.

B. Change Exception 3 of Section 1007.3 of the IBC to read:

~~3. The clear width of 48 inches (1219 mm) between handrails and the area of refuge is not required at exit stairways in buildings or facilities equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

C. Change Section 1007.4 of the IBC to read:

~~1007.4 Elevators. In order to be considered part of an accessible means of egress, an elevator shall comply with the emergency operation and signaling device requirements of Section 2.27 of ASME A17.1. Standby power shall be provided in accordance with Sections 2702 and 3003. The~~

~~elevator shall be accessed from either an area of refuge complying with Section 1007.6 or a horizontal exit.~~

Exceptions:

~~1. Elevators are not required to be accessed from an area of refuge or horizontal exit in open parking garages.~~

~~2. Elevators are not required to be accessed from an area of refuge or horizontal exit in buildings and facilities equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.~~

D. ~~B.~~ Change Section 1007.6.2 of the IBC to read:

1007.6.2 Separation. Each area of refuge shall be separated from the remainder of the story by a smoke barrier complying with Section 709 or a horizontal exit complying with Section 1021. Each area of refuge shall be designed to minimize the intrusion of smoke.

Exceptions:

1. Areas of refuge located within a vertical exit enclosure.

2. Areas of refuge where the area of refuge and areas served by the area of refuge are equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

E. ~~C.~~ Change Item 2 of Section ~~1008.1.8.3~~ 1008.1.9.3 of the IBC to read:

2. In buildings in occupancy Groups B, F, M and S, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:

2.1. The locking device is readily distinguishable as locked.

2.2. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters one inch (25 mm) high on a contrasting background.

2.3. The use of the key-operated locking device is revokable by the building official for due cause.

D. Delete Section 1008.1.9.6 of the IBC.

F. ~~E.~~ Change Section ~~1008.1.8.6~~ 1008.1.9.7 of the IBC to read:

~~1008.1.8.6~~ 1008.1.9.7 Delayed egress locks. Approved, listed, delayed egress locks shall be permitted to be installed on doors serving any occupancy including Group A-3, airport facilities, except Group A, E and H occupancies in buildings which are equipped throughout with an automatic sprinkler system in accordance with

Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 6 below. A building occupant shall not be required to pass through more than one door equipped with a delayed egress lock before entering an exit.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
2. The doors unlock upon loss of power controlling the lock or lock mechanism.
3. The door locks shall have the capability of being unlocked by a signal from the fire command center.
4. The initiation of an irreversible process which will release the latch in not more than 15 seconds when a force of not more than 15 pounds (67 N) is applied for 1 second to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, relocking shall be by manual means only.

Exception: Where approved, a delay of not more than 30 seconds is permitted.

5. A sign shall be provided on the door located above and within 12 inches (305 mm) of the release device reading: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS.

Exception: Where approved, such sign shall read: PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 30 SECONDS.

6. Emergency lighting shall be provided at the door.

~~G. Add Section 1008.1.8.8 to the IBC to read:~~

~~1008.1.8.8 Locking arrangements in correctional facilities. In occupancies in Groups A-3, A-4, B, E, F, I, M and S within penal facilities, doors in means of egress serving rooms or spaces occupied by persons whose movements must be controlled for security reasons shall be permitted to be locked if equipped with egress control devices which shall unlock manually and by at least one of the following means:~~

- ~~1. Actuation of an automatic fire suppression system required by Section 903.2.~~
- ~~2. Actuation of a key-operated manual alarm station required by Section 907.2.~~
- ~~3. A signal from a central control station.~~

~~F. Delete the exception in Section 1008.1.10 of the IBC.~~

~~H. G. Add Section ~~1008.1.10~~ 1008.1.11 to the IBC to read:~~

~~1008.1.10~~ 1008.1.11 Locking certain residential sliding doors. In dwelling units of Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent it from being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

~~F. H. Add Section ~~1008.1.11~~ 1008.1.12 to the IBC to read:~~

~~1008.1.11~~ 1008.1.12 Door viewers in certain residential buildings. Entrance doors to dwelling units of Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

~~I. L. Change Exception 4 5 of Section 1009.3 of the IBC to read:~~

~~4. 5. In Group R-3 occupancies; within dwelling units in Group R-2 occupancies; and in Group U occupancies that are accessory to a Group R-3 occupancy or accessory to individual dwelling units in Group R-2 occupancies; the maximum riser height shall be 8.25 inches (210 mm); the minimum tread depth shall be 9 inches (229 mm); the minimum winder tread depth at the walk line shall be 10 inches (254 mm); and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 11 inches (279 mm).~~

~~K. Add exception 6 to Section 1009.3 of the IBC to read:~~

~~6. Stairways in penal facilities serving guard towers, observation stations and control rooms not more than 250 square feet (23 m²) in area shall be permitted to have risers not exceeding 8 inches (203 mm) in height and treads not less than 9 inches (229 mm) in depth.~~

~~L. Change Exception 2 of Section 1009.3.3 of the IBC to read:~~

- ~~2. Solid risers are not required for occupancies in Group I-3.~~
- ~~3. There are no restrictions on size of the opening in the riser.~~

~~M. Add Section 1009.12 to the IBC to read:~~

~~1009.12 Ships ladders. Ships ladders are permitted as an element of a means of egress to and from facility observation or control rooms not more than 250 square feet (23 m²) in area that serves not more than three occupants and for access to unoccupied roofs.~~

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Ships ladders shall have a maximum projected tread of five inches (127 mm), a minimum tread depth of 8.5 inches (216 mm), a minimum tread width of 15 inches (612 mm) and a maximum riser height of 9.5 inches (241 mm).

Handrails shall be provided on both sides of ships ladders.

~~N.~~ N. Change Exception 4 of Section 1011.1 of the IBC to read:

~~4.~~ Exit signs are not required in dayrooms, sleeping rooms or dormitory spaces in occupancies in Group I-3.

~~Q.~~ J. Add Exception 5 3 to Item 2 4 of Section 1014.2 of the IBC to read:

~~5.~~ 3. A maximum of one exit access is permitted to pass through kitchens, store rooms, closets or spaces used for similar purposes provided such a space is not the only means of exit access.

~~P.~~ K. Change Table 1015.1 of the IBC to read:

Table 1015.1 Spaces With One Means of Egress Exit or Exit Access Doorway	
Occupancy	Maximum Occupant Load
A, B, E ^a , F, M, U	50
H-1, H-2, H-3	3
H-4, H-5, I-1, I-3, I-4, R	10
S	29
^a Day care maximum occupant load is 10.	

~~Q.~~ L. Change ~~exception~~ Exception 2 of Section 1015.2.1 of the IBC to read:

2. Where a building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2, the separation distance of the exit doors or exit access doorways shall not be less than one-fourth of the length of the maximum overall diagonal dimension of the area served.

M. Delete Sections 1015.6 and 1015.6.1 of the IBC.

~~R.~~ N. Change Table ~~1017.1~~ 1018.1 of the IBC to read:

Table 1017.1 <u>1018.1</u> Corridor Fire-Resistance Rating-			
Occupancy	Occupant Load Served By Corridor	Required Fire-Resistance Rating (hours)	
		Without sprinkler system	With sprinkler system ^b
H-1, H-2, H-3	All	1	1

H-4, H-5	Greater than 30	1	1
A, B, E, F, M, S, U	Greater than 30	1	0
R	Greater than 10	1	0.5
I-2 ^a , I-4	All	Not Permitted	0
I-1, I-3	All	Not Permitted	0

^a For requirements for occupancies in Group I-2, see Section Sections 407.2 and 407.3.

^b Buildings equipped throughout with an automatic sprinkler system in accordance with Sections 903.3.1.1 or 903.3.1.2 where allowed.

O. Change Table 1021.2 to read:

Table 1021.2 Stories With One Exit		
Story	Occupancy	Maximum Occupants (or Dwelling Units) Per Floor and Travel Distance
First story or basement	A, B ^d , E ^c , F ^d , M, U, S ^d	50 occupants and 75 feet travel distance
	H-2, H-3	3 occupants and 25 feet travel distance
	H-4, H-5, I, R	10 occupants and 75 feet travel distance
	S ^a	29 occupants and 100 feet travel distance
Second story	B ^b , F, M, S ^a	29 occupants and 75 feet travel distance
	R-2	4 dwelling units and 50 feet travel distance
Third story	R-2 ^c	4 dwelling units and 50 feet travel distance
For SI: 1 foot = 304.8 mm		
^a For the required number of exits for parking structures, see Section 1021.1.2.		
^b For the required number of exits for air traffic control		

towers, see Section 412.3.

c. Buildings classified as Group R-2 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and provided with emergency escape and rescue openings in accordance with Section 1029.

d. Group B, F and S occupancies in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 shall have a maximum travel distance of 100 feet.

e. Day care occupancies shall have a maximum occupant load of 10.

13VAC5-63-250. Chapter 11 Accessibility.

A. Add an exception to Section 1101.2 of the IBC to read:

Exception: Wall-mounted visible alarm notification appliances in Group I-3 occupancies shall be permitted to be a maximum of 120 inches (3048 mm) above the floor or ground, measured to the bottom of the appliance. Such appliances shall otherwise comply with all applicable requirements.

B. Change Section 1103.2.7 of the IBC to read:

1103.2.7 Raised areas. Raised areas used primarily for purposes of security, life safety or fire safety including, but not limited to, observation galleries, prison guard towers, fire towers or lifeguard stands, and raised areas used primarily for religious ceremonies in a place of religious worship are not required to be accessible or to be served by an accessible route.

~~B. C.~~ Add Section 1106.8 to the IBC to read:

1106.8 Identification of accessible parking spaces. In addition to complying with applicable provisions of this chapter, all accessible parking spaces shall be identified by above grade signs. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. All above grade parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.

~~C. D.~~ Change Item 1 of Section 1110.1 of the IBC to read:

1. Accessible parking spaces required by Section 1106.1.

13VAC5-63-267. Chapter 14 Exterior walls.

Change Section ~~1405.12.2~~ 1405.13.2 of the IBC to read:

~~1405.12.2~~ 1405.13.2 Window sills. In Occupancy Groups R-2 and R-3, one- and two-family and multiple-family dwellings, where the opening of the sill portion of an operable window is located more than 72 inches (1829 mm) above the finished grade or other surface below, the lowest part of the clear opening of the window shall be a ~~minimum of~~ at a height of less than 18 inches (457 mm) above the finished floor surface of the room in which the window is located. Glazing between the floor and a height of 18 inches (457 mm) shall be fixed or have openings ~~such that through which~~ a 4-inch (102 mm) diameter sphere cannot pass through.

Exception: Openings that are provided with window guards that comply with ASTM F2006 or F2090.

13VAC5-63-290. Chapter 18 Soils and foundations.

Change the exception to Section ~~1803.5~~ 1804.5 of the IBC to read:

Exception: Compacted fill material less than 12 inches (305 mm) in depth need not comply with an approved report, provided it is a natural non-organic material that is not susceptible to swelling when exposed to moisture and it has been compacted to a minimum of 90% Modified Proctor in accordance with ASTM D1557. The compaction shall be verified by a qualified inspector approved by the building official. Material other than natural material may be used as fill material when accompanied by a certification from an RDP and approved by the building official.

13VAC5-63-300. Chapter 27 Electrical.

A. Change Section 2701.1 of the IBC to read:

2701.1 Scope. This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of this code and NFPA 70. Any references in this code to the ICC Electrical Code shall be considered to be references to NFPA 70.

B. Add Section 2701.1.1 to the IBC to read:

2701.1.1 Changes to NFPA 70. The following change shall be made to NFPA 70:

1. Change Sections 334.10(2) and 334.10(3) of NFPA 70 to read:

(2) Multifamily dwellings not exceeding four floors above grade and multifamily dwellings of any height permitted to be of Types III, IV and V construction except in any case as prohibited in 334.12.

(3) Other structures not exceeding four floors above grade and other structures of any height permitted to be of Types III, IV and V construction except in any case as

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prohibited in 334.12. In structures exceeding four floors above grade, cables shall be concealed within walls, floors or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

For the purpose of Items 2 and 3 above, the first floor of a building shall be that floor that has 50% or more of the exterior wall surface area level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage or similar use shall be permitted.

C. Add Section 2701.1.2 to the IBC to read:

2701.1.2 Temporary connection to dwelling units. The building official shall give permission to energize the electrical service equipment of a one- or two-family dwelling unit when all of the following requirements have been approved:

1. The service wiring and equipment, including the meter socket enclosure, shall be installed and the service wiring terminated.
2. The grounding electrode system shall be installed and terminated.
3. At least one receptacle outlet on a ground fault protected circuit shall be installed and the circuit wiring terminated.
4. Service equipment covers shall be installed.
5. The building roof covering shall be installed.
6. Temporary electrical service equipment shall be suitable for wet locations unless the interior is dry and protected from the weather.

D. Add Section 2701.1.3 to the IBC to read:

2701.1.3 Assisted living facility generator requirements. Generators installed to comply with regulations for assisted living facilities licensed by the Virginia Department of Social Services shall be permitted to be optional standby systems.

E. Change Section 2702.2.17 of the IBC to read:

2702.2.17 Group I-2 and I-3 occupancies. Emergency power shall be provided in accordance with Section ~~407.8~~ 407.10 for Group I-2 occupancies licensed by the Virginia Department of Health as a hospital, nursing or hospice facility. Emergency power shall be provided for doors in Group I-3 occupancies in accordance with Section 408.4.2.

13VAC5-63-310. Chapter 28 Mechanical systems.

A. Change Section 2801.1 of the IBC to read:

2801.1 Scope. Mechanical appliances, equipment and systems shall be constructed and installed in accordance

with this chapter, the International Mechanical Code and the International Fuel Gas Code. Masonry chimneys, fireplaces and barbecues shall comply with the International Mechanical Code and Chapter 21 of this code.

Exception: This code shall not govern the construction of water heaters, boilers and pressure vessels to the extent which they are regulated by the Virginia Boiler and Pressure Vessel Regulations (16VAC25-50). However, the building official may require the owner of a structure to submit documentation to substantiate compliance with those regulations.

~~B. Add IBC Section 2802 Heating Facilities.~~

~~C. B. Add Section ~~2802.1~~ 2801.1.1 to the IBC to read:~~

~~2802.1~~ 2801.1.1 Required heating in dwelling units. Heating facilities shall be required in every dwelling unit or portion thereof which is to be rented, leased or let on terms, either expressed or implied, to furnish heat to the occupants thereof. The heating facilities shall be capable of maintaining the room temperature at 65°F (18°C) during the period from October 15 to May 1 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours when measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls. The capability of the heating system shall be based on the outside design temperature required for the locality by this code.

~~D. C. Add Section ~~2802.2~~ 2801.1.2 to the IBC to read:~~

~~2802.2~~ 2801.1.2 Required heating in nonresidential structures. Heating facilities shall be required in every enclosed occupied space in nonresidential structures. The heating facilities shall be capable of producing sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The required room temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from the exterior walls.

Processing, storage and operation areas that require cooling or special temperature conditions and areas in which persons are primarily engaged in vigorous physical activities are exempt from these requirements.

~~E. D. Add Section ~~2803.1~~ 2801.1.3 to the IBC to read:~~

~~2803.1~~ 2801.1.3 Changes to the International Mechanical Code. The following ~~changes~~ change shall be made to the International Mechanical Code:

~~1. Add the following definitions to Section 202 of the International Mechanical Code:~~

~~Breathing zone. The region within an occupied space between planes three and 72 inches (75 and 1800 mm) above the floor and more than two feet (600 mm) from~~

the walls of the space or from fixed air conditioning equipment.

~~Net occupiable floor area. The floor area of an occupiable space defined by the inside surfaces of its walls, but excluding shafts, column enclosures and other permanently enclosed, inaccessible and unoccupiable areas. Obstructions in the space such as furnishings, display or storage racks and other obstructions, whether temporary or permanent, shall not be deducted from the space area.~~

~~Occupiable space. An enclosed space intended for human activities, excluding those spaces intended primarily for other purposes, such as storage rooms and equipment rooms, that are only intended to be occupied occasionally and for short periods of time.~~

~~Zone. One occupiable space or several occupiable spaces with similar occupaney classification (see Table 403.3), occupant density, zone air distribution effectiveness and zone primary airflow rate per unit area.~~

~~2. Replace Section 403 of the International Mechanical Code to read:~~

~~Section 403.~~

~~Mechanical Ventilation.~~

~~403.1 Ventilation system. Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.~~

~~403.2 Outdoor air required. The minimum outdoor airflow rate shall be determined in accordance with Section 403.3. Ventilation supply systems shall be designed to deliver the required rate of outdoor airflow to the breathing zone within each occupiable space.~~

~~Exception: Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of outdoor air ventilation determined in accordance with Section 403.3, the minimum required rate of outdoor air shall be reduced in accordance with such engineered system design.~~

~~403.2.1 Recirculation of air. The outdoor air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recirculated as a component of supply air to building spaces, except that:~~

~~1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.~~

~~2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.~~

~~3. Where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces shall be prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.~~

~~4. Where mechanical exhaust is required by Note h in Table 403.3, mechanical exhaust is required and recirculation is prohibited where 10 percent or more of the resulting supply airstream consists of air recirculated from these spaces.~~

~~403.2.2 Transfer air. Except where recirculation from such spaces is prohibited by Table 403.3, air transferred from occupiable spaces is not prohibited from serving as makeup air for required exhaust systems in such spaces as kitchens, baths, toilet rooms, elevators and smoking lounges. The amount of transfer air and exhaust air shall be sufficient to provide the flow rates as specified in Section 403.3. The required outdoor airflow rates specified in Table 403.3 shall be introduced directly into such spaces or into the occupied spaces from which air is transferred or a combination of both.~~

~~403.3 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table 403.3. Ventilation rates for occupancies not represented in Table 403.3 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.~~

~~With the exception of smoking lounges, the ventilation rates in Table 403.3 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table 403.3 in accordance with accepted engineering practice.~~

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Exception: The occupant load is not required to be determined, based on the estimated maximum occupant load rate indicated in Table 403.3 where approved

statistical data document the accuracy of an alternate anticipated occupant density.

Table 403.3 Minimum Ventilation Rates				
Occupancy Classification	People Outdoor Airflow Rate in Breathing Zone Cfm/person	Area Outdoor Airflow Rate in Breathing Zone R_a efm/ft ^{2a}	Default Occupant Density #/1000 ft ^{2a}	Exhaust Airflow Rate Cfm/ft ^{2a}
Correctional Facilities				
Cells				
without plumbing fixtures	5	0.12	25	-
with plumbing fixtures ^e	5	0.12	25	-
Dining halls (See Food and Beverage Service)	-	-	-	-
Guard stations	5	0.06	15	-
Day room	5	0.06	50	-
Booking/waiting	7.5	0.06	50	-
Dry cleaners, laundries				
Coin-operated dry cleaner	15	-	20	-
Coin-operated laundries	7.5	0.06	20	-
Commercial dry cleaner	30	-	30	-
Commercial laundry	25	-	10	-
Storage pick up	7.5	0.12	30	-
Education				
Auditoriums	5	0.06	150	-
Corridors (See Public Spaces)	-	-	-	-
Media center	10	0.12	25	-
Sports locker rooms ^e	-	-	-	0.5
Music/theater/dance	10	0.06	35	-
Smoking lounges ^b	60	-	70	-
Daycare (through age 4)	10	0.18	25	-
Classrooms (ages 5-8)	10	0.12	25	-
Classrooms (age 9 plus)	10	0.12	35	-
Lecture classroom	7.5	0.06	65	-
Lecture hall (fixed seats)	7.5	0.06	150	-
Art classroom ^e	10	0.18	20	0.7
Science laboratories ^e	10	0.18	25	1.0
Wood/metal shop	10	0.18	20	0.5
Computer lab	10	0.12	25	-
Locker/dressing rooms ^e	-	-	-	0.25

Food and beverage service				
Bars, cocktail lounges	7.5	0.18	100	-
Cafeteria, fast food	7.5	0.18	100	-
Dining rooms	7.5	0.18	70	-
Kitchens (cooking) ^b	-	-	-	0.7
Hospitals, nursing and convalescent homes				
Autopsy rooms ^b	-	-	-	0.5
Medical procedure rooms	15	-	20	-
Operating rooms	30	-	20	-
Patient rooms	25	-	10	-
Physical recovery	15	-	20	-
Recovery and ICU	15	-	20	-
Hotels, motels, resorts and dormitories				
Multi-purpose assembly	5	0.06	120	-
Bathroom/Toilet-private ^e	-	-	-	25/50 ^f
Bedroom/living room	5	0.06	10	-
Conference/meeting	5	0.06	50	-
Dormitory sleeping areas	5	0.06	20	-
Gambling casinos	7.5	0.18	120	-
Lobbies/pre-function	7.5	0.06	30	-
Offices				
Conference rooms	5	0.06	50	-
Office spaces	5	0.06	5	-
Reception areas	5	0.06	30	-
Telephone/data entry	5	0.06	60	-
Main entry lobbies	5	0.06	10	-
Private dwellings, single and multiple				
Garages, common for multiple units ^b	-	-	-	0.75
Garages, separate for each dwelling ^b	-	-	-	100 cfm/ear
Kitchens ^b	-	-	-	25/100 ^f
Living areas ^e	0.35 ACH but not less than 15 cfm/person	-	Based upon number of bedrooms, first bedroom 2; each additional bedroom: +	-
Toilet rooms and bathrooms ^e	-	-	-	20/50 ^f
Public spaces				
Corridors	-	0.06	-	-
Elevator car	-	-	-	1.0

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Shower room (per shower head) ^g	-	-	-	50/20 ^f
Smoking lounges ^b	60	-	70	-
Toilet rooms public ^g	-	-	-	50/70 ^e
Places of religious worship	5	0.06	120	-
Courtrooms	5	0.06	70	-
Legislative chambers	5	0.06	50	-
Libraries	5	0.12	10	-
Museums (children's)	7.5	0.12	40	-
Museums/galleries	7.5	0.12	40	-
Retail stores, sales floors and showroom floors				
Sales (except as below)	7.5	0.12	15	-
Dressing rooms	-	-	-	0.25
Mall common areas	7.5	0.06	40	-
Shipping and receiving	-	0.12	-	-
Smoking lounges ^b	60	-	70	-
Storage rooms	-	0.12	-	-
Warehouses (See Storage)	-	-	-	-
Specialty shops				
Automotive motor fuel dispensing stations ^b	-	-	-	1.5
Barber	7.5	0.06	25	0.5
Beauty and nail salons ^{b,h}	20	0.12	25	0.6
Embalming room ^b	-	-	-	2.0
Pet shops (animal areas) ^b	7.5	0.18	10	0.9
Supermarkets	7.5	0.06	8	-
Sports and amusement				
Disco/dance floors	20	0.06	100	-
Bowling alleys (seating areas)	10	0.12	40	-
Game arcades	7.5	0.18	20	-
Ice arenas without combustion engines	-	0.30	-	0.5
Gym, stadium, arena (play area)	-	0.30	-	-
Spectator areas	7.5	0.06	150	-
Swimming pools (pool and deck area)	-	0.48	-	-
Health club/aerobics room	20	0.06	40	-
Health club/weight room	20	0.06	10	-
Storage				
Repair garages, enclosed parking garages ^{b,d}	-	-	-	0.75

Warehouses	-	0.06	-	-
Theaters				
Auditoriums (See Education)	-	-	-	-
Lobbies	5	0.06	150	-
Stages, studios	10	0.06	70	-
Ticket booths	5	0.06	60	-
Transportation				
Platforms	7.5	0.06	100	-
Transportation waiting	7.5	0.06	100	-
Workrooms				
Bank vaults/safe deposit	5	0.06	5	-
Darkrooms	-	-	-	1.0
Copy, printing rooms	5	0.06	4	0.5
Meat processing ^e	15	-	10	-
Pharmacy (prep. area)	5	0.18	10	-
Photo studios	5	0.12	10	-
Computer (without printing)	5	0.06	4	-

For SI: 1 cubic foot per minute = 0.0004719 m³/s, 1 ton = 908 kg, 1 cubic foot per minute per square foot = 0.00508 m³/(s m²), C = ((F) - 32)/1.8, 1 square foot = 0.0929 m².

^aBased upon net occupiable floor area.

^bMechanical exhaust required and the recirculation of air from such spaces is prohibited (see Section 403.2.1, Item 3).

^cSpaces unheated or maintained below 500°F are not covered by these requirements unless the occupancy is continuous.

^dVentilation systems in enclosed parking garages shall comply with Section 404.

^eRates are per water closet or urinal. The higher rate shall be provided where periods of heavy use are expected to occur, such as, toilets in theaters, schools, and sports facilities. The lower rate shall be permitted where periods of heavy use are not expected.

^fRates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted where the exhaust system is designed to operate continuously during normal hours of use.

^gMechanical exhaust is required and recirculation is prohibited except that recirculation shall be permitted where the resulting supply airstream consists of not more than 10 percent air recirculated from these spaces (see Section 403.2.1, Items 2 and 4).

^hFor nail salons, the required exhaust shall include ventilation tables or other systems that capture the contaminants and odors at their source and are capable of exhausting a minimum of 50 cfm per station.

~~403.3.1 Zone outdoor airflow. The minimum outdoor airflow required to be supplied to each zone shall be determined as a function of occupancy classification and space air distribution effectiveness in accordance with Sections 403.3.1.1 through 403.3.1.3.~~

~~403.3.1.1 Breathing zone outdoor airflow. The outdoor airflow rate required in the breathing zone (V_{bz}) of the occupiable space or spaces in a zone shall be determined in accordance with Equation 4-1.~~

~~$$V_{bz} = R_p P_z + R_a A_z \text{ (Equation 4-1)}$$~~

~~where:~~

A_z = zone floor area: the net occupiable floor area of the space or spaces in the zone.

P_z = zone population: the number of people in the space or spaces in the zone.

R_p = people outdoor air rate: the outdoor airflow rate required per person from Table 403.3.

R_a = area outdoor air rate: the outdoor airflow rate required per unit area from Table 403.3.

~~403.3.1.2 Zone air distribution effectiveness. The zone air distribution effectiveness (E_z) shall be determined using Table 403.3.1.2.~~

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Table 403.3.1.2 Zone Air Distribution Effectiveness ^{a,b,c,d,e}	
Air Distribution Configuration	E_z
Ceiling or floor supply of cool air	1.0 ^f
Ceiling or floor supply of warm air and floor return	1.0
Ceiling supply of warm air and ceiling return	0.8 ^g
Floor supply of warm air and ceiling return	0.7
Makeup air drawn in on the opposite side of the room from the exhaust or return, or both	0.8
Makeup air drawn in near to the exhaust or return location, or both	0.5

For SI: 1 foot = 304.8 mm, 1 foot per minute = 0.00506 m/s, °C = ((°F) - 32)/1.8.

^a"Cool air" is air cooler than space temperature.

^b"Warm air" is air warmer than space temperature.

^c"Ceiling" includes any point above the breathing zone.

^d"Floor" includes any point below the breathing zone.

^e"Makeup air" is air supplied or transferred to a zone to replace air removed from the zone by exhaust or return systems.

^fZone air distribution effectiveness of 1.2 shall be permitted for systems with a floor supply of cool air and ceiling return, provided that low-velocity displacement achieves unidirectional flow and thermal stratification.

^gZone air distribution effectiveness of 1.0 shall be permitted for systems with a ceiling supply of warm air, provided that supply air temperature is less than 150 F above space temperature and provided that the 150 foot per minute supply air jet reaches to within 4.5 feet of floor level.

403.3.1.3 Zone outdoor airflow. The zone outdoor airflow rate (V_{oz}), shall be determined in accordance with Equation 4.2.

$$V_{oz} = V_{bz} / E_z \text{ (Equation 4.2)}$$

403.3.2 System outdoor airflow. The outdoor air required to be supplied by each ventilation system shall be determined in accordance with Sections 403.3.2.1 through 403.3.2.3 as a function of system type and zone outdoor airflow rates.

403.3.2.1 Single zone systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to only one zone, the system outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Equation 4.3.

$$V_{ot} = V_{oz} \text{ (Equation 4.3)}$$

403.3.2.2 100-percent outdoor air systems. Where one air handler supplies only outdoor air to one or more zones, the system outdoor air intake flow rate (V_{ot}) shall be determined using Equation 4.4.

$$V_{ot} = \sum_{\text{all zones}} V_{oz} \text{ (Equation 4.4)}$$

403.3.2.3 Multiple zone recirculating systems. Where one air handler supplies a mixture of outdoor air and recirculated return air to more than one zone, the system outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Sections 403.3.2.3.1 through 403.3.2.3.4.

403.3.2.3.1 Primary Outdoor Air Fraction. The primary outdoor air fraction (Z_p) shall be determined for each zone in accordance with Equation 4.5.

$$Z_p = V_{oz} / V_{pz} \text{ (Equation 4.5)}$$

where:

V_{pz} = Primary airflow: The airflow rate supplied to the zone from the air handling unit at which the outdoor air intake is located. It includes outdoor intake air and recirculated air from that air handling unit but does not include air transferred or air recirculated to the zone by other means. For design purposes, V_{pz} shall be the zone design primary airflow rate, except for zones with variable air volume supply and V_{pz} shall be the lowest expected primary airflow rate to the zone when it is fully occupied.

403.3.2.3.2 System ventilation efficiency. The system ventilation efficiency (E_v) shall be determined using Table 403.3.2.3.2 or Appendix A of ASHRAE 62.1.

Table 403.3.2.3.2 System Ventilation Efficiency	
Max(Z_p)	E_v
0.15	1.0
0.25	0.9
0.35	0.8
0.45	0.7
0.55	0.6
0.65	0.5
0.75	0.4
<0.75	0.3

^aMax(Z_p) is the largest value of Z_p calculated using Equation 4.5 among all the zones served by the system.

^bInterpolating between table values shall be permitted.

403.3.2.3.3 ~~Uncorrected outdoor air intake. The uncorrected outdoor air intake flow rate (V_{ou}) shall be determined in accordance with Equation 4-7.~~

$$V_{ou} = D \sum_{\text{all zones}} R_p P_z + \sum_{\text{all zones}} R_a A_z \text{ (Equation 4-7)}$$

where:

D = Occupant diversity: the ratio of the system population to the sum of the zone populations, determined in accordance with Equation 4-8.

$$D = P_s / \sum_{\text{all zones}} P_z \text{ (Equation 4-8)}$$

where:

P_s = System population: The total number of occupants in the area served by the system. For design purposes, P_s shall be the maximum number of occupants expected to be concurrently in all zones served by the system.

403.3.2.3.4 ~~Outdoor air intake flow rate. The outdoor air intake flow rate (V_{ot}) shall be determined in accordance with Equation 4-9.~~

$$V_{ot} = V_{ow} / E_v \text{ (Equation 4-9)}$$

403.4 ~~Exhaust Ventilation. Exhaust airflow rate shall be provided in accordance with the requirements in Table 403.3. Exhaust makeup air shall be permitted to be any combination of outdoor air, recirculated air and transfer air, except as limited in accordance with Section 403.2.~~

403.5 ~~System operation. The minimum flow rate of outdoor air that the ventilation system must be capable of supplying during its operation shall be permitted to be based on the rate per person indicated in Table 403.3 and the actual number of occupants present.~~

403.6 ~~Variable air volume system control. Variable air volume air distribution systems, other than those designed to supply only 100 percent outdoor air, shall be provided with controls to regulate the flow of outdoor air. Such control system shall be designed to maintain the flow rate of outdoor air at a rate of not less than that required by Section 403.3 over the entire range of supply air operating rates.~~

403.7 ~~Balancing. The ventilation air distribution system shall be provided with means to adjust the system to achieve at least the minimum ventilation airflow rate as required by Sections 403.3 and 403.4. Ventilation systems shall be balanced by an approved method. Such balancing shall verify that the ventilation system is capable of supplying and exhausting the airflow rates required by Sections 403.3 and 403.4.~~

3. Change Section 404.2 of the International Mechanical Code to read:

404.2 ~~Minimum ventilation. Automatic operation of the system shall not reduce the ventilation airflow rate below~~

0.05 cfm per square foot (0.00025 m³/s·m²) of the floor area and the system shall be capable of producing a ventilation rate of 0.75 cfm per square foot (0.0035 m³/s·m²) of floor area.

4. Change Section 504.6.1 of the International Mechanical Code to read:

504.6.1 ~~Maximum length. The maximum length of a clothes dryer exhaust duct shall not exceed 35 feet (10668 mm) from the dryer location to the outlet terminal. The maximum length of the duct shall be reduced 2 1/2 feet (762 mm) for each 45-degree (0.79 rad) bend and five feet (1524 mm) for each 90-degree (1.6 rad) bend. The maximum length of the exhaust duct does not include the transition duct.~~

Exception: Where the make and model of the clothes dryer to be installed is known and the manufacturer's installation instructions for such dryer are provided to the code official, the maximum length of the exhaust duct, including any transition duct, shall be permitted to be in accordance with the dryer manufacturer's installation instructions.

5. Change Section 507.2.2 of the International Mechanical Code to read:

507.2.2. ~~Type II hoods. Type II hoods shall be installed where cooking or dishwashing appliances produce heat, steam, or products of combustion and do not produce grease or smoke, such as steamers, kettles, pasta cookers and dishwashing machines.~~

Exceptions:

1. Under counter type — commercial — dishwashing machines.

2. A Type II hood is not required for dishwashers and potwashers that are provided with heat and water vapor exhaust systems that are supplied by the appliance manufacturer and are installed in accordance with the manufacturer's instructions.

3. A single light duty electric convection, bread, retherm, steamer or microwave oven designed for countertop installation. The additional heat and moisture loads generated by such appliances shall be accounted for in the design of the HVAC system.

4. A Type II hood is not required for the following electrically heated appliances: toasters, steam tables, popcorn poppers, hot dog cookers, coffee makers, rice cookers, egg cookers, holding/warming ovens. The additional heat and moisture loads generated by such appliances shall be accounted for in the design of the HVAC system.

6. Change Section 701.1 of the International Mechanical Code to read as follows and delete the remainder of Chapter 7:

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~~701.1 Scope. Solid fuel burning appliances shall be provided with combustion air in accordance with the appliance manufacturer's installation instructions. Oil-fired appliances shall be provided with combustion air in accordance with NFPA 31. The methods of providing combustion air in this chapter do not apply to fireplaces, fireplace stoves and direct vent appliances. The requirements for combustion and dilution air for gas-fired appliances shall be in accordance with the International Fuel Gas Code.~~

7. 1. Add Section 801.1.1 to the International Mechanical Code to read:

801.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

F. E. Add Section ~~2804.4~~ 2801.1.4 to the IBC to read:

~~2804.4~~ 2801.1.4 Changes to the International Fuel Gas Code. The following changes shall be made to the International Fuel Gas Code:

1. Change Section 301.1 of the International Fuel Gas Code to read:

301.1 Scope. This code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, and related accessories as follows:

1. Coverage of piping systems shall extend from the point of delivery to the connections with gas utilization equipment. (See "point of delivery.")
2. Systems with an operating pressure of 125 psig (862 kPa gauge) or less.

Piping systems for gas-air mixtures within the flammable range with an operating pressure of 10 psig (69 kPa gauge) or less.

LP-Gas piping systems with an operating pressure of 20 psig (140 kPa gauge) or less.

3. Piping systems requirements shall include design, materials, components, fabrication, assembly, installation, testing and inspection.

4. Requirements for gas utilization equipment and related accessories shall include installation, combustion and ventilation air and venting.

This code shall not apply to the following:

1. Portable LP-Gas equipment of all types that are not connected to a fixed fuel piping system.
2. Installation of farm equipment such as brooders, dehydrators, dryers, and irrigation equipment.
3. Raw material (feedstock) applications except for piping to special atmosphere generators.
4. Oxygen-fuel gas cutting and welding systems.
5. Industrial gas applications using gases such as acetylene and acetylenic compounds, hydrogen, ammonia, carbon monoxide, oxygen, and nitrogen.
6. Petroleum refineries, pipeline compressor or pumping stations, loading terminals, compounding plants, refinery tank farms, and natural gas processing plants.
7. Integrated chemical plants or portions of such plants where flammable or combustible liquids or gases are produced by chemical reactions or used in chemical reactions.
8. LP-Gas installations at utility gas plants.
9. Liquefied natural gas (LNG) installations.
10. Fuel gas piping in power and atomic energy plants.
11. Proprietary items of equipment, apparatus, or instruments such as gas generating sets, compressors, and calorimeters.
12. LP-Gas equipment for vaporization, gas mixing, and gas manufacturing.
13. Temporary LP-Gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.
14. Installation of LP-Gas systems for railroad switch heating.
15. Installation of LP-Gas and compressed natural gas (CNG) systems on vehicles.
16. Except as provided in Section 401.1.1, gas piping, meters, gas pressure regulators, and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-Gas.
17. Building design and construction, except as specified herein.

~~2. Change Section 310.1 of the International Fuel Gas Code to read:~~

~~310.1 Gas pipe bonding. Each aboveground portion of a gas piping system that is likely to become energized shall be electrically continuous and bonded to an effective ground fault current path. Gas piping shall be considered to be bonded where it is connected to appliances that are connected to the equipment grounding conductor of the circuit supplying that appliance.~~

~~CSST gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service piping enters the building. The bonding conductor size shall be not less than #6 AWG copper wire or equivalent.~~

~~3. 2. Add Section 404.8.3~~ 404.9.3 to the International Fuel Gas Code to read:

~~404.8.3~~ 404.9.3 Coating application. Joints in gas piping systems shall not be coated prior to testing and approval.

~~4. Add Section 404.17 to the International Fuel Gas Code to read:~~

~~404.17 Isolation. Metallic piping and metallic tubing that conveys fuel gas from an LP gas storage container shall be provided with an approved dielectric fitting to electrically isolate the underground portion of the pipe or tube from the aboveground portion that enters a building. Such dielectric fitting shall be installed above ground, outdoors.~~

~~5. 3. Add Section 501.1.1 to the International Fuel Gas Code to read:~~

501.1.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing buildings, an inspection or inspections shall be conducted to ensure that the connected vent or chimney systems comply with the following:

1. Vent or chimney systems are sized in accordance with this code.
2. Vent or chimney systems are clean, free of any obstruction or blockages, defects or deterioration and are in operable condition.

Where not inspected by the local building department, persons performing such changes or installations shall certify to the building official that the requirements of Items 1 and 2 of this section are met.

13VAC5-63-320. Chapter 29 Plumbing systems.

A. Change Section 2901.1 of the IBC to read:

2901.1 Scope. The provisions of this chapter and the International Plumbing Code shall govern the design and installation of all plumbing systems and equipment, except that as provided for in Section 103.11 for functional design, water supply sources and sewage disposal systems are regulated and approved by the Virginia Department of Health and the Virginia Department of Environmental Quality. The approval of pumping and electrical equipment associated with such water supply sources and sewage disposal systems shall, however, be the responsibility of the building official.

Note: See also the Memorandum of Agreement in the "Related Laws Package," which is available from DHCD.

B. Add Section 2901.1.1 to the IBC to read:

2901.1.1 Changes to the International Plumbing Code. The following changes shall be made to the International Plumbing Code:

~~1. Change Section 310.4 to read:~~

~~310.4 Water closet compartment. Each water closet utilized by the public or employees shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy.~~

~~Exceptions:~~

- ~~1. Water closet compartments shall not be required in a single-occupant toilet room with a lockable door.~~
- ~~2. Toilet rooms located in day care and child care facilities and containing two or more water closets shall be permitted to have one water closet without an enclosing compartment.~~
- ~~3. Water closet compartments or partitions shall not be required in toilet facilities for inmates in I-3 occupancies.~~

~~2. 1. Delete Sections 311 and 311.1.~~

~~3. Change Category 5 of Table 403.1 to read:~~

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No.	Classification	Occupancy	Description	Water Closets (Urinals see Section 419.2)		Lavatories		Bathtubs/ Showers	Drinking Fountain (see Section 410.1)	Other
				Male	Female	Male	Female			
5	Institutional	I-3	Prisons ^b	1 per cell		1 per cell		1 per 15	1 per 100	-
		I-3	Reformatories, detention centers, and correctional centers ^b	1 per 15		1 per 15		1 per 15	1 per 100	-
		I-3	Employees	1 per 25		1 per 35		-	1 per 100	-

4. 2. Delete Section 701.9.

5. 3. Add Section 703.6 to read:

~~703.6 Nonmetallic building sewer location Tracer wire. Nonmetallic sanitary sewer piping installed and located within six feet (1829 mm) of finished grade that discharges to public systems shall be locatable. An insulated copper tracer wire, 18 AWG minimum in size and suitable for direct burial or an equivalent product, shall be utilized. The wire shall be installed in the same trench as the sewer within 12 inches (305 mm) of the pipe and shall be installed to within five feet (1524 mm) of the building wall to the point where the building sewer intersects with the public system. The ends At a minimum, one end of the wire shall terminate above grade in an accessible location that is not subject resistant to physical damage, such as with a cleanout or at the building wall. Only one accessible location is required to be provided for the wire terminations on either end of each sewer installation.~~

13VAC5-63-330. Chapter 30 Elevators and conveying equipment.

A. Change Section 3002.4 of the IBC to read:

3002.4 Elevator car to accommodate ambulance stretcher. Where elevators are provided in buildings four or more stories above grade plane, or four or more stories below grade plane, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate a 24 inch ambulance stretcher 24 inches by 84 inch 84 inches (610 mm by 2134 mm) ambulance stretcher with not less than five-inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than three inches (76 mm) high and shall be placed inside on both sides of the

hoistway door frame on the designated and alternate landing floors required to be established by ASME A17.1.

Exception: Elevators in multistory dwelling units or guest rooms.

B. Change Section 3006.4 of the IBC to read:

3006.4 Machine rooms and machinery spaces. Elevator machine rooms, rooms housing elevator controllers, and machinery spaces shall be enclosed with fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 712, or both. The fire-resistance rating shall not be less than the required rating of the hoistway enclosure served by the machinery. Openings in the fire barriers shall be protected with assemblies having a fire protection rating not less than that required for the hoistway enclosure doors.

Exceptions:

1. Where machine rooms, rooms housing elevator controllers, and machinery spaces do not abut and have no openings to the hoistway enclosure they serve, the fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 712, or both, shall be permitted to be reduced to a one-hour fire-resistance rating.

2. In buildings four stories or less above grade plane when machine rooms, rooms housing elevator controllers, and machinery rooms do not abut and have no openings to the hoistway enclosure they serve, the machine room, room housing elevator controllers, and machinery spaces are not required to be fire-resistance rated.

B- C. Add Section 3006.7 to the IBC to read:

3006.7 Machine-room-less designs. Where machine-room-less designs are utilized they shall comply with the provisions of ASME A17.1 and incorporate the following:

1. Where the elevator car-top will be used as a work platform, it shall be equipped with permanently installed guards on all open sides. Guards shall be permitted to be of collapsible design, but otherwise must conform to all applicable requirements of this code for guards.

2. Where the equipment manufacturer's procedures for machinery removal and replacement depend on overhead structural support or lifting points, such supports or lifting points shall be permanently installed at the time of initial equipment installation.

3. Where the structure that the elevator will be located in is required to be fully sprinklered by this code, the hoistway that the elevator machine is located in shall be equipped with a fire suppression system as a machine room in accordance with NFPA 13. Smoke detectors for the automatic initiation of Phase I Emergency Recall Operation, and heat detectors or other approved devices that automatically disconnect the main line power supply to the elevators, shall be installed within the hoistway.

13VAC5-63-350. Chapter 34 Existing structures.

A. Change Section 3401.1 of the IBC to read:

3401.1 Scope. The provisions of this chapter and the applicable requirements of Chapter 1 shall control the alteration, repair, addition and change of occupancy of existing structures.

B. Delete IBC Sections 3401.2 and 3401.3, 3401.4, and 3401.5.

C. Delete IBC ~~Section~~ Sections 3403, 3404, 3405, and 3406.

D. Change Section ~~3405.1~~ 3407.1 of the IBC to read:

~~3405.1~~ 3407.1 Standards for replacement glass. In accordance with § 36-99.2 of the Code of Virginia, any replacement glass installed in buildings constructed prior to the first edition of the USBC shall meet the quality and installation standards for glass installed in new buildings as are in effect at the time of installation. In addition, as a requirement of this code, the installation or replacement of glass in buildings constructed under any edition of the USBC shall be as required for new installations.

E. Delete IBC Section ~~3406~~ 3408.

F. Delete IBC Section ~~3408~~ 3410.

G. Change Section ~~3410.2~~ 3412.2 of the IBC to read:

~~3410.2~~ 3412.2 Applicability. When specifically requested by an owner or an owner's agent in structures where there is work involving additions, alterations or changes of occupancy, the provisions in Sections ~~3410.2.1~~ 3412.2.1 through ~~3410.2.5~~ 3412.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions

shall not apply to buildings with occupancies in Group H or I.

H. Add an exception to Section ~~3410.2.1~~ 3412.2.1 of the IBC to read:

Exception: Plumbing, mechanical and electrical systems in buildings undergoing a change of occupancy shall be subject to any applicable requirements of Section 103.3 of this code.

I. Change Section 3412.2.5 of the IBC to read:

3412.2.5 Accessibility requirements. All portions of the buildings proposed for change of occupancy and all alterations to existing buildings shall conform to the applicable accessibility provisions of Section 3411.

~~J.~~ J. Add IBC Section ~~3411~~ 3413 Retrofit Requirements.

~~J.~~ K. Add Section ~~3411.1~~ 3413.1 to the IBC to read:

~~3411.1~~ 3413.1 Scope. In accordance with Section 103.7 and as setout herein, the following buildings are required to be provided with certain fire protection equipment or systems or other retrofitted components.

~~K.~~ L. Add Section ~~3411.2~~ 3413.2 to the IBC to read:

~~3411.2~~ 3413.2 Smoke detectors in colleges and universities. In accordance with Section 36-99.3 of the Code of Virginia, college and university buildings containing dormitories for sleeping purposes shall be provided with battery-powered or AC-powered smoke detector devices installed therein in accordance with this code in effect on July 1, 1982. All public and private college and university dormitories shall have installed such detectors regardless of when the building was constructed. The chief administrative office of the college or university shall obtain a certificate of compliance with the provisions of this subsection from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services. The provisions of this section shall not apply to any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

~~L.~~ M. Add Section ~~3411.3~~ 3413.3 to the IBC to read:

~~3411.3~~ 3413.3 Smoke detectors in certain juvenile care facilities. In accordance with § 36-99.4 of the Code of Virginia, battery-powered or AC-powered smoke detectors shall be installed in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles which are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such

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homes and facilities shall be responsible for the installation of the smoke detector devices.

~~M. N.~~ Add Section ~~3411.4~~ 3413.4 to the IBC to read:

~~3411.4~~ 3413.4 Smoke detectors for the deaf and hearing-impaired. In accordance with Section 36-99.5 of the Code of Virginia, smoke detectors providing an effective intensity of not less than 100 candela to warn a deaf or hearing-impaired individual shall be provided, upon request by the occupant to the landlord or proprietor, to any deaf or hearing-impaired occupant of any of the following occupancies, regardless of when constructed:

1. All dormitory buildings arranged for the shelter and sleeping accommodations of more than 20 individuals;
2. All multiple-family dwellings having more than two dwelling units, including all dormitories, boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All buildings arranged for use of one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke detector in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke detector for each 70 units or portion thereof, except that this requirement shall not apply to any hotel or motel with fewer than 35 units. The proprietor of the hotel or motel shall post in a conspicuous place at the registration desk or counter a permanent sign stating the availability of smoke detectors for the hearing impaired. Visual detectors shall be provided for all meeting rooms for which an advance request has been made.

~~N. O.~~ Add Sections ~~3411.5,~~ ~~3411.5.1~~ 3413.5, 3413.5.1, and ~~3411.5.2~~ 3413.5.2 to the IBC to read:

~~3411.5~~ 3413.5 Assisted living facilities (formerly known as adult care residences or homes for adults). Existing assisted living facilities licensed by the Virginia Department of Social Services shall comply with this section.

~~3411.5.1.~~ 3413.5.1 Fire protective signaling system and fire detection system. A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

~~3411.5.2.~~ 3413.5.2 Single and multiple station smoke detectors. Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the

USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in assisted living facilities by August 1, 1994.

Exception: Assisted living facilities that are equipped throughout with single and multiple station smoke detectors.

~~O. P.~~ Add Section ~~3411.6~~ 3413.6 to the IBC to read:

~~3411.6~~ 3413.6 Smoke detectors in buildings containing dwelling units. AC-powered smoke detectors with battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke detector located in buildings containing one or more dwelling units or rooming houses offering to rent overnight sleeping accommodations, when it is determined by the building official that the responsible party of such building or dwelling unit fails to maintain battery-powered smoke detectors in working condition.

~~P. Q.~~ Add Section ~~3411.7~~ 3413.7 to the IBC to read:

~~3411.7~~ 3413.7 Fire suppression, fire alarm and fire detection systems in nursing homes and facilities. Fire suppression systems as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing facilities licensed by the Virginia Department of Health by January 1, 1993, regardless of when such facilities or institutions were constructed. Units consisting of certified long-term care beds located on the ground floor of general hospitals shall be exempt from the requirements of this section.

Fire alarm or fire detector systems, or both, as required by the edition of this code in effect on October 1, 1990, shall be installed in all nursing homes and nursing facilities licensed by the Virginia Department of Health by August 1, 1994.

~~Q. R.~~ Add Section ~~3411.8~~ 3413.8 to the IBC to read:

~~3411.8~~ 3413.8 Fire suppression systems in hospitals. Fire suppression systems shall be installed in all hospitals licensed by the Virginia Department of Health as required by the edition of this code in effect on October 1, 1995, regardless of when such facilities were constructed.

~~R. S.~~ Add Section ~~3411.9~~ 3413.9 to the IBC to read:

~~3411.9~~ 3413.9 Identification of handicapped parking spaces by above grade signs. All parking spaces reserved for the use of handicapped persons shall be identified by above grade signs, regardless of whether identification of such spaces by above grade signs was required when any particular space was reserved for the use of handicapped persons. A sign or symbol painted or otherwise displayed on the pavement of a parking space shall not constitute an above grade sign. Any parking space not identified by an above grade sign shall not be a parking space reserved for the handicapped within the meaning of this section. All

above grade handicapped parking space signs shall have the bottom edge of the sign no lower than four feet (1219 mm) nor higher than seven feet (2133 mm) above the parking surface. Such signs shall be designed and constructed in accordance with the provisions of Chapter 11 of this code. All disabled parking signs shall include the following language: PENALTY, \$100-500 Fine, TOW-AWAY ZONE. Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.

~~S. T.~~ Add Section ~~3411.10~~ 3413.10 to the IBC to read:

~~3411.10~~ 3413.10 Smoke detectors in hotels and motels. Smoke detectors shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, by the dates indicated, regardless of when constructed.

~~T. U.~~ Add Section ~~3411.11~~ 3413.11 to the IBC to read:

~~3411.11~~ 3413.11 Sprinkler systems in hotel and motels. By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed.

~~U. V.~~ Add Section ~~3411.12~~ 3413.12 to the IBC to read:

~~3411.12~~ 3413.12 Fire suppression systems in dormitories. An automatic fire suppression system shall be provided throughout all buildings having a Group R-2 fire area which are more than 75 feet (22,860 mm) or six stories above the lowest level of exit discharge and which are used, in whole or in part, as a dormitory to house students by any public or private institution of higher education, regardless of when such buildings were constructed, in accordance with the edition of this code in effect on August 20, 1997, and the requirements for sprinkler systems under the edition of the NFPA 13 standard referenced by that code. The automatic fire suppression system shall be installed by September 1, 1999. The chief administrative office of the college or university shall obtain a certificate of compliance from the building official of the locality in which the college or university is located or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

Exceptions:

1. Buildings equipped with an automatic fire suppression system in accordance with Section 903.3.1.1 or the 1983 or later editions of NFPA 13.
2. Any dormitory at a state-supported military college or university which is patrolled 24 hours a day by military guards.

3. Application of the requirements of this section shall be modified in accordance with the following:

3.1. Building systems, equipment or components other than the fire suppression system shall not be required to be added or upgraded except as necessary for the installation of the fire suppression system and shall only be required to be added or upgraded where the installation of the fire suppression system creates an unsafe condition.

3.2. Residential sprinklers shall be used in all sleeping rooms. Other sprinklers shall be quick response or residential unless deemed unsuitable for a space. Standard response sprinklers shall be used in elevator hoist ways and machine rooms.

3.3. Sprinklers shall not be required in wardrobes in sleeping rooms that are considered part of the building construction or in closets in sleeping rooms, when such wardrobes or closets (i) do not exceed 24 square feet (2.23 m²) in area, (ii) have the smallest dimension less than 36 inches (914 mm), and (iii) comply with all of the following:

3.3.1. A single station smoke detector monitored by the building fire alarm system is installed in the room containing the wardrobe or closet that will activate the general alarm for the building if the single station smoke detector is not cleared within five minutes after activation.

3.3.2. The minimum number of sprinklers required for calculating the hydraulic demand of the system for the room shall be increased by two and the two additional sprinklers shall be corridor sprinklers where the wardrobe or closet is used to divide the room. Rooms divided by a wardrobe or closet shall be considered one room for the purpose of this requirement.

3.3.3. The ceiling of the wardrobe, closet or room shall have a fire resistance rating of not less than 1/2 hour.

3.4. Not more than one sprinkler shall be required in bathrooms within sleeping rooms or suites having a floor area between 55 square feet (5.12 m²) and 120 square feet (11.16 m²) provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.

3.5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system provided the water supply requirements of NFPA 13-94 are met.

3.6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.

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3.7. Where a standby power system is required, a source of power in accordance with Section 701-11 (d) or 701-11 (e) of NFPA 70—96 shall be permitted.

~~V. W.~~ Add Section ~~3411.13~~ 3413.13 to the IBC to read:

~~3411.13~~ 3413.13 Fire extinguishers and smoke detectors in SRCF's. SRCF's shall be provided with at least one approved type ABC portable fire extinguisher with a minimum rating of 2A10BC installed in each kitchen. In addition, SRCF's shall provide at least one approved and properly installed battery operated smoke detector outside of each sleeping area in the vicinity of bedrooms and bedroom hallways and on each additional floor.

~~W. X.~~ Add Section ~~3411.14~~ 3413.14 to the IBC to read:

~~3411.14~~ 3413.14 Smoke detectors in adult day care centers. Battery-powered or AC-powered smoke detector devices shall be installed in all adult day care centers licensed by the Virginia Department of Social Services,

regardless of when the building was constructed. The location and installation of the smoke detectors shall be determined by the provisions of this code in effect on October 1, 1990. The licensee shall obtain a certificate of compliance from the building official of the locality in which the center is located, or in the case of state-owned buildings, from the Director of the Virginia Department of General Services.

~~X. Y.~~ Add Section ~~3411.15~~ 3413.15 to the IBC to read:

~~3411.15~~ 3413.15 Posting of occupant load. Every room or space that is an assembly, occupancy, and where the occupant load of that room or space is 50 or more, shall have the occupant load of the room or space as determined by the building official posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and shall be maintained by the owner or authorized agent.

13VAC5-63-360. Chapter 35 Referenced standards.

Change the referenced standards in Chapter 35 of the IBC as follows (standards not shown remain the same):

Standard reference number	Title	Referenced in code section number
ANSI/NSPI-1 2003	American National Standard for Public Swimming Pools	3109.3
ANSI/NSPI-2 1999	American National Standard for Public Spas	3109.3
ASTM E329-02	Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction	1703.1, 1703.1.3
NFPA 13-07	Installation of Sprinkler Systems	707.2, 903.3.1.1, 903.3.2, 903.3.5.1.1, 903.3.5.2, 904.11, 905.3.4, 907.8, 3104.5, 3104.9
NFPA 13D-07	Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes	903.3.1.3, 903.3.5.1.1
NFPA 13R-07	Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height	903.3.1.2, 903.3.5.1.1, 903.3.5.1.2, 903.4
NFPA 14-07	Installation of Standpipe and Hose System	905.2, 905.3.4, 905.4.2, 905.8
NFPA 70-05	National Electrical Code	2701.1
NFPA 72-07	National Fuel Alarm Code	901.6, 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, 907.4, 907.5, 907.9.2, 907.10, 907.14, 907.16, 907.17, 911.1, 3006.5
NFPA 704-07	Standard System for the Identification of the Hazards of Materials for Emergency Response	414.7.2, 415.2

Part II
Rehabilitation

13VAC5-63-400. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part II, Rehabilitation, may be cited as the Virginia Rehabilitation Code.

B. Section 101.2 Incorporation by reference. Chapters 2 - 15 of the ~~2006~~ 2009 International Existing Building Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the Virginia Rehabilitation Code. The term "IEBC" means the ~~2006~~ 2009 International Existing Building Code, published by the International Code Council, Inc. Any codes and standards referenced in the IEBC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference.

C. Section 101.3 Numbering system. A dual numbering system is used in the Virginia Rehabilitation Code to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IEBC. IEBC numbering system designations are provided in the catch-lines of the Virginia Administrative Code sections and cross references between sections or chapters of the Virginia Rehabilitation Code use only the IEBC numbering system designations. The term "chapter" is used in the context of the numbering system of the IEBC and may mean a chapter in the Virginia Rehabilitation Code, a chapter in the IEBC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The Virginia Rehabilitation Code is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 - 15 of the IEBC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IEBC that are specifically identified. The terminology "changes to the text of the incorporated chapters of the IEBC that are specifically identified" shall also be referred to as the "state amendments to the IEBC." Such state amendments to the IEBC are set out using corresponding chapter and section numbers of the IEBC numbering system. In addition, since Chapter 1 of the IEBC is not incorporated as part of the Virginia Rehabilitation Code, any reference to a provision of Chapter 1 of the IEBC in the provisions of Chapters 2 - 15 of the IEBC is generally invalid. However, where the purpose of such a reference would clearly correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 - 15 of the IEBC or in the state amendments to the IEBC means the Virginia Rehabilitation Code, unless the context clearly indicates otherwise. The term "this code," or "the code," where used in a code or standard referenced in the IEBC means that code or standard, unless the context clearly indicates otherwise. The term "USBC" where used in this code means Part I of the Virginia Uniform Statewide Building Code, also known as the "Virginia Construction Code," unless the context clearly indicates otherwise. In addition, where the phrase "of the International Building Code under which the building was constructed" is used in the IEBC, it shall be construed to mean the USBC or other code that was in effect when the building was built. Further, the use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IEBC, in the codes and standards referenced in the IEBC and in the state amendments to the IEBC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 - 15 of the IEBC and any conflicting provisions of the codes and standards referenced in the IEBC. In addition, the state amendments to the IEBC supersede any conflicting provisions of Chapters 2 - 15 of the IEBC and any conflicting provisions of the codes and standards referenced in the IEBC. Further, the provisions of Chapters 2 - 15 of the IEBC supersede any conflicting provisions of the codes and standards referenced in the IEBC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope and enforcement of the code. Any provisions of Chapters 2 - 15 of the IEBC or any provisions of the codes and standards referenced in the IEBC that address the same subject matter to a lesser or greater extent are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IEBC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 - 15 of the IEBC or of the codes and standards referenced in the IEBC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IEBC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for administrative, procedural and enforcement requirements of this code.

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H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be defined in other chapters or provisions of the code and such definitions are also valid.

13VAC5-63-434. Chapter 7 Alterations -- Level 2.

A. Change Section 704.2.1 of the IEBC to read:

~~704.2.1 High-rise buildings. In high-rise buildings, work areas that include either exits or corridors shared by more than one tenant or exits or corridors that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection in the entire work area where the work area is located on a floor that has a sufficient sprinkler water supply system from an existing standpipe or a sprinkler riser serving that floor.~~

B. Change Section 704.2.2 of the IEBC to read:

~~704.2.2 Groups A, E, F 1, H, I, M, R 1, R 2, R 4, S 1 and S 2. In buildings with occupancies in Groups A, E, F 1, H, I, M, R 1, R 2, R 4, S 1 and S 2, work areas that include either exits or corridors shared by more than one tenant or exits or corridors that serve an occupant load greater than 30 shall be provided with automatic sprinkler protection where all of the following conditions occur:~~

- ~~1. The work area is required to be provided with automatic sprinkler protection in accordance with the International Building Code as applicable to new construction;~~
- ~~2. The work area exceeds 50 percent of the floor area; and~~
- ~~3. The building has sufficient municipal water supply for design of a fire sprinkler system available to the floor without installation of a new fire pump.~~

~~Exception: Work areas in Group R occupancies three stories or less in height.~~

C. Change Section 704.2.3 of the IEBC to read:

~~704.2.3 Windowless stories. Work located in a windowless story, as determined in accordance with the International Building Code, shall be sprinklered where the work area is required to be sprinklered under the provisions of the International Building Code for newly constructed buildings and the building has a sufficient municipal water supply available without installation of a new fire pump.~~

D. Change Section 704.2.4 of the IEBC to read:

~~704.2.4 Other required suppression systems. In buildings and areas listed in Table 903.2.13 of the International Building Code, work areas that include either exits or corridors shared by more than one tenant or exit or corridors serving an occupant load greater than 30 shall be~~

~~provided with sprinkler protection under the following conditions:~~

- ~~1. The work area is required to be provided with automatic sprinkler protection in accordance with the International Building Code applicable to new construction; and~~
- ~~2. The building has sufficient municipal water supply for design of a fire sprinkler system available to the floor without installation of a new fire pump.~~

E. Change Section 704.2.5 of the IEBC to read:

~~704.2.5 Supervision. Fire sprinkler systems required by this section shall be supervised by one of the following methods:~~

- ~~1. Approved central station system in accordance with NFPA 72;~~
- ~~2. Approved proprietary system in accordance with NFPA 72;~~
- ~~3. Approved remote station system of the jurisdiction in accordance with NFPA 72; or~~
- ~~4. When approved by the code official, approved local alarm service that will cause the sounding of an alarm in accordance with NFPA 72.~~

~~Exception: Supervision is not required for the following:~~

- ~~1. Underground gate valve with roadway boxes.~~
- ~~2. Halogenated extinguishing systems.~~
- ~~3. Carbon dioxide extinguishing systems.~~
- ~~4. Dry and wet chemical extinguishing systems.~~
- ~~5. Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic and automatic sprinkler systems and a separate shutoff valve for the automatic sprinkler system is not provided.~~

F. A. Change Exception 2 of Section 705.2 to read:

~~2. Means of egress conforming to the requirements of the International Building Code building code under which the building was constructed shall be considered compliant means of egress.~~

G. B. Change Item 7 of Section 705.3.1.1 of the IEBC to read:

~~7. In Group R-2, H-4, H-5 and I occupancies and in rooming houses and childcare centers, a single exit is permitted in a one-story building with a maximum occupant load of 10 and the exit access travel distance does not exceed 75 feet (22 860 mm). In dwelling units within Group R-2 buildings, an occupant load of 12 shall be permitted to be substituted for the occupant load~~

established above and, in addition, staff of such family day homes shall not be counted for the purposes of establishing occupant loads.

13VAC5-63-436. Chapter 8 Alterations — Level 3. (Repealed.)

A. Change Section 804.1 of the IEBC to read:

~~804.1 Automatic sprinkler systems. Automatic sprinkler systems shall be provided in all work areas when required by Section 704.2 or by this section.~~

B. Change Section 804.1.2 of the IEBC to read:

~~804.1.2 Rubbish and linen chutes. Rubbish and linen chutes located in the work area shall be provided with sprinkler protection where protection or other approved fire suppression systems of the rubbish or linen chute would be required under the provisions of the International Building Code for new construction.~~

13VAC5-63-437. Chapter 9 Change of occupancy. (Repealed.)

Change Exception 4 of Section 912.4.1 of the IEBC to read:

~~4. Existing corridor walls constructed on both sides of wood lath and plaster in good condition or 1/2 inch thick (12.7 mm) gypsum wallboard shall be permitted. Such walls shall either terminate at the underside of a ceiling of equivalent construction or shall extend to the underside of the floor or roof next above.~~

13VAC5-63-440. Chapter 13 Performance compliance methods.

A. Change Section 1301.2 of the IEBC to read:

1301.2 Applicability. Work involving rehabilitation, additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions in Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

B. Add an exception to Section 1301.2.1 of the IEBC to read:

Exception: Plumbing, mechanical and electrical systems in buildings undergoing a change of occupancy shall be subject to any applicable requirements of Section 103.3 of the Virginia Construction Code.

C. Change Section 1301.2.5 of the IEBC to read:

1301.2.5 Accessibility requirements. All portions of the buildings proposed for change of occupancy and all alterations to existing buildings shall conform to the applicable accessibility provisions of Section 310.

Part III
Maintenance

13VAC5-63-450. Chapter 1 Administration; Section 101 General.

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part III, Maintenance, may be cited as the Virginia Maintenance Code.

B. Section 101.2 Incorporation by reference. Chapters 2 - 8 of the ~~2006~~ 2009 International Property Maintenance Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the Virginia Maintenance Code. The term "IPMC" means the ~~2006~~ 2009 International Property Maintenance Code, published by the International Code Council, Inc. Any codes and standards referenced in the IPMC are also considered to be part of the incorporation by reference, except that such codes and standards are used only to the prescribed extent of each such reference.

C. Section 101.3 Numbering system. A dual numbering system is used in the Virginia Maintenance Code to correlate the numbering system of the Virginia Administrative Code with the numbering system of the IPMC. IPMC numbering system designations are provided in the catch-lines of the Virginia Administrative Code sections and cross references between sections or chapters of the Virginia Maintenance Code use only the IPMC numbering system designations. The term "chapter" is used in the context of the numbering system of the IPMC and may mean a chapter in the Virginia Maintenance Code, a chapter in the IPMC or a chapter in a referenced code or standard, depending on the context of the use of the term. The term "chapter" is not used to designate a chapter of the Virginia Administrative Code, unless clearly indicated.

D. Section 101.4 Arrangement of code provisions. The Virginia Maintenance Code is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 - 8 of the IPMC, which are incorporated by reference in Section 101.2, and (iii) the changes to the text of the incorporated chapters of the IPMC which are specifically identified. The terminology "changes to the text of the incorporated chapters of the IPMC which are specifically identified" shall also be referred to as the "state amendments to the IPMC." Such state amendments to the IPMC are set out using corresponding chapter and section numbers of the IPMC numbering system. In addition, since Chapter 1 of the IPMC is not incorporated as part of the Virginia Maintenance Code, any reference to a provision of Chapter 1 of the IPMC in the provisions of Chapters 2 - 8 of the IPMC is generally invalid. However, where the purpose of such a reference would clearly correspond to a provision of Chapter 1 established herein, then the reference may be construed to be a valid reference to such corresponding Chapter 1 provision.

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E. Section 101.5 Use of terminology and notes. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 - 8 of the IPMC or in the state amendments to the IPMC means the Virginia Maintenance Code, unless the context clearly indicates otherwise. The term "this code," or "the code," where used in a code or standard referenced in the IPMC means that code or standard, unless the context clearly indicates otherwise. The term "USBC" where used in this code means Part I of the Virginia Uniform Statewide Building Code, also known as the "Virginia Construction Code," unless the context clearly indicates otherwise. In addition, the use of notes in Chapter 1 is to provide information only and shall not be construed as changing the meaning of any code provision. Notes in the IPMC, in the codes and standards referenced in the IPMC and in the state amendments to the IPMC may modify the content of a related provision and shall be considered to be a valid part of the provision, unless the context clearly indicates otherwise.

F. Section 101.6 Order of precedence. The provisions of Chapter 1 of this code supersede any conflicting provisions of Chapters 2 - 8 of the IPMC and any conflicting provisions of the codes and standards referenced in the IPMC. In addition, the state amendments to the IPMC supersede any conflicting provisions of Chapters 2 - 8 of the IPMC and any conflicting provisions of the codes and standards referenced in the IPMC. Further, the provisions of Chapters 2 - 8 of the IPMC supersede any conflicting provisions of the codes and standards referenced in the IPMC.

G. Section 101.7 Administrative provisions. The provisions of Chapter 1 establish administrative requirements, which include but are not limited to provisions relating to the scope of the code, enforcement, fees, permits, inspections and disputes. Any provisions of Chapters 2 - 8 of the IPMC or any provisions of the codes and standards referenced in the IPMC which address the same subject matter to a lesser or greater extent are deleted and replaced by the provisions of Chapter 1. Further, any administrative requirements contained in the state amendments to the IPMC shall be given the same precedence as the provisions of Chapter 1. Notwithstanding the above, where administrative requirements of Chapters 2 - 8 of the IPMC or of the codes and standards referenced in the IPMC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IPMC, then such requirements are not deleted and replaced.

Note: The purpose of this provision is to eliminate overlap, conflicts and duplication by providing a single standard for administrative, procedural and enforcement requirements of this code.

H. Section 101.8 Definitions. The definitions of terms used in this code are contained in Chapter 2 along with specific provisions addressing the use of definitions. Terms may be

defined in other chapters or provisions of the code and such definitions are also valid.

Note: The order of precedence outlined in Section 101.6 may be determinative in establishing how to apply the definitions in the IPMC and in the referenced codes and standards.

13VAC5-63-480. Section 104 Enforcement, generally.

A. Section 104.1 Scope of enforcement. ~~It~~ This section establishes the requirements for enforcement of this code in accordance with § 36-105 of the Code of Virginia, the ~~The~~ local governing body may also inspect and enforce the provisions of the USBC for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

If the local building department receives a complaint that a violation of this code exists that is an immediate and imminent threat to the health or safety of the owner or tenant of a residential dwelling unit or a nearby residential dwelling unit, and the owner or tenant of the residential dwelling unit that is the subject of the complaint has refused to allow the code official or his agent to have access to the subject dwelling, the code official or his agent may present sworn testimony to a court of competent jurisdiction and request that the court grant the code official or his agent an inspection warrant to enable the code official or his agent to enter the subject dwelling for the purpose of determining whether violations of this code exist. The code official or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

Note: Generally, official action must be taken by the local government to enforce the Virginia Maintenance Code. Consultation with the legal counsel of the jurisdiction when initiating or changing such action is advised.

B. Section 104.1.1 Transfer of ownership. ~~If~~ In accordance with § 36-105 of the Code of Virginia, if the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

C. Section 104.2 Fees. In accordance with § 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

D. Section 104.3 State buildings. In accordance with § 36-98.1 of the Code of Virginia, this code shall be applicable to state-owned buildings and structures. Acting through the Division of Engineering and Buildings, the Department of

General Services shall function as the building official for state-owned buildings.

E. Section 104.3.1 Certification of state enforcement personnel. State enforcement personnel shall comply with the applicable requirements of Sections 104.4.2 through 104.4.4 for certification, periodic maintenance training, and continuing education.

~~E. F.~~ Section 104.4 Local enforcing agency. In jurisdictions enforcing this code, the local governing body shall designate the agency within the local government responsible for such enforcement and appoint a code official. The local governing body may also utilize technical assistants to assist the code official in the enforcement of this code. A permanently appointed code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting code official and within 60 days after retaining or terminating a technical assistant.

Note: Code officials and technical assistants are subject to sanctions in accordance with the VCS.

~~F. G.~~ Section 104.4.1 Qualifications of code official and technical assistants. The code official shall have at least five years of building experience as a licensed professional engineer or architect, building, fire or trade inspector, contractor, housing inspector or superintendent of building, fire or trade construction or at least five years of building experience after obtaining a degree in architecture or engineering, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The code official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: building construction, building, fire or housing inspections, plumbing, electrical or mechanical trades, fire protection, elevators or property maintenance work. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional certification requirements.

~~G. H.~~ Section 104.4.2 Certification of code official and technical assistants. An acting or permanent code official shall be certified as a code official in accordance with the

VCS within one year after being appointed as acting or permanent code official. A technical assistant shall be certified in the appropriate subject area within 18 months after becoming a technical assistant. When required by a locality to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

Exception: A code official or technical assistant in place prior to April 1, 1995, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

~~H. I.~~ Section 104.4.3 Noncertified code official. Except for a code official exempt from certification under the exception to Section 104.4.2, any acting or permanent code official who is not certified as a code official in accordance with the VCS shall attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 104.4.2.

~~I. J.~~ Section 104.4.4 ~~Continuing Requirements for periodic maintenance training and education requirements.~~ Code officials and technical assistants shall attend ~~16 hours every two years of continuing education and periodic maintenance training courses approved or required as designated~~ by DHCD. ~~Additional~~ In addition to the periodic maintenance training required above, code officials and technical assistants shall attend 16 hours of continuing education hours shall not be required if more than one every two years as approved by DHCD. If a code official or technical assistant possesses more than one BHCD certificate is held, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

~~J. K.~~ Section 104.4.5 Conflict of interest. The standards of conduct for code officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

~~K. L.~~ Section 104.4.6 Records. The local enforcing agency shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspections in accordance with The Library of Virginia's General Schedule Number Six.

~~L. M.~~ Section 104.5 Powers and duties, generally. The code official shall enforce this code as set out herein and as interpreted by the State Review Board and shall issue all necessary notices or orders to ensure compliance with the code.

~~M. N.~~ Section 104.5.1 Delegation of authority. The code official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the code official shall be responsible

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for assuring that they are carried out in accordance with the provisions of this code.

~~N.~~ O. Section 104.5.2 Issuance of modifications. Upon written application by an owner or an owner's agent, the code official may approve a modification of any provision of this code provided the spirit and intent of the code are observed and public health, welfare and safety are assured. The decision of the code official concerning a modification shall be made in writing and the application for a modification and the decision of the code official concerning such modification shall be retained in the permanent records of the local enforcing agency.

~~O.~~ P. Section 104.5.2.1 Substantiation of modification. The code official may require or may consider a statement from a professional engineer, architect or other person competent in the subject area of the application as to the equivalency of the proposed modification.

~~P.~~ Q. Section 104.5.3 Inspections. The code official may inspect buildings or structures to determine compliance with this code and shall carry proper credentials when performing such inspections.

~~Q.~~ R. Section 104.5.4 Notices, reports and orders. Upon findings by the code official that violations of this code exist, the code official shall issue a correction notice or notice of violation to the owner or the person responsible for the maintenance of the structure. Work done to correct violations of this code subject to the permit, inspection and approval provisions of the Virginia Construction Code shall not be construed as authorization to extend the time limits established for compliance with this code.

~~R.~~ S. Section 104.5.4.1 Correction notice. The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation or violations within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 105. Upon request, the correction notice shall reference the code section that serves as the basis for the defects and shall state that such defects shall be corrected and reinspected in a reasonable time designated by the code official.

~~S.~~ T. Section 104.5.4.2 Notice of violation. If the code official determines there are violations of this code other than those for unsafe structures, unsafe equipment or structures unfit for human occupancy under Section 105, the code official may issue a notice of violation to be communicated promptly in writing to the owner or the person responsible for the maintenance or use of the building or structure in lieu of a correction notice as provided for in Section 104.5.4.1. In addition, the code official shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 104.5.4.1. A notice of violation shall be issued by the code official before initiating legal proceedings

unless the conditions violate the unsafe building conditions of Section 105 and the provisions established therein are followed. The code official shall provide the section numbers to the owner for any code provision cited in the notice of violation. The notice shall require correction of the violation or violations within a reasonable time unless an emergency condition exists as provided under the building provisions of Section 105. The owner or person to whom the notice of violation has been issued shall be responsible for contacting the code official within the time frame established for any reinspections to assure the violations have been corrected. The code official will be responsible for making such inspection and verifying the violations have been corrected. In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section of this code.

~~T.~~ U. Section 104.5.5 Coordination of inspections. The code official shall coordinate inspections and administrative orders with any other state or local agencies having related inspection authority and shall coordinate those inspections required by the Virginia Statewide Fire Prevention Code (13VAC5-51) for maintenance of fire protection devices, equipment and assemblies so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The Fire Prevention Code requires the fire official to coordinate such inspections with the code official.

~~U.~~ V. Section 104.5.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the code official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality so authorizes, the code official may issue or obtain a summons or warrant.

~~V.~~ W. Section 104.5.7 Penalties and abatement. Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the code shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

13VAC5-63-500. Section 106 Appeals.

A. Section 106.1 Establishment of appeals board. In accordance with § 36-105 of the Code of Virginia, there shall be established within each local enforcing agency a LBBCA. Whenever a county or a municipality does not have such a LBBCA, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to defray the cost of such appeals. The LBBCA for hearing appeals under the Virginia Construction Code shall be

permitted to serve as the appeals board required by this section.

B. Section 106.2 Membership of board. The LBBCA shall consist of at least five members appointed by the locality for a specific term of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the locality. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period. The LBBCA shall meet at least once annually to assure a duly constituted board, appoint officers as necessary and receive such training on the code as may be appropriate or necessary from staff of the locality.

C. Section 106.3 Officers and qualifications of members. The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

D. Section 106.4 Conduct of members. No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

E. Section 106.5 Right of appeal; filing of appeal application. The owner of a building or structure, the owner's agent or any other person involved in the use of a building or structure may appeal a decision of the code official concerning the application of the this code to such building or structure and may also appeal a refusal by the code official to grant a modification to the provisions of this code pertaining to such building or structure. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be

submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision.

F. Section 106.6 Meetings and postponements. The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

G. Section 106.7 Hearings and decision. All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the code official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be sent to all parties by certified mail. In addition, the resolution shall contain the following wording:

"Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, ~~504 North Second~~ 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150."

H. Section 106.8 Appeals to the State Review Board. After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the code official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar

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days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the code official's decision. For appeals from a LBBCA, a copy of the code official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the Office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the code official's decision and other relevant information with the application for appeal to the State Review Board. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

13VAC5-63-520. Chapter 3 General requirements.

A. Delete Section 302.1 of the IPMC.

B. Change Section 302.2 of the IPMC to read:

302.2 Grading and drainage. All premises shall be graded and maintained to protect the foundation walls or slab of the structure from the accumulation and drainage of surface or stagnant water in accordance with the Virginia Construction Code.

C. Change Section 302.3 of the IPMC to read:

Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar spaces regulated under the Virginia Construction Code shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of Sections 305 and 702.

D. Delete Section 302.4 of the IPMC.

E. Change Section 302.5 of the IPMC to read:

302.5 Rodent harborage. All structures and adjacent premises shall be kept free from rodent harborage and infestation where such harborage or infestation adversely affects the structures.

F. Delete Sections 302.8 and 302.9 of the IPMC.

G. Change Section 304.7 of the IPMC to read:

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

H. Change Section 304.14 of the IPMC to read:

304.14 Insect screens. During the period from April 1 to December 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as mechanical ventilation, air curtains or insect repellent fans, are used.

I. Delete Sections 304.18, 304.18.1, 304.18.2 and 304.18.3 of the IPMC.

J. Add Section 305.7 to the IPMC to read:

305.7 Lead-based paint. Interior and exterior painted surfaces of dwellings and child care facilities, including fences and outbuildings, that contain lead levels equal to or greater than 1.0 milligram per square centimeter or in excess of 0.50% lead by weight shall be maintained in a condition free from peeling, chipping and flaking paint or removed or covered in an approved manner. Any surface to be covered shall first be identified by approved warning as to the lead content of such surface.

K. Change Section ~~307.1~~ 308.1 of the IPMC to read as follows and delete the remaining provisions of Section ~~307~~ 308:

~~307.1~~ 308.1 Accumulation of rubbish and garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

L. Change Section ~~308.1~~ 309.1 of the IPMC to read:

~~308.1~~ 309.1 Infestation. This section shall apply to the extent that insect and rodent infestation adversely affects a structure. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

13VAC5-63-530. Chapter 5 Plumbing facilities and fixture requirements.

A. Add Section 505.5 to the IPMC to read:

505.5 Inspection and testing of backflow prevention assemblies. Inspection and testing shall comply with Sections 505.5.1 and 505.5.2.

B. Add Section 505.5.1 to the IPMC to read:

505.5.1 Inspections. Inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable.

C. Add Section 505.5.2 to the IMPC to read:

505.5.2 Testing. Reduced pressure principle backflow preventer assemblies, double check-valve assemblies, double-detector check valve assemblies and pressure vacuum breaker assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5010-1013-1, Sections 1 and 2; ASSE 5010-1015-1, Sections 1 and 2; ASSE 5010-1015-2; ASSE 5010-1015-3, Sections 1 and 2; ASSE 5010-1015-4, Sections 1 and 2; ASSE 5010-1020-1, Sections 1 and 2; ASSE 5010-1047-1, Sections 1, 2, 3 and 4; ASSE 5010-1048-1, Sections 1, 2, 3 and 4; ASSE 5010-1048-2; ASSE 5010-1048-3, Sections 1, 2, 3 and 4; ASSE 5010-1048-4, Sections 1, 2, 3 and 4; or CAN/CSA B64.10.

D. Change Section 506.3 of the IPMC to read:

506.3 Grease interceptors. Grease interceptors, grease traps, and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors, grease traps, and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system, or the sewage treatment plant or processes. All records of maintenance, cleaning, and repairs shall be available for inspection by the code official.

~~D.~~ E. Change Section 507.1 of the IPMC to read:

507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall be discharged in a manner to protect the buildings and structures from the accumulation of overland water runoff.

13VAC5-63-540. Chapter 6 Mechanical and electrical requirements.

A. Change Section 602 of the IPMC to read:

Section 602 Heating and Cooling Facilities.

B. Change Section 602.1 of the IPMC to read:

602.1 Facilities required. Heating and cooling facilities shall be maintained and operated in structures as required by this section.

C. Change Section 602.2 of the IPMC to read:

602.2 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either

expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.

D. Add Section 602.2.1 to the IPMC to read:

602.2.1 Prohibited use. In dwelling units subject to Section 602.2, one or more unvented room heaters shall not be used as the sole source of comfort heat in a dwelling unit.

E. Change Section 602.3 of the IPMC to read:

602.3 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

F. Change Section 602.4 of the IPMC to read:

602.4 Cooling supply. Every owner and operator of a Group R-2 apartment building who rents, leases or lets one or more dwelling units, rooming units or guestrooms on terms, either expressed or implied, to furnish cooling to the occupants thereof shall supply cooling during the period from May 15 to October 1 to maintain a temperature of not more than 80°F (27°C) in all habitable rooms.

Exception: When the outdoor temperature is higher than the summer design temperature for the locality, maintenance of the room temperature shall not be required provided that the cooling system is operating at its full design capacity. The summer outdoor design temperature for the locality shall be as indicated in the International Energy Conservation Code.

G. Change the exception to Section 604.3.1.1 of the IPMC to read:

Exception: The following equipment shall be allowed to be repaired or reused where an inspection report from the equipment manufacturer, an approved representative of the equipment manufacturer, a third party licensed or certified electrician, or an electrical engineer indicates that the

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exposed equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated 600 volts or less;
2. Busway, rated 600 volts or less;
3. Panelboards, rated 600 volts or less;
4. Switchboards, rated 600 volts or less;
5. Fire pump controllers, rated 600 volts or less;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

G. Add H. Change Section ~~606.3~~ 606.1 to the IPMC to read:

606.3 Inspection standard 606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. An annual periodic inspection and test is required of elevators and escalators. A locality shall be permitted to require a six-month periodic inspection and test. All periodic inspections shall be performed in accordance with Section 8.11 of ASME A17.1. The code official may also provide for such inspection by an approved agency or through agreement with other local certified elevator inspectors. An approved agency includes any individual, partnership or corporation who has met the certification requirements established by the VCS.

DOCUMENTS INCORPORATED BY REFERENCE
(13VAC5-63)

International Building Code - ~~2006~~ 2009 Edition, International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070.

International Existing Building Code - ~~2006~~ 2009 Edition, International Code Council, Inc.

International Property Maintenance Code - ~~2006~~ 2009 Edition, International Code Council, Inc.

~~ACI 318—05, Building Code Requirements for Structural Concrete, American Concrete Institute, 38800 Country Club Drive, Farmington Hills, MI 48333.~~

~~ACI 332—04, Requirements for Residential Concrete Construction, American Concrete Institute, 38800 Country Club Drive, Farmington Hills, MI 48333.~~

~~ACI 530/ASCE 5/TMS 402—05, Specifications for Masonry Structures, American Concrete Institute, 38800 Country Club Drive, Farmington Hills, MI 48333; American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191; or The Masonry Society, 3970 Broadway, Suite 201-D, Boulder, CO 80304.~~

ANSI/NSPI-1 2003, American National Standard for Public Swimming Pools, National Spa and Pool Institute, 2111 Eisenhower Avenue, Alexandria, VA 22314.

ANSI/NSPI-2 1999, American National Standard for Public Spas, National Spa and Pool Institute, 2111 Eisenhower Avenue, Alexandria, VA 22314.

ASTM E329-02, Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction, American Society of Testing Materials International, 100 Barr Harbor Dr., P.O. Box C700, West Conshocken, PA 19428-2959.

ASTM D1557-00, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³(2,700 kN-m/m³)), ASTM International.

ASTM E90-90, Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions, ASTM International.

CAN/CSA-B64.10-01, Manual for the Selection and Installation of Backflow Prevention Devices/Manual for the Maintenance and Field Testing of Backflow Prevention Devices, June 2003, National Standards of Canada.

ASME A117.1-2007, Safety Code for Elevators and Escalators, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASME A90.1-97, Safety Standard for Belt Manlifts, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASME B20.1-00, Safety Standard for Conveyors and Related Equipment, American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.

ASSE 1010-98, Performance Requirements for Water Hammer Arrestors, American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, OH 44145.

ASSE 5010-1013-1, Field Test Procedure for a Reduced Pressure Principle Assembly Using a Differential Pressure Gauge, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-1, Field Test Procedure for a Double Check Valve Assembly Using a Duplex Gauge, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-2, Field Test Procedure for a Double Check Valve Assembly Using a Differential Pressure Gauge - High- and Low-Pressure Hose Method, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-3, Field Test Procedure for a Double Check Valve Assembly Using a Differential Pressure Gauge - High Pressure Hose Method, 1991, American Society of Sanitary Engineering.

ASSE 5010-1015-5, Field Test Procedure for a Double Check Valve Assembly Using a Site Tube, 1991, American Society of Sanitary Engineering.

ASSE 5010-1020-1, Field Test Procedures for a Pressure Vacuum Breaker Assembly, 1991, American Society of Sanitary Engineering.

ASSE 5010-1047-1, Field Test Procedure for a Reduced Pressure Detector Assembly Using a Differential Pressure Gauge, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-1, Field Test Procedure for a Double Check Detector Assembly Using a Duplex Gauge, 1991, American Society of Sanitary Engineering.

ASSE 5010-1047-1, Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge - High- and Low-Pressure Hose Method, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-3, Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge - High-Pressure Hose Method, 1991, American Society of Sanitary Engineering.

ASSE 5010-1048-4, Field Test Procedure for a Double Check Detector Assembly Using a Site Tube, 1991, American Society of Sanitary Engineering.

~~ANSI/ALI ALCTV 98, Standard for Automobile Lifts - Safety Requirements for Construction, Testing and Validation (ANSI), Automotive Lift Institute, P.O. Box 33116, Indialantic, FL 32903-3116.~~

~~NCMA TR68 A-75, Design and Construction of Plain and Reinforced Concrete Masonry and Basement and Foundation Walls, National Concrete Masonry Association, 2302 Horse Pen Road, Herndon, VA 20171.~~

~~SEI/ASCE 7-02, Minimum Design Loads for Buildings and Other Structures, American Society of Civil Engineers/Structural Engineering Institute, 1801 Alexander Bell Drive, Reston, VA 20191-4400.~~

~~NFPA 13-07, Installation of Sprinkler Systems, 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, 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 Height, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 14-07, Installation of Standpipe and Hose System, NFPA 13-07, Installation of Sprinkler Systems, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 70-05, National Electrical Code, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 72-07, National Fire Alarm Code, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 495-01, Explosive Materials Code, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

~~NFPA 704-07, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.~~

VA.R. Doc. No. R09-1894; Filed August 21, 2009, 9:58 a.m.

Proposed Regulation

Title of Regulation: **13VAC5-91. Virginia Industrialized Building Safety Regulations (amending 13VAC5-91-10, 13VAC5-91-20, 13VAC5-91-40, 13VAC5-91-50, 13VAC5-91-60, 13VAC5-91-70, 13VAC5-91-100, 13VAC5-91-120, 13VAC5-91-160, 13VAC5-91-200, 13VAC5-91-210, 13VAC5-91-245, 13VAC5-91-260).**

Statutory Authority: § 36-73 of the Code of Virginia.

Public Hearing Information:

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January 25, 2010 - 10 a.m. - Virginia Housing Development Authority, Virginia Housing Center, 4224 Cox Road, Glen Allen, VA

Public Comment Deadline: January 25, 2010.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, Main Street Center, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-7000, FAX (804) 371-7090, TTY (804) 371-7089, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The proposed amendments are general clarification and correlation changes that are proposed to more closely match legislative language and to coordinate the application of the regulations with the other building and fire regulations of the board.

The proposed amendments (i) conform the regulations with statutory provisions and updated industry standards; (ii) coordinate the application of the regulations with the other building and fire regulations of the board; (iii) exempt shipping containers and portable on demand storage (PODS) containers from the regulations; (iv) allow the department to perform inspection of manufacturing facilities and at building sites during reasonable hours and issue inspection reports for correction of violations caused by the manufacturer; (v) more succinctly delineate the responsibilities of the local building official under these regulations, and clarify that site work associated with the installation of an industrialized building is subject to the Uniform Statewide Building Code and not this regulation; (vi) clarify that signs identifying unregistered industrialized buildings on sales lots are not necessary for accessory shed-type buildings; (vii) establish a methodology for a compliance assurance agency to use in evaluating an existing unregistered building for registering the building without unnecessary disassembly, and clarify that this methodology may only be used when the date of manufacture is known; (viii) update the ASTM E541-01 Standard to the E541-08 Standard for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, and add the option for inspection personnel of obtaining a DHCD or ICC certification in the appropriate subject area in lieu of complying with the ASTM E541 Standard when conducting compliance assurance inspection; (ix) require a label on each manufactured section or module of a registered industrialized building in conjunction with a new fee structure to be charged to each module or section; (x) revise the list of information required on permanent manufacturer's date plat; and (xi) update seal requirements to include one for each section or module and change the fees to reflect the change in seal requirements, and give the option of either placing a seal

on each section or module or all of the modules or sections in one location in the completed building and submitting fees by electronic means.

13VAC5-91-10. Definitions.

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

"Administrator" means the Director of DHCD or his designee.

"Approved" as applied to a material, device, method of construction, registered building, or as otherwise used in this chapter means approved by the administrator.

"Building official" means the officer or other designated authority charged with the administration and enforcement of the USBC, or duly authorized representative.

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by DHCD to be specially qualified by reason of facilities, personnel, experience, and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to this chapter; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each ~~registered industrialized building~~ manufactured section or module.

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

"ICC" means the International Code Council, Inc.

"Industrialized building" means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 of the Code of Virginia and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act (42 USC § 5401 et seq.) shall not be considered industrialized buildings for the purpose of this law.

"Model" means a specific design of an industrialized building designated by the producer of the building including production buildings with variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical, or electrical systems or any other items governed by this chapter.

"Registered" means an industrialized building which displays a registration seal issued by DHCD in accordance with this chapter.

"SBCAO" means the State Building Code Administrative Office within DHCD.

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

"This law" means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia.

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

13VAC5-91-20. Application and compliance.

~~A. This chapter shall apply to industrialized buildings. The following provisions are in~~ 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 the Industrialized Building Safety Law (Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia) and this chapter.

~~B. No~~ In accordance with § 36-78 of the Code of Virginia, no person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building subject to any provisions of this chapter if the industrialized building is not in compliance with any such provisions unless it conforms with the applicable provisions of this chapter.

~~C. 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~~ Further, any industrialized building constructed prior to before January 1, 1972, shall 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 as a requirement of this chapter, any industrialized building bearing the label of a compliance assurance agency shall remain subject to the provisions of this chapter that were effective when such building was constructed, regardless of whether the building has been relocated.~~

C. In accordance with § 36-99 of the Code of Virginia and in accordance with the USBC, the installation or erection of industrialized buildings and alterations, additions, or repairs to industrialized buildings are regulated by the USBC and not this chapter. The USBC provides for administrative requirements for permits, inspections, and certificates or occupancy for such work.

D. Shipping containers and portable on demand storage (PODS) containers are not subject to this chapter.

13VAC5-91-40. Inspection and enforcement.

A. The SBCAO is designated as the administrator's representative for the enforcement of this chapter and shall act as the building official for registered industrialized buildings. It shall have authority to make ~~such~~ inspections during reasonable hours at the manufacturing facilities and at building sites where industrialized buildings are being installed. The SBCAO shall have authority to issue inspection reports for correction of violations caused by the manufacturer and to take such other actions as are required to enforce this chapter.

B. The SBCAO will maintain a list of approved compliance assurance agencies. Each manufacturer producing registered industrialized buildings will contract with one or more compliance assurance agencies for required evaluation, monitoring and inspection services. The contract will delineate the services to be provided by the compliance assurance agency. The compliance assurance agency will notify the SBCAO within 30 days of signing a new contract or terminating an existing contract with any manufacturer.

13VAC5-91-50. Factory Right of entry and field inspections examination by administrator.

~~A. The SBCAO shall conduct such inspections of factories producing industrialized buildings as may be necessary during reasonable hours to determine whether the designated compliance assurance agency is performing its evaluation and compliance assurance functions in a satisfactory manner.~~

~~B. The SBCAO may also make inspections during reasonable hours to determine whether unoccupied industrialized buildings are in compliance with this chapter. Such inspections may include, but are not limited to, industrialized buildings on dealer lots or industrialized buildings that are otherwise offered for sale to the public.~~

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~~Occupied industrialized buildings may be inspected by the SBCAO at the request of the owners or occupants.~~

~~In accordance with § 36-82 of the Code of Virginia, the administrator shall have the right, at all reasonable hours, to enter into any industrialized building upon permission of any person who has authority or shares the use, access, or control over the building, or upon request from local officials having jurisdiction, for examination as to compliance with this chapter.~~

13VAC5-91-60. ~~Violations~~ Notice of violation.

~~Where In accordance with § 36-82 of the Code of Virginia, whenever the administrator finds shall find any violation of the provisions of this chapter, a notice of violation shall be issued. This notice of violation shall order the party responsible he shall order the person responsible therefor to bring the unit building into compliance within a reasonable time, to be fixed in the order. The In addition, as a requirement of this chapter, the administrator may request assistance from the building official for enforcement of this section.~~

13VAC5-91-70. Appeals.

~~A. Appeals In accordance with § 36-82.1 of the Code of Virginia, appeals from building officials, compliance assurance agencies or manufacturers of industrialized buildings concerning DHCD's application of this chapter shall be heard by the State Review Board established by § 36-108 of the Code of Virginia. The State Review Board shall have the power and duty to render its decision in any such appeal, which decision shall be final if no further appeal is made. In addition, as a requirement of this chapter, appeals shall be submitted to the State Review Board within 21 calendar days of receipt of DHCD's decision. A copy of the decision of DHCD to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of DHCD's decision.~~

~~B. Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no appeal is made therefrom.~~

13VAC5-91-100. Duties and responsibilities of building officials in the installation or erection of a registered industrialized building.

~~A. Building All building officials are authorized by § 36-81 of the Code of Virginia to enforce the provisions of this chapter and 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 be responsible for and authorized to do the following.~~

~~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.~~

~~2. Verify through inspection that the registered industrialized building 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 an operational test to ensure that all luminaries and receptacles are operable.~~

~~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.~~

~~3. Prevent the use or occupancy of a registered industrialized building that in the opinion of the building official contains a serious defect or imminent safety hazard and notify the SBCAO immediately.~~

~~4. Notify the SBCAO of any apparent violations of this chapter to include defects and noncompliance.~~

~~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.~~

~~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.~~

~~B. In accordance with § 36-99 of the Code of Virginia and the USBC, all site work associated with the installation or~~

erection of an industrialized building is subject to the USBC. In addition, under the USBC, all administrative requirements for permits, inspections, and certificates of occupancy are also applicable.

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. This requirement shall not apply to residential accessory buildings.

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 and the date of manufacture can be verified, 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 ~~May 1, 2008~~ (date to be inserted), ~~shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance comply~~ 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 ~~August 1, 2008~~ (date to be inserted):

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 Fire Protection Association Standard Number 70 (National Electrical Code) -- ~~2002~~ 2005 Edition
5. ICC International Residential Code -- ~~2003~~ 2006 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of this chapter:

1. ICC International Building Code -- ~~2006~~ 2009 Edition
2. ICC International Plumbing Code -- ~~2006~~ 2009 Edition
3. ICC International Mechanical Code -- ~~2006~~ 2009 Edition
4. National Electrical Code -- ~~2005~~ 2008 Edition

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5. ICC International Residential Code — ~~2006~~ 2009 Edition

The codes and standards referenced above may be procured from:

International Code Council, Inc.
500 New Jersey Avenue, NW, 6th Floor
Washington, DC 20001-2070

13VAC5-91-200. Information required by the administrator.

All of the following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices.
2. Specification and description of services proposed to be furnished under this chapter.
3. Description of qualifications of personnel and their responsibilities, including an assurance that personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors comply with the requirements of the American Society for Testing and Material (ASTM) Standard Number ~~E541-04~~ E541-08 - Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building or shall obtain ICC or DHCD certifications in the appropriate subject area within 18 months of employment and maintain such certifications in an active status.
4. Summary of experience within the organization.
5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels.
6. Procedures to deal with any defective buildings resulting from oversight.
7. Acceptance of these services by independent accrediting organizations and by other jurisdictions.
8. Proof of independence and absence of conflict of interest.

The ASTM Standard Number ~~E541-04~~ E541-08 may be procured from:

American Society for Testing and Materials
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959

13VAC5-91-210. Compliance assurance agency certification label.

Every manufactured section or module of a registered industrialized building shall be marked with a label supplied by the compliance assurance agency that includes the name and address of the compliance assurance agency and the certification label number.

13VAC5-91-245. Manufacturer's data plate.

A. All of the following information shall be placed on a permanent manufacturer's data plate in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form and location of the data plate and shall ensure that the data plate is complete:

1. Manufacturer's name and address.
2. Compliance assurance agency certification number.
3. Serial number of each module of the building.
4. Serial number of the Virginia registration seal.
5. Date of manufacture of the building.
6. List of codes and standards under which the building was evaluated and constructed and the type of construction and occupancy classification under those codes and standards.
7. Design live roof load, design floor live load ~~and~~, design wind ~~load~~ speed, and design ground snow load.
- ~~8. Seismic design zone number.~~
- ~~9. 8. Thermal transmittance values or thermal resistance ("R") values.~~
- ~~10. 9. Special conditions or limitations concerning the use of the building under the codes and standards applicable to the building; however, a list of such conditions or limitations that are furnished separately with the building shall satisfy this requirement.~~
- ~~11. 10. Special instructions for handling, installation and erection of the building; however, a list of such instructions that are furnished separately with the building shall satisfy this requirement.~~
- ~~12. 11. Designation of electrical service ratings, directions for water and drain connections and, where applicable, identification of permissible type of gas for appliances.~~
- ~~13. 12. Name of manufacturer and model designation of major factory installed appliances.~~

B. The manufacturer shall maintain copies of the data plate and reports of inspection, tests and any corrective action taken for a minimum period of 10 years from the date of manufacture of the building.

13VAC5-91-260. Registration seal for industrialized buildings.

A. Registered industrialized buildings shall be marked with an approved registration seal seals issued by the SBCAO. The ~~seal seals~~ shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

B. Registered industrialized buildings shall bear a one registration seal ~~for on~~ each ~~dwelling unit in residential occupancies. For nonresidential occupancies, a manufactured section or module, or, as an alternative, the registration seal is required for each registered~~ for each manufactured section or module may be placed in one location in the completed building.

C. Approved registration seals may be purchased from the SBCAO in advance of use. The fee for each registration seal shall be ~~\$75~~ \$50. ~~Checks Fees~~ shall be submitted by checks made payable to "Treasurer of Virginia" or shall be submitted by electronic means. Payment for the seals must be received by the SBCAO before the seals can be sent to the user.

D. To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

E. The compliance assurance agency or the manufacturer under the supervision of the compliance assurance agency shall maintain permanent records of the disposition of all Virginia registration seals obtained by the compliance assurance agency or manufacturer.

DOCUMENTS INCORPORATED BY REFERENCE (13VAC5-91)

ICC International Plumbing Code -- ~~2003 and~~ 2006 and 2009 Editions, International Code Council.

ICC International Mechanical Code -- ~~2003 and~~ 2006 and 2009 Editions, International Code Council.

National Fire Protection Association Standard Number 70 (National Electrical Code) -- ~~2002 and~~ 2005 and 2008 Editions.

ICC International Building Code -- ~~2003 and~~ 2006 and 2009 Editions, International Code Council.

ICC International Residential Code -- ~~2003 and~~ 2006 and 2009 Editions, International Code Council.

ASTM Standard Number ~~E541-01~~ E541-08 -- Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, American Society for Testing and Materials.

V.A.R. Doc. No. R09-1895; Filed August 27, 2009, 10:00 a.m.

TITLE 14. INSURANCE**STATE CORPORATION COMMISSION****Final 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 any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **14VAC5-260. Rules Governing Insurance Holding Companies (amending 14VAC5-260-40, 14VAC5-260-60, 14VAC5-260-70, 14VAC5-260-90).**

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: September 30, 2009.

Agency Contact: Raquel C. Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State Corporation Commission, 1300 East Main Street, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, or email raquel.pino-moreno@scc.virginia.gov.

Summary:

The purpose of the revisions to the rules and forms is to amend the language regarding declaration of dividends and disclaimer of affiliation. Additionally, a reference to electronic filing and clarification that dividends and distributions are to be paid out of earned surplus unless the commission approves otherwise has been added. These revisions are necessary as a result of Chapter 717 of the 2009 Acts of Assembly, which amended § 38.2-1329 of the Code of Virginia.

AT RICHMOND, SEPTEMBER 4, 2009

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2009-00146

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Insurance Holding
Companies

ORDER ADOPTING RULES

By Order to Take Notice entered June 25, 2009, all interested persons were ordered to take notice that subsequent to August 14, 2009, the State Corporation Commission

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("Commission") would consider the entry of an order adopting revisions to the rules entitled Rules Governing Insurance Holding Companies ("Rules"), proposed by the Bureau of Insurance ("Bureau") which amend the Rules at 14 VAC 5-260-40, 14 VAC 5-260-60, 14 VAC 5-260-70, and 14 VAC 5-260-90, unless on or before August 14, 2009, any person objecting to the adoption of the proposed revisions to the Rules filed a request for a hearing with the Clerk of the Commission ("Clerk").

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions to the Rules on or before August 14, 2009.

There were no comments on the proposed revisions to the Rules filed with the Clerk. There was no request for a hearing filed with the Clerk.

The Bureau does not recommend further changes to the proposed revisions to the Rules, and further recommends that the revisions to the Rules be adopted as proposed.

THE COMMISSION, having considered the Bureau's recommendation, is of the opinion that the attached revisions to the Rules should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The revisions to the Rules Governing Insurance Holding Companies at 14 VAC 5-260-40, 14 VAC 5-260-60, 14 VAC 5-260-70, and 14 VAC 5-260-90 which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective September 30, 2009.

(2) AN ATTESTED COPY hereof, together with a copy of the proposed revised Rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revised Rules by mailing a copy of this Order, together with the proposed revised Rules, to all licensed insurers, burial societies, fraternal benefit societies, health maintenance organizations, and certain interested parties designated by the Bureau.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) The Commission's Division of Information Resources shall make available this Order and the adopted rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(5) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (2) above.

14VAC5-260-40. Acquisition of control; approval of applications.

A. A person filing an application or statement pursuant to § 38.2-1323 A, or any related provision of §§ 38.2-1324 through 38.2-1328, of the Act shall furnish the required information designated on Form A of this chapter.

1. Where applicable and required by Form A, Form E shall also be filed.
2. Whenever an application includes information in the format required by Form E, the commission may require an opinion of an economist as to the competitive impact of the proposed acquisition.

B. When the person being acquired controls a domestic insurer, the person shall, for purposes of completing a Form A application, be deemed to be a "domestic insurer."

1. The name of the domestic subsidiary insurer should be indicated on the cover page as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company"; and

2. References to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

C. The applicant shall promptly advise the commission of any changes in the information so furnished on Form A, or any attachments thereto, arising subsequent to the date upon which the information was furnished, but prior to the commission's disposition of the application and consummation of the acquisition of control.

1. Within two business days after the person filing the application learns of the change, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commission. The filing shall be made with the clerk of the commission. Except where the applicant is also the insurer, the applicant shall show on each such filing that a copy has also been sent to the insurer.

2. A failure to file complete and accurate information as required by this chapter is grounds for a denial by the commission pursuant to § 38.2-1326.

3. As used in this section and for purposes of all Form A filings, "material change" includes any change in the identity of executive officers or any party to a merger or a liquidating transaction.

D. Where "control" is derived from a management agreement, including any other agreement between a domestic insurer and another person other than a contract for goods or nonmanagement services, any termination of the agreement or any substitution of persons under the agreement shall be deemed a change of control requiring notice and

application to the commission pursuant to § 38.2-1323 of the Act.

E. A person seeking to merge with or acquire a domestic insurer may apply to the commission for an order exempting the person from the provisions of §§ 38.2-1323 through 38.2-1327 if the merger or acquisition meets the standards for exemption provided in § 38.2-1328.

1. The application shall be in writing and shall be filed with the clerk of the commission. Filing instructions are the same as for a Form A filing. See Section III of the Form A Instructions for information regarding number of copies ~~and~~, signature requirements [,] and electronic filing. The applicant shall identify the parties to the merger or acquisition and shall state (i) the purpose of the merger or acquisition, (ii) the method of merger or acquisition, and (iii) why the person believes the exemption criteria of § 38.2-1328 will be met.

2. Within 30 days after the application for exemption is filed with the clerk of the commission, the commission shall enter an order granting the exemption or giving notice of a hearing to determine the merits of the application.

F. Any hearing held to consider an application filed pursuant to the provisions of this section and § 38.2-1323 of the Act shall be held pursuant to § 38.2-1326 and shall begin, unless waived by the insurer, within 40 days of the date the application is filed with the commission. An application shall be deemed filed upon receipt by the commission of all material required by this section or § 38.2-1324 of the Act.

14VAC5-260-60. Annual registration of insurers; registration statement filings and amendments.

A. An insurer required to file a registration statement pursuant to § 38.2-1329 of the Act shall furnish the required information in the format designated on Form B ~~of this chapter~~.

1. The initial registration statement shall be filed with the commission within 15 days after the insurer becomes subject to registration under § 38.2-1329 of the Act.

2. Annually thereafter by April 30 of each year, for the previous calendar year, the registrant shall file a completely restated up-to-date registration statement in the format designated on Form B, with amendments consolidated therein. Each registration statement shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement. The summary shall be prepared in the format designated on Form C, as specified in the instructions of that form, which is a part of this chapter.

B. An insurer shall file a copy of its most current registration statement and the Form C filing, also known as a Summary of Registration Filing, in each state in which the insurer is

authorized to do business, if requested by the insurance commissioner of that state.

C. Amendments to Form B.

1. An amendment to Form B shall be filed under the following conditions:

a. Within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement;

b. Within 15 days after the end of any month in which the registrant or insurer learns there is a change in control of the registrant, in which case all of Form B and Form C shall be made current;

c. Within 15 days after the end of any month in which the registrant or insurer learns there is a material change in information given in Item 5 of Form B;

d. Within 30 days after the investment in any one corporation, if the total investment in that corporation, by the insurance holding company system, exceeds 10% of that corporation's voting securities;

e. Within 15 days after the end of any month in which there is a material change in any portion of the information given in Item 6 of Form B;

f. Within 15 days after the end of any month in which there is a change of the chief executive officer, president, or more than 1/3 of the directors reported in Item 4 of Form B;

g. Within five business days following the declaration of any dividend or other distribution to an insurer's shareholder, ~~and at least 30 days prior to payment thereof~~; and

h. Within 120 days after the end of each fiscal year of the ultimate controlling person of the insurance holding company system.

2. Amendments shall be filed in the Form B format. Subject to the provisions of subdivision A 2 of this section, only those items which are being amended need be reported. Each amendment shall include at the top of the cover page "Amendment No. (insert number) to Registrant Statement, brought current from (insert year)" and shall indicate as its "Date," the date of the change and not the date of the original filings. Filings made in the format of Forms A, D, E, or F may be deemed amendments filed in the Form B format when accompanied by certification under oath or affirmation that the transaction reported on Form A, D, E, or F has been consummated. If the commission's approval of the transaction is required by the Act, the certification shall state also that consummation was pursuant to terms and agreements approved by the commission.

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3. As used in this section, "material transaction" has the meaning set forth in § 38.2-1322 of the Act except that, unless the commission by rule, order or regulation prescribes otherwise, no sale, purchase, exchange, loan, or extension of credit or investment shall be considered "material" unless it involves at least 0.5% of an insurer's admitted assets or 5.0% of the insurer's surplus to policyholders, as of the immediately preceding December 31. Any sale or other transaction which is one of a series of transactions occurring within a 12-month period that are sufficiently similar in nature as to be reasonably construed as a single transaction and that in the aggregate exceed the minimum limits herein provided shall be deemed a material transaction.

D. Exemptions and alternative and consolidated registrations.

1. Any insurer which is authorized to do business in this Commonwealth may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under § 38.2-1329 of the Act. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this Commonwealth. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

- a. The statement or report contains substantially similar information required to be furnished on Form B; and
- b. The filing insurer is the principal insurance company in the insurance holding company system.

2. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

3. With the prior approval of the commission, an insurer not licensed to transact the business of insurance in this Commonwealth may follow any of the procedures which could be done by an authorized insurer under subdivision 1 of this subsection.

4. Any insurer may take advantage of the provisions of § 38.2-1329 G or § 38.2-1329 H of the Act without obtaining the prior approval of the commission. The commission, however, reserves the right to require individual filings if it deems the filings necessary in the interest of clarity, ease of administration or the public good.

5. The state of entry of an alien insurer shall be deemed to be its state of domicile for the purpose of this chapter.

6. Any foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in § 38.2-1329 of the Act, shall be exempted and excepted from registration in this Commonwealth pursuant to this section and § 38.2-1329 A of the Act; however, if requested by the commission, the insurer shall furnish to the commission a copy of the registration statement or other information filed with its state of domicile. The information shall be filed with the commission within 15 days after the commission makes its request.

7. Any insurer not otherwise exempt or excepted from § 38.2-1329 of the Code of Virginia may apply for an exemption from the requirements of ~~this section~~ § 38.2-1329 of the Code of Virginia by submitting a statement to the commission setting forth its reasons for being exempt.

14VAC5-260-70. Disclaimers and termination of registration.

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control any other person (hereinafter referred to as the "subject") shall contain the following information:

1. The number of authorized, issued and outstanding voting securities of the subject;
2. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly; and also information as to all transactions in any securities of the subject which were effected during the past six months by such persons;
3. All material relationships and bases for affiliation, including a description of all contracts and agreements, between the subject and the person whose control is denied and all affiliates of such person; and
4. A statement explaining why such person should not be considered to control the subject.

B. A request for termination of registration under § 38.2-1329 of the Act for lack of affiliation shall be deemed to have been granted unless the commission, within 30 days after receipt of the request and any additional information required by the commission, notifies the registrant otherwise. Thereafter, the subject shall be relieved of any registering or reporting requirements under § 38.2-1329 of the Act that may arise out of the subject's relationship with the person, unless and until the commission disallows the disclaimer.

1. The commission shall disallow the disclaimer only after giving all interested parties notice and opportunity to be heard.
2. Any disallowance shall be supported by specific findings of fact.

14VAC5-260-90. Dividends and other distributions.

A. Each registered insurer shall report to the commission as required under § 38.2-1329 of the Act, all dividends and other distributions to shareholders within five business days following declaration ~~and at least 30 days prior to payment.~~ An insurer shall not pay a dividend or other distribution until 30 days after the commission has received written notice of the declaration thereof and has not within such period disapproved such payment. The commission may approve the payment of such dividend or other distribution prior to the 30 days. Such dividends and other distributions are to be paid out of earned surplus unless the commission has provided prior written approval for such dividends or other distributions to be paid from another source. Except as provided in subsection B of this section, the report shall be filed in the format prescribed by Form F and shall include at least the following:

1. A statement stating whether the dividend or distribution is extraordinary. If the dividend or distribution is extraordinary, the insurer also shall state the date of approval, if any, obtained pursuant to § 38.2-1330.1 A of the Act, or the earliest date on which approval may be deemed;
2. Earned surplus as of the immediately preceding December 31;
3. The amount of the proposed dividend;
4. The date of declaration, date of record and date established for payment of the dividend;
5. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
6. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
7. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs; and

8. A statement identifying any and all revaluations of assets.

B. If payment of an extraordinary dividend or distribution has been approved prior to its declaration, the insurer may comply with the requirements of § 38.2-1329 E of the Act by filing written confirmation under oath or affirmation that the extraordinary dividend or distribution, as approved by the commission, has been declared. Confirmation shall be filed within five business days following declaration.

C. An insurer may obtain prior approval of an extraordinary dividend or distribution, as required by § 38.2-1330.1 A of the Act, by filing a request for approval with the commission. The request for approval shall be filed in the format prescribed by Form F and shall include at least the following:

1. All the information required in subsection A of this section;
2. Statements of financial condition and earnings for the period intervening from the last annual statement filed with the commission and the end of the month preceding the month in which the request for dividend approval is submitted; and, if the date of payment or distribution is more than 60 days removed from the date of the most current financial statement submitted by the insurer, the insurer shall include also a pro forma statement as of the day after the distribution or payment of the dividend showing its effect and other known and reasonably projected adjustments to the financial condition and earnings of the insurer; and
3. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:
 - a. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought, and commencing on the day after the same day of the same month in the last preceding year;
 - b. Surplus as regards to policyholders (total capital and surplus) as of the immediately preceding December 31;
 - c. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the immediately preceding December 31; and
 - d. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the immediately preceding December 31, but shall not include pro rata distributions of any class of the insurer's own securities.

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4. Statements on each factor set forth in § 38.2-1330 B of the Act must be submitted in support of the request for approval of an extraordinary dividend or distribution, although these factors are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is controlling. The commission, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commission will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commission will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

5. In addition, in order to determine the possibility of any financial effect on the insurer, the commission may request the means of funding and the purpose of the extraordinary dividend or distribution.

D. No declaration of an extraordinary dividend or distribution shall confer any rights on shareholders without the prior approval thereof pursuant to § 38.2-1330.1 C of the Act. However, an insurer may declare an extraordinary dividend or distribution which is conditioned upon the commission's approval, and the declaration shall confer no rights upon shareholders until (i) the commission has approved the payment of the dividend or distribution or (ii) the commission has not disapproved the payment within the 30-day period provided by § 38.2-1330.1 A of the Act.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS (14VAC5-260)

Form A, Instructions for Application for Approval of Acquisition of Control of or Merger with a Domestic Insurer Pursuant to § 38.2-1323 of the Code of Virginia (rev. ~~7/06~~ 9/09).

Form B, Instructions for Insurance Holding Company System Annual Registration Statement Pursuant to § 38.2-1329 of the Code of Virginia (rev. ~~7/06~~ 9/09).

Form C, Instructions for Summary of Registration Statement Pursuant to § 38.2-1329 of the Code of Virginia (rev. 7/06).

Form D, Instructions for Prior Notice and Application for Approval of Certain Transactions Pursuant to § 38.2-1331 of the Code of Virginia (rev. 7/06).

Form E, Instructions for an Acquisition Statement Reporting Competitive Impact Data Pursuant to § 38.2-1323 of the Code of Virginia (rev. 7/06).

Form F, Instructions for Notice of Dividends and Distributions to Shareholders Pursuant to §§ 38.2-1329 E and 38.2-1330.1 of the Code of Virginia (rev. ~~7/06~~ 9/09).

VA.R. Doc. No. R09-2019; Filed September 8, 2009, 3:05 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Final Regulation

REGISTRAR'S NOTICE: The Board of Pharmacy is claiming an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors and (ii) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Pharmacy will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-106, 18VAC110-20-270).

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

Effective Date: October 28, 2009.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email scotti.russell@dhp.virginia.gov.

Summary:

The amendments correct an error resulting from recent amendments made to 18VAC110-20-106 B and conform 18VAC110-20-270 B to § 54.1-3320 of the Code of Virginia.

The amendment to 18VAC110-20-106 B reinserts a reference to 18VAC110-20-90 to specify that approved continuing education programs must either have approval from the American Council on Pharmaceutical Education (ACPE) or be approved by the Board of Pharmacy.

18VAC110-20-270 B provides that a pharmacist shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees he can

safely and competently supervise at one time; however, the amendment conforms the language to § 54.1-3320 of the Code of Virginia by limiting the number of persons acting as pharmacy technicians supervised at one time to four.

18VAC110-20-106. Requirements for continued competency.

A. A pharmacy technician shall be required to have completed a minimum of 0.5 CEUs or five contact hours of approved continuing education for each annual renewal of registration. Hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing education program shall meet the requirements as set forth in subsection B of 18VAC110-20-90 or subsection B of 18VAC110-20-100.

C. Upon written request of a pharmacy technician, the board may grant an extension of up to one year in order for the pharmacy technician to fulfill the continuing education requirements for the period of time in question. The granting of an extension shall not relieve the pharmacy technician from complying with current year requirements. Any subsequent extension shall be granted for good cause shown.

D. Original certificates showing successful completion of continuing education programs shall be maintained by the pharmacy technician for a period of three years following the renewal of his registration. The pharmacy technician shall provide such original certificates to the board upon request in a manner to be determined by the board.

Part VII

Prescription Order and Dispensing Standards

18VAC110-20-270. Dispensing of prescriptions; certification of completed prescriptions; supervision of pharmacy technicians.

A. In addition to the acts restricted to a pharmacist in § 54.1-3320 A of the Code of Virginia, a pharmacist shall provide personal supervision of compounding of extemporaneous preparations by pharmacy technicians.

B. A pharmacist shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees he can safely and competently supervise at one time; however, no pharmacist shall supervise more than four persons acting as pharmacy technicians at one time.

C. After the prescription has been prepared and prior to the delivery of the order, the pharmacist shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction. Such record showing verification of accuracy shall be maintained on a pharmacy record for the required time period of two years, unless otherwise specified in regulation.

D. If a pharmacist declines to fill a prescription for any reason other than the unavailability of the drug prescribed, he shall record on the back of the prescription the word "declined"; the name, address, and telephone number of the pharmacy; the date filling of the prescription was declined; and the signature of the pharmacist.

E. If a pharmacist determines from a prescriber or by other means, including the use of his professional judgment, that a prescription presented for dispensing is a forgery, the pharmacist shall not return the forged prescription to the person presenting it. The forged prescription may be given to a law-enforcement official investigating the forgery; or it shall be retained for a minimum of 30 days before destroying it, in the event it is needed for an investigative or other legitimate purpose.

VA.R. Doc. No. R10-2116; Filed September 9, 2009, 11:24 a.m.

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 Pharmacy will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-20).**

18VAC110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances (amending 18VAC110-30-15).

18VAC110-50. Regulations Governing Wholesale Distributors, Manufacturers, and Warehousemen (amending 18VAC110-50-20).

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

Effective Date: October 28, 2009.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email scottirussell@dhp.virginia.gov.

Summary:

The amendments provide for a one-time reduction in renewal fees. The amendments reduce the annual renewal fee for pharmacists and physicians selling controlled substances from \$90 to \$50 and reduce the annual renewal fee for pharmacy technicians from \$25 to \$15. Fees for

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inactive licensure, which are approximately one-half the active renewal fee, are reduced correspondingly. Renewal fees for facilities are reduced from \$270 to \$210 (pharmacies, physician permit, nonrestricted manufacturers, wholesale distributors, warehouse) and for restricted manufacturers or medical equipment suppliers from \$180 to \$140.

18VAC110-20-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Unless otherwise provided, any fees for taking required examinations shall be paid directly to the examination service as specified by the board.

C. Initial application fees.

1. Pharmacist license	\$180
2. Pharmacy intern registration	\$15
3. Pharmacy technician registration	\$25
4. Pharmacy permit	\$270
5. Permitted physician licensed to dispense drugs	\$270
6. Medical equipment supplier permit	\$180
7. Humane society permit	\$20
8. Nonresident pharmacy	\$270
9. Controlled substances registrations	\$90
10. Innovative program approval.	\$250

If the board determines that a technical consultant is required in order to make a decision on approval, any consultant fee, not to exceed the actual cost, shall also be paid by the applicant in addition to the application fee.

11. Approval of a pharmacy technician training program	\$150
12. Approval of a continuing education program	\$100

D. Annual renewal fees.

1. Pharmacist active license	\$90
2. Pharmacist inactive license	\$45
3. Pharmacy technician registration	\$25
4. Pharmacy permit	\$270
5. Physician permit to practice pharmacy	\$270
6. Medical equipment supplier permit	\$180

7. Humane society permit	\$20
8. Nonresident pharmacy	\$270
9. Controlled substances registrations	\$90

10. Innovative program continued approval based on board order not to exceed \$200 per approval period.

11. Approval of a pharmacy technician training program	\$75 every two years
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E. Late fees. The following late fees shall be paid in addition to the current renewal fee to renew an expired license within one year of the expiration date or within two years in the case of a pharmacy technician training program. In addition, engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board.

1. Pharmacist license	\$30
2. Pharmacist inactive license	\$15
3. Pharmacy technician registration	\$10
4. Pharmacy permit	\$90
5. Physician permit to practice pharmacy	\$90
6. Medical equipment supplier permit	\$60
7. Humane society permit	\$5
8. Nonresident pharmacy	\$90
9. Controlled substances registrations	\$30
10. Approval of a pharmacy technician training program	\$15

F. Reinstatement fees. Any person or entity attempting to renew a license, permit, or registration more than one year after the expiration date, or more than two years after the expiration date in the case of a pharmacy technician training program, shall submit an application for reinstatement with any required fees. Reinstatement is at the discretion of the board and, except for reinstatement following license revocation or suspension, may be granted by the executive director of the board upon completion of an application and payment of any required fees.

1. Pharmacist license	\$210
2. Pharmacist license after revocation or suspension	\$500
3. Pharmacy technician registration	\$35
4. Pharmacy technician registration after revocation or suspension	\$125
5. Facilities or entities that cease	

operation and wish to resume shall not be eligible for reinstatement but shall apply for a new permit or registration. Facilities or entities that failed to renew and continued to operate for more than one renewal cycle shall pay the current and all back renewal fees for the years in which they were operating plus the following reinstatement fees:

a. Pharmacy permit	\$240
b. Physician permit to practice pharmacy	\$240
c. Medical equipment supplier permit	\$210
d. Humane society permit	\$30
e. Nonresident pharmacy	\$115
f. Controlled substances registration	\$180
g. Approval of a pharmacy technician training program	\$75

G. Application for change or inspection fees for facilities or other entities.

1. Change of pharmacist-in-charge	\$50
2. Change of ownership for any facility	\$50
3. Inspection for remodeling or change of location for any facility	150
4. Reinspection of any facility	\$150
5. Board-required inspection for a robotic pharmacy system	\$150
6. Board-required inspection of an innovative program location	\$150
7. Change of pharmacist responsible for an approved innovative program	\$25

H. Miscellaneous fees.

1. Duplicate wall certificate	\$25
2. Returned check	\$35

I. For the annual renewal due on the stated dates, the following fees shall be imposed for a license, permit, or registration:

1. Pharmacist active license – December 31, 2009	\$50
2. Pharmacist inactive license – December 31, 2009	\$25
3. Pharmacy technician registration – December 31, 2009	\$15

4. Pharmacy permit – April 30, 2010	\$210
5. Physician permit to practice pharmacy – February 28, 2010	\$210
6. Medical equipment supplier permit – February 28, 2010	\$140
7. Humane society permit – February 28, 2010	\$20
8. Nonresident pharmacy – April 30, 2010	\$210
9. Controlled substances registrations – February 28, 2010	\$50

18VAC110-30-15. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Fee for initial license for a practitioner of the healing arts to sell controlled substances.

1. The application fee for initial licensure shall be \$240.
2. The application fee for reinstatement of a license that has been revoked or suspended indefinitely shall be \$500.

C. Renewal of license for a practitioner of the healing arts to sell controlled substances.

1. The annual fee for renewal of an active license shall be \$90. For the annual renewal due on ~~before~~ December 31, ~~2006~~ 2009, the fee shall be \$50.
2. The late fee for renewal of a license within one year after the expiration date is \$30 in addition to the annual renewal fee.
3. The fee for reinstatement of a license expired for more than one year shall be \$210.

D. The fee for reinspection of any facility shall be \$150.

E. The fee for a returned check shall be \$35.

18VAC110-50-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Initial application fees.

1. Nonrestricted manufacturer permit	\$270
2. Restricted manufacturer permit	\$180
3. Wholesale distributor license	\$270
4. Warehouse permit	\$270
5. Nonresident wholesale distributor	\$270
6. Controlled substances registration	\$90

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C. Annual renewal fees.

1. Nonrestricted manufacturer permit	\$270
2. Restricted manufacturer permit	\$180
3. Wholesale distributor license	\$270
4. Warehouser permit	\$270
5. Nonresident wholesale distributor	\$270
6. Controlled substances registration	\$90

D. Late fees. The following late fees shall be paid in addition to the current renewal fee to renew an expired license within one year of the expiration date. In addition, engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board.

1. Nonrestricted manufacturer permit	\$90
2. Restricted manufacturer permit	\$60
3. Wholesale distributor license	\$90
4. Warehouser permit	\$90
5. Nonresident wholesale distributor	\$90
6. Controlled substances registration	\$30

E. Reinstatement fees.

1. Any entity attempting to renew a license, permit, or registration more than one year after the expiration date shall submit an application for reinstatement with any required fees. Reinstatement is at the discretion of the board and, except for reinstatement following license revocation or suspension, may be granted by the executive director of the board upon completion of an application and payment of any required fees.

2. Engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board. Facilities or entities that cease operation and wish to resume shall not be eligible for reinstatement, but shall apply for a new permit or registration.

3. Facilities or entities that failed to renew and continued to operate for more than one renewal cycle shall pay the current and all back renewal fees for the years in which they were operating plus the following reinstatement fees:

a. Nonrestricted manufacturer permit	\$240
b. Restricted manufacturer permit	\$210
c. Wholesale distributor license	\$240
d. Warehouser permit	\$240

e. Nonresident wholesale distributor	\$240
f. Controlled substances registration	\$180

F. Application for change or inspection fees.

1. Reinspection fee	\$150
2. Inspection fee for change of location, structural changes, or security system changes	\$150
3. Change of ownership fee	\$50
4. Change of responsible party	\$50

G. The fee for a returned check shall be \$35.

H. For the annual renewal due on ~~or before December 31, 2006~~ February 28, 2010, the following fees shall be imposed for a license or permit:

1. Nonrestricted manufacturer permit	\$210
2. Restricted manufacturer permit	\$140
3. Wholesale distributor license	\$210
4. Warehouser permit	\$210
5. Nonresident wholesale distributor	\$210

VA.R. Doc. No. R10-2110; Filed September 9, 2009, 11:24 a.m.

BOARD OF COUNSELING

Fast-Track Regulation

Titles of Regulations: **18VAC115-20. Regulations Governing the Practice of Professional Counseling (amending 18VAC115-20-106).**

18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 18VAC115-50-96).

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

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 28, 2009.

Effective Date: November 12, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system.

Purpose: The purpose of the amendments is to recognize an additional professional body as approved to offer continuing education and supervisor training. This action is in response

to a petitioner's request. The American Association of Pastoral Counselors (AAPC) has an established history of professionalism and high standards for training of supervisors, so its recognition and acceptance as an organization that can provide education and training courses is consistent with the board's responsibility to protect the health, safety, and welfare of the public. The supervisory requirements for pastoral counselors certified by AAPC are rigorous and lengthy and exceed the standards set by the board, so the public is well-protected by having a residency supervised by a licensee who has obtained supervision training from AAPC.

Rationale for Using Fast-Track Process: A fast-track process is being used to promulgate this regulation because the addition of another approved provider of continuing education and supervisor training offers increased opportunities for licensees to meet the board's current requirements. Since the regulation is more inclusive, and the AAPC is an established body recognized for its professionalism, there should be no controversy.

Substance: The action would amend 18VAC115-20-106 and 18VAC115-50-96 to add the American Association of Pastoral Counselors to the list of approved providers of continuing education. The organizations in the list are referenced in 18VAC115-20-52 and 18VAC115-50-60 as recognized as also approved to provide the training required to become a supervisor of a residency.

Issues: The advantage to the public may be the additional availability of continuing education courses and training courses for counselors and marriage and family therapists, which may make them safer to practice. There are no disadvantages. There are no advantages or disadvantages to the agency or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Board of Counseling proposes to add another professional group to the list of entities that are approved to offer continuing educations and supervisor training.

Result of Analysis. The benefits likely exceed the costs for this proposed change.

Estimated Economic Impact. Current Board regulations contain a list of entities that are able to approve or certify workshops, seminars, conferences or courses that can be used to satisfy continuing education requirements/supervisor training requirements for licensed professional counselors and licensed marriage and family therapists. The Board proposes to add the American Association of Pastoral Counselors (AAPC) to this list. This means that licensees will be able to get credit toward Board required education for classes that are approved by AAPC. Since licensees will not be required to take classes through AAPC, they would likely only choose

these classes if they are no more expensive or inconvenient than other, already approved, alternatives. Consequently, licensees are not likely to incur any additional cost on account of this proposed change. Licensees may, however, benefit from having additional training opportunities available that may prove to be less costly or more convenient.

Businesses and Entities Affected. This regulatory action will affect the 3,220 professional counselors and 849 marriage and family therapists that are currently licensed by the Board, as well as any individuals who become licensed at some point in the future.

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

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect 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

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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 Board of Counseling concurs with the analysis of the Department of Planning and Budget on proposed amended regulations for 18VAC115-20, Regulations Governing the Practice of Professional Counseling and 18VAC115-50, Regulations Governing the Practice of Marriage and Family Therapists.

Summary:

The proposed amendments add the American Association of Pastoral Counselors to the list of organizations approved to provide continuing education for professional counselors and marriage and family therapists and to offer training for persons who want to qualify to supervise a residency.

18VAC115-20-106. Continuing competency activity criteria.

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;
9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or
13. Addictions.

B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved, mental health-related activities:
 - a. Regionally accredited university or college level academic courses in a behavioral health discipline.

b. Continuing education programs offered by universities or colleges.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or licensed health facilities and licensed hospitals.

d. Workshops, seminars, conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (1) The American Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association of Marriage and Family Therapists and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification.
- (7) NAADAC, The Association for Addiction Professionals and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body.
- (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

(12) The American Association of Pastoral Counselors.

2. Individual professional activities.

a. Publication/presentation/new program development.

- (1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.
- (2) Publication of books. Activity will count for a maximum of 18 hours.
- (3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development Activity will count for a maximum of eight hours. New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of ten hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision that you provide to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: officers of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include language courses, software training, medical topics, etc.

18VAC115-50-96. Continuing competency activity criteria.

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;

9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or
13. Addictions.

B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved, mental health-related activities:

- a. Regionally accredited university or college level academic courses in a behavioral health discipline.
- b. Continuing education programs offered by universities or colleges.
- c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local licensed health facilities and licensed hospitals.
- d. Workshops, seminars, conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (1) The American Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association of Marriage and Family Therapists and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification.
- (7) NAADAC, The Association for Addiction Professionals. and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body.
- (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

(12) The American Association of Pastoral Counselors.

2. Individual professional activities.

a. Publication/presentation/new program development.

(1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.

(2) Publication of books. Activity will count for a maximum of 18 hours.

(3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development activity will count for a maximum of eight hours. New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of ten hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision that you provide to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: officers of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include language courses, software training, medical topics, etc.

VA.R. Doc. No. R09-22; Filed September 9, 2009, 11:25 a.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Real Estate Appraiser Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-10).

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Effective Date: November 1, 2009.

Agency Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4298, or email reappraisers@dpor.virginia.gov.

Summary:

Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), the Appraiser Qualifications Board (AQB) establishes the minimum education, experience, and examination requirements for real property appraisers to obtain state licensure or certification. During the May 2009, Appraisal Subcommittee (ASC) field review, the Real Estate Appraiser Board was informed that the four categories of experience defined in 18VAC130-20-10 do not comply with the AQB requirements for experience that went into effect on January 1, 2008. The regulations are amended to comply with the federal requirements. The board's forms are also updated.

Part I

General

18VAC130-20-10. Definitions.

The following words and terms when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers or a recognized international equivalent.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective.

"Appraiser classification" means any category of appraiser which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties which the supervising appraiser is permitted to appraise.

"Business entity" means any corporation, partnership, association or other business entity under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified instructor" means an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or complexity. Certified residential real estate appraisers may also appraise or provide

a review appraisal of nonresidential properties with a transaction value up to \$250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

"Experience" as used in this chapter includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate consulting, highest and best use analysis, and feasibility analysis/study.

For the purpose of this chapter, experience has been divided into four major categories: (i) fee and staff appraisal, (ii) ad valorem tax appraisal, (iii) review appraisal, and (iv) real estate consulting.

1. "Fee/staff appraiser experience" means experience acquired as either a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports ~~which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):~~

- ~~a. An adequate identification of the real estate and the interests being appraised;~~
- ~~b. The purpose of the report, date of value, and date of report;~~
- ~~c. A definition of the value being appraised;~~
- ~~d. A determination of highest and best use;~~
- ~~e. An estimate of land value;~~

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~~f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;~~

~~g. A reconciliation and conclusion as to the property's value;~~

~~h. Disclosure of assumptions or limiting conditions, if any; and~~

~~i. Signature of appraiser.~~

~~For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 1 and 2.~~

2. "Ad valorem tax appraisal experience" means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports ~~which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):~~

~~a. An adequate identification of the real estate and the interests being appraised;~~

~~b. The effective date of value;~~

~~c. A definition of the value being appraised if other than fee simple;~~

~~d. A determination of highest and best use;~~

~~e. An estimate of land value;~~

~~f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;~~

~~g. A reconciliation and conclusion as to the property's value; and~~

~~h. Disclosure of assumptions or limiting conditions, if any.~~

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files ~~which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):~~

~~a. An adequate identification of the real estate and the interests being appraised;~~

~~b. The effective date of value;~~

~~c. A definition of the value being appraised if other than fee simple;~~

~~d. A determination of highest and best use;~~

~~e. An estimate of land value; and~~

~~f. Those recognized methods and techniques that are necessary to produce a credible appraisal.~~

~~For mass appraisal reports, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 6.~~

In addition to the preceding, to qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "Reviewer experience" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. Reviewer experience shall not constitute more than 1,000 hours of total experience claimed and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports after January 30, 1989, recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must

~~meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):~~

- ~~a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;~~
- ~~b. A description of the review process undertaken;~~
- ~~c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;~~
- ~~d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;~~
- ~~e. Signature of reviewer.~~

~~For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standard 3.~~

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee/staff appraiser experience.

4. "Real estate consulting experience" means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real property. Real estate consulting experience includes, but is not necessarily limited to, the following:

- Absorption Study
- Ad Valorem Tax Study
- Annexation Study
- Assemblage Study
- Assessment Study
- Condominium Conversion Study
- Cost-Benefit Study
- Cross Impact Study
- Depreciation/Cost Study
- Distressed Property Study
- Economic Base Analysis
- Economic Impact Study
- Economic Structure Analysis
- Eminent Domain Study
- Feasibility Study
- Highest and Best Use Study

- Impact Zone Study
- Investment Analysis Study
- Investment Strategy Study
- Land Development Study
- Land Suitability Study
- Land Use Study
- Location Analysis Study
- Market Analysis Study
- Market Strategy Study
- Market Turning Point Analysis
- Marketability Study
- Portfolio Study
- Rehabilitation Study
- Remodeling Study
- Rental Market Study
- Right of Way Study
- Site Analysis Study
- Utilization Study
- Urban Renewal Study
- Zoning Study

To qualify for real estate consulting experience, an individual must have prepared written reports ~~which meet minimum standards. For real estate consulting reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall so state the reasons for the exclusions):~~

- ~~a. A definition of the problem;~~
- ~~b. An identification of the real estate under consideration (if any);~~
- ~~c. Disclosure of the client's objective;~~
- ~~d. The effective date of the consulting assignment and date of report;~~
- ~~e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;~~
- ~~f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;~~
- ~~g. Signature of real estate appraiser.~~

~~For real estate consulting reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of after January 30, 1989, that comply with the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation, including Standards 4 and 5. Real estate consulting shall not constitute more than 500 hours of experience for any type of appraisal license.~~

"Inactive license" means a license that has been renewed without meeting the continuing education requirements specified in this chapter. Inactive licenses do not meet the requirements set forth in § 54.1-2011 of the Code of Virginia.

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"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of or the review appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise or provide a review appraisal of noncomplex, nonresidential properties with a transaction value up to \$250,000.

"Licensee" means any individual holding an active license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.

"Real estate appraisal" or "real estate related organization" means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

"Sole proprietor" means any individual, but not a corporation, partnership or association, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent" is any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia for licensure and renewal.

"Supervising appraiser" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"Transaction value" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

"Valuation" means an estimate or opinion of the value of real property.

"Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion or conclusion that results in an estimate or opinion of the value of an identified parcel of real property as of a specified date.

"Waiver" means the voluntary, intentional relinquishment of a known right.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS (18VAC130-20)

Real Estate Appraiser Board License Application, 40LIC (~~rev. 2/08~~) (rev. 5/09).

Real Estate Appraiser Board Experience Log, 40EXP (~~rev. 2/08~~) (rev. 7/09).

Real Estate Appraiser Board Experience Verification Form, 40EXPVER (~~rev. 8/07~~) (rev. 4/09).

Real Estate Appraiser Board Experience Requirements, 40EXPREQ (~~rev. 2/08~~) (rev. 4/09).

Real Estate Appraiser Board Trainee License Application, 40TRLIC (~~rev. 2/08~~) (rev. 5/09).

Real Estate Appraiser Board Trainee Supervisor Verification Form, 40TRSUP (~~rev. 6/08~~) (rev. 4/09).

Real Estate Appraiser Business Registration Application, 40BUS (~~rev. 8/07~~) (rev. 4/09).

Real Estate Appraiser Board Pre-license Course Application, 40CRS (~~rev. 9/07~~) (rev. 4/09).

Real Estate Appraiser Board Instructor Certificate Application, 40INSTR (~~rev. 8/07~~) (rev. 5/09).

Real Estate Appraiser Board Pre-license Renewal Course Application, 40RENCRS (~~rev. 8/07~~) (rev. 2/09).

Real Estate Appraiser Board Activate Application, 40ACT (~~rev. 8/07~~) (rev. 4/09).

Real Estate Appraiser Board Temporary License Application, 40LIC (~~rev. 8/07~~) 40TLIC (rev. 4/09).

VA.R. Doc. No. R10-2115; Filed September 2, 2009, 12:09 p.m.



TITLE 23. TAXATION

DEPARTMENT OF TAXATION

Final Regulation

Title of Regulation: **23VAC10-210. Retail Sales and Use Tax (amending 23VAC10-210-910).**

Statutory Authority: § 58.1-203 of the Code of Virginia.

Effective Date: October 28, 2009.

Agency Contact: Bland Sutton, Analyst, Department of Taxation, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-2332, FAX (804) 371-2355, or email bland.sutton@tax.virginia.gov.

Summary:

The application of the retail sales and use tax to maintenance contracts that provide both parts and labor was amended by the 1994 General Assembly effective January 1, 1996. The amendments reflect this statutory change and provide examples illustrating the tax application of this change.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

23VAC10-210-910. Maintenance contracts and warranty plans.

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

"Maintenance contract" ~~defined.~~ ~~As used in this regulation the term "maintenance contract" means any an~~ agreement whereby a person agrees to maintain or repair an item of tangible personal property over a specified period of time for a fee ~~which that~~ is determined ~~at the time when~~ the agreement is ~~entered into~~ made. A maintenance contract may provide for ~~provision of~~ labor only, parts only, or labor and parts.

B. Maintenance contracts, generally.

1. Labor only contracts. Maintenance contracts ~~which that~~ provide ~~only solely~~ for the furnishing of repair labor are contracts for ~~the provision of a service only~~ services and charges for such contracts are not ~~subject to the tax~~ taxable. This includes software maintenance contracts that provide services, i.e., updates, revisions, replacements and programming, by electronic means such as online downloads or online remote access. Persons providing repair services under such contracts are liable for the tax on all items ~~purchased for use in making repairs~~ used and consumed in the provision of their services.

2. Parts only contracts. Maintenance contracts ~~which that~~ provide ~~only solely~~ for the furnishing or replacement of parts, rather than labor, represent a sale of tangible personal property. The total charge to the customer for ~~such parts only~~ contracts is ~~subject to the tax~~ taxable. Persons providing replacement parts may purchase such parts under a resale certificate of exemption.

Example: Buyer A purchases a maintenance contract from Seller B that provides for repair and replacement parts only. It is stipulated in the contract that all repair labor will be billed separately to the buyer based on an hourly rate. This contract constitutes a parts only contract and is 100% taxable.

3. Parts and labor contracts. Maintenance contracts, ~~the terms of which provide~~ that provide for the furnishing of both repair or replacement parts and repair labor, ~~represent a sale of tangible personal property~~ are a combination of taxable sales and nontaxable services. As it is impossible to determine in advance the percentages of labor and parts that will be provided under the contract, the contract will be deemed to be a contract for one-half labor and one-half parts, regardless of the percentages of labor and parts actually provided under the contract. ~~The~~ Thus, one-half of the total charge for such ~~contracts a contract~~ is subject to the tax since ~~at the time the contract is entered into it is impossible to ascertain what portion of future repair transactions will represent parts and what portion will represent labor.~~ Persons providing maintenance pursuant to

Regulations

such contracts may purchase repair or replacement parts under a resale certificate of exemption, but are liable for the tax on all items purchased for their own personal use and consumption in performing repairs or maintenance.

Example 1: A maintenance contract provides that if Purchaser C's refrigerator breaks down, Seller D will come out and fix it (repair labor) and replace any parts that are defective (replacement parts) for one year. The contract is a parts and labor contract and subject to tax on one-half of the total contract price.

Example 2: Buyer E purchases a maintenance contract for computer hardware and software from Seller F. Under the terms of the contract, Seller F provides 24-hour telephone hotline support, parts replacement for hardware, new releases, updates, revisions, and replacements of licensed software in tangible form, and services to correct programming errors. This maintenance contract constitutes a parts and labor contract and would be subject to the tax based on one-half the total contract price.

~~Thus the tax will apply to the total charge for such contracts, regardless of the fact that the contract may specify separate charges for parts and labor. Persons providing maintenance pursuant to such contracts may purchase repair or replacement parts under a resale certificate of exemption, but are liable for the tax on all items purchased for use in performing the repairs or maintenance.~~

~~E. 4. After hours maintenance charges. Additional Any additional charges for extended or after hours maintenance ~~which that~~ are based upon a percentage of or addition to the standard maintenance contract are taxable in the same manner as the contract upon which the additional charges are based.~~

Example: A maintenance contract that is part labor and part replacement parts will continue to be taxed at one-half of the total charge whether or not the buyer decides to add additional after hours protection to the contract.

~~F. 5. Extended warranty plans. The With the exception of extended warranty plans issued by licensed insurance companies, the tax applies to charges for extended warranty plans which that provide for the provision of repair parts and labor. The application of the tax to extended warranty plans is calculated in the same manner as maintenance contracts in this subsection. Extended warranty plans issued by an insurance company regulated by the Bureau of Insurance of the State Corporation Commission are insurance transactions and are not subject to the tax. For repairs generally, see 23VAC10-210-3050.~~

VA.R. Doc. No. R07-248; Filed September 9, 2009, 12:36 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 90 (2009)

ALLOCATION OF A PORTION OF THE COMMONWEALTH'S SHARE OF THE CALENDAR YEAR 2009 NATIONAL LIMITATION FOR QUALIFIED SCHOOL CONSTRUCTION BONDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 355) was enacted on February 17, 2009 ("ARRA"). Section 3(a) of ARRA sets forth the purposes of ARRA, which include (i) preserving and creating jobs and promoting economic recovery, (ii) assisting those most impacted by the recession, (iii) investing in infrastructure that will provide long-term economic benefits, and (iv) stabilizing State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

Section 1521(a), Title I, Division B of ARRA added Section 54F to the Internal Revenue Code of 1986, as amended (the "Tax Code"). Section 54F provides for the issuance of qualified school construction bonds ("QSCBs"). QSCBs are tax credit bonds that are designed to bear no interest and may be issued to finance the construction, rehabilitation, or repair of a public school facility or for qualifying public school facility land acquisitions. Among the conditions for the valid issuance of QSCBs is the receipt of an award of the national limitation for the calendar year in which the QSCBs are to be issued.

Section 54F(c) creates a national limitation of \$11 billion for each of calendar years 2009 and 2010. Section 54F(d)(1) requires the U.S. Secretary of the Treasury to make allocations to the States in proportion to the respective amounts each State is eligible to receive under Section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the most recent federal fiscal year ending before the calendar year. Pursuant to Notice 2009-35 of the Internal Revenue Service (IRB 2009-17, dated April 27, 2009) (the "Notice"), the share of the calendar year 2009 national limitation allocated to the Commonwealth of Virginia (the "Commonwealth" or "Virginia") is \$191,077,000 (the "2009 Commonwealth Share").

Section 54F(d)(1) also provides that the national limitation amount allocated to a state for any calendar year shall be allocated by the state to issuers within the state. The Notice provides that eligible issuers of QSCBs include states, political subdivisions as defined for purposes of Section 103 of the Tax Code, large local educational agencies that are state or local governmental entities, certain "on-behalf-of" issuers and certain conduit financing issuers. Neither Virginia nor federal law provides any process for making allocations of the 2009 Commonwealth Share to eligible issuers.

In order to effectuate the purposes of ARRA, it is imperative that the Commonwealth begin allocating the 2009 Commonwealth Share to benefit qualifying projects.

In preparation for the initial allocation of the 2009 Commonwealth Share set forth herein, I directed the staff of the Virginia Public School Authority ("VPSA") to survey the localities with projects on the First Priority Waiting List for assistance from the Literary Fund as of April 2009 (the "FPWL") to determine which FPWL localities were interested in pursuing, and could qualify for, QSCB financing through a VPSA pooled QSCB issue in the fall of 2009.

Accordingly, by virtue of the powers invested in me by Article V of the Constitution of Virginia and Section 2.2-103 of the Code of Virginia of 1950, as amended, as Governor of the Commonwealth of Virginia, I hereby allocate to VPSA pursuant to Section 54F(d)(1) of the Tax Code a portion of the 2009 Commonwealth Share sufficient for VPSA to issue a face amount of QSCBs at one time or from time to time to produce for each of the below-listed projects an amount of net sale proceeds up to the maximum amount specified below:

Locality	Project	Maximum Net Sale Proceeds
Petersburg City	Robert E. Lee Elementary	\$6,493,700
	Walnut Hill Elementary	\$5,818,691
Portsmouth City	Simonsdale Elementary	\$18,000,000
Lynchburg City	Sandusky Middle School	\$18,000,000
Lexington City	Lylburn Downing Middle School	\$7,500,000
Richmond County	Richmond County Elementary	\$2,290,819
Fluvanna County	Fluvanna County High School	\$6,000,000
Montgomery County	New Elliston-Lafayette & Shawsville Elementary School	\$7,500,000

In order to facilitate (i) additional executive orders allocating the 2009 Commonwealth Share to further the purposes of Section 3(a) of ARRA and (ii) the carrying over to calendar year 2010 of any unused 2009 Commonwealth Share, the

Governor

Secretary/Treasurer of VPSA shall notify the Chief of Staff in writing of how much of the 2009 Commonwealth Share VPSA has used pursuant to this Executive Order within five business days following each VPSA issuance of the QSCBs contemplated hereby.

This Executive Order shall be effective as of September 15, 2009, without any further act or filing and shall remain in force and effect so long as Section 54F shall remain in effect, unless sooner rescinded or amended by further executive order. I intend to issue an additional Executive Order to provide for the allocation of the remaining 2009 Commonwealth Share and the Commonwealth's share of the calendar year 2010 national limitation for QSCBs.

Given under my hand and under the Seal of the Commonwealth of Virginia this 4th day of September, 2009.

/s/ Timothy M. Kaine
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

2009 Annual Report, Agricultural Stewardship Act

The Commissioner of the Virginia Department of Agriculture and Consumer Services announces the availability of the annual report of the Agricultural Stewardship Act entitled "Virginia Agricultural Stewardship Act Annual Report, April 1, 2008 - March 31, 2009: A Positive Approach." The report can be obtained by accessing our website at <http://www.vdaacs.virginia.gov/stewardship/index.shtml>.

If you do not have access to the internet, contact Joyce Knight at (804) 786-3538, for a copy of the report.

If you have questions regarding the report, please contact our office at the above telephone number.

DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Public Meeting and Public Comment for Draft Water Quality Improvement Plan (Implementation Plan) for Greenvale, Beach and Paynes Creeks in Lancaster County

Actions to restore water quality in three Lancaster County creeks will be the subject of a meeting to be held Wednesday, October 7, 2009, at the St. Mary's Whitechapel Episcopal Church Assembly Hall, 5940 Whitechapel Road, in Lancaster, Virginia. The meeting to discuss the draft implementation plan (IP) for Greenvale, Beach, and Paynes creeks is hosted by the Virginia Department of Conservation and Recreation.

The three tidal creeks that feed into the Rappahannock River are on the state's list of dirty or impaired waters and shellfish harvesting has been restricted due to excessive bacteria levels. The Virginia Department of Environmental Quality has developed a total maximum daily load, or a TMDL, for these creeks. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality

standards. To restore water quality, bacteria levels have to be reduced to the TMDL amount.

The meeting will be held from 6:30 p.m. to 8:30 p.m. It will focus on the content of the draft IP, including the corrective actions necessary to reduce bacteria levels and improve water quality in these three creeks. The implementation plan has been under development for the past six months, including a series of local meetings and input from local citizens and government agencies. There will be a 30-day comment period following the release of this document to the public. Comments will be due November 9, 2009.

For more information, contact May Sligh, IP coordinator with the DCR, Tappahannock Field Office by telephone (804) 443-1494 and email may.sligh@dcr.virginia.gov or James Davis-Martin, telephone (804) 225-3785 and email james.davis-martin@dcr.virginia.gov. It is preferred that all comments on the draft document be provided to the email addresses above, though they may also be sent to Department of Conservation and Recreation, Tappahannock Regional Office, P.O. Box 1425, Tappahannock, VA 22560. The TMDL study information is also available on the DEQ website at www.deq.virginia.gov/tmdl.

STATE CORPORATION COMMISSION

Bureau of Insurance

September 8, 2009

Administrative Letter 2009 - 08

To: All Insurers Licensed to Market Credit Life Insurance or Credit Accident and Sickness Insurance in Virginia and Interested Parties

Re: Credit Life Insurance and Credit Accident and Sickness Insurance Premium Rates Effective January 1, 2010 and 2009 House Bill 1972

This Administrative Letter serves to remind all insurers marketing Credit Life Insurance or Credit Accident and Sickness Insurance in Virginia of changes involving premium rates and contract forms that recently became or will soon become effective. The Bureau of Insurance will monitor policy form and rate submissions and market conduct activity to ensure compliance with both of the following requirements and will follow-up as necessary and appropriate, with any carrier found to be using forms or rates that do not comply with the following:

Premium Rates for Credit Life and Credit Accident Insurance

On July 16, 2009, the Virginia State Corporation Commission issued an Order Adopting Adjusted Prima Facie Rates for the Triennium Commencing January 1, 2010, Case No. INS-2009-00026. All insurers licensed to market credit life insurance or credit accident and sickness insurance in Virginia were mailed a copy of the Order and the adopted rates on July 23, 2009. The adjusted prima facie rates for the triennium commencing January 1, 2010, will remain in effect until January 1, 2013.

Each company marketing credit life insurance or credit accident and sickness insurance in Virginia must submit the rates and refund formulas applicable to the upcoming triennium to the Bureau for approval. Each filing should include the following information:

General Notices/Errata

- The specific single premium and monthly outstanding balance (MOB) rates and rate formulas, and examples of the rate formulas;
- All refund formulas, including examples;
- Any other information required to document the development of the rates and refund formulas;
- The date of previously approved formulas;
- The form number to which each rate or formula will apply; and
- A description of the referenced forms.

A request for approval of a deviated premium rate or rates to be effective on or after January 1, 2010 may be included as part of the actuarial memorandum referenced above. It should be noted that previously approved deviated premium rates can only be used through December 31, 2009, in accordance with § 38.2-3728 C 1 of the Code of Virginia.

The filing requirements for credit life insurance and credit accident and sickness insurance filings may be found on the Bureau's website at:

<http://www.scc.virginia.gov/division/boi/webpages/boinaicproductreviewchecklistlh.htm>

My staff will review filings as promptly as possible; however, companies that delay making filings after December 1, 2009, cannot be assured that our review will be completed by January 1, 2010. Any insurer that has not received the Bureau's approval of its rates and refund formulas on or before January 1, 2010 must cease marketing credit life insurance or credit accident and sickness insurance in Virginia as of January 1, 2010, and must cease charging premiums for existing MOB contracts as of January 1, 2010, until such date that it has received the Commission's approval, as noted above.

2009 House Bill 1972

House Bill 1972, enacted by the Virginia General Assembly during the 2009 legislative session, amended §§ 38.2-3724, 38.2-3729, 38.2-3735, and 38.2-3737 in the Credit Life and Credit Accident and Sickness Insurance Chapter. Among other things, these statutory amendments call for specific, prominent disclosure in credit life or credit accident and sickness insurance policy forms and certificates relating to the payment of refunds. Carriers are also required to retain documentation of having appropriately notified debtors of their rights to refunds. All carriers should have modified their forms and procedures, and secured any necessary approvals, prior to July 1, 2009, in order to ensure compliance with these new requirements. The Bureau will monitor form filings, consumer complaints and market activity, and will recommend appropriate action against any insurer found to have been in violation of the provisions of HB 1972 with

respect to policies or certificates issued on and after July 1, 2009.

Any questions with regard to any of the above matters should be directed to: Amanda G. McCauley, Senior Insurance Market Examiner, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-0034, FAX (804) 371-9944, or email amanda.mccauley@scc.virginia.gov.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load for Accotink Creek

Announcement of a total maximum daily load (TMDL) study to restore water quality in a portion of Accotink Creek that has an aquatic life use impairment.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ), the Virginia Department of Conservation and Recreation (DCR), and the United States Environmental Protection Agency (EPA) announce a public meeting to introduce the Accotink Creek Benthic TMDL study to members of the community.

Public meeting: Tuesday, September 29, 2009, 4 p.m. to 6 p.m., Fairfax County Government Center, Conference Rooms 4 and 5, 12000 Government Center Parkway, Fairfax, VA 22035.

Meeting description: This is the first public meeting for this project. The purpose of the meeting is to introduce the project and discuss the study with community members.

Description of study: A portion of Accotink Creek has been identified as impaired on the Clean Water Act § 303(d) list for not supporting the aquatic life use due to poor health in the benthic biological community. Virginia agencies are working together with EPA to identify the benthic stressors causing the aquatic life use impairment on Accotink Creek. The Accotink Creek watershed covers both the City of Fairfax and Fairfax County. Below is a description of the impaired portion of Accotink Creek that will be addressed in this study:

Stream Name	Watershed Location	Impairment	Area (miles)	Upstream Limit	Downstream Limit
Accotink Creek	Fairfax County Fairfax City	Aquatic Life Use Benthic Macro-invertebrates	7.35	Confluence of Accotink Creek with Calamo Branch	Start of the tidal waters of Accotink Bay

During the study, DEQ will develop a total maximum daily load (TMDL) for the impaired watershed. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality,

pollutant levels have to be reduced to the TMDL allocated amount.

How to comment: The public comment period on the materials presented at the public meeting will extend from September 29, 2009, to October 29, 2009. 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. Please send all comments to the contact listed below.

Contact information: Katie Conaway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, or email katie.conaway@deq.virginia.gov.

Extension of Public Comment Period of a Water Quality Restoration Study for the James River and Tributaries in Richmond City, Chesterfield, Henrico, and Powhatan Counties, Virginia

Purpose of notice: The Virginia Department of Environmental Quality is extending the final comment period for this water quality study as a result of requests by the public. As of this notice, DEQ will continue accepting public comments on the study for an additional 30 days which will expire on October 27, 2009.

Description of study: Virginia agencies have been working to identify sources of the bacterial contamination in the waters of the James River and it's tributaries in the following jurisdictions:

Stream	County/City	Length (mi.)	Impairment
Bernards Creek	Chesterfield, Powhatan	6.95	Bacteria
Powwhite Creek	Chesterfield, Richmond City	8.13	Bacteria
Reedy Creek	Richmond City	3.69	Bacteria
James River	Richmond City	2.99	Bacteria
Gillies Creek	Richmond City, Henrico	5.75	Bacteria
Almond Creek	Henrico	2.08	Bacteria
Goode Creek	Richmond City	1.22	Bacteria
Falling Creek	Chesterfield	3.10	Bacteria
No Name Creek	Chesterfield	2.07	Bacteria
James River	Chesterfield, Henrico, Richmond City	6.75	Bacteria

These streams are impaired due to bacterial standard violations and failure to meet the primary contact (recreational) designated use. The study describes the sources of bacterial contamination and recommends total maximum daily loads (TMDLs), for these 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 meet Virginia's bacterial water quality standards. Please visit: <http://www.deq.virginia.gov/tmdl/mtgppt.html> to review the March 10, 2009, final public meetings presentations. The draft TMDL report is available for review at: <https://www.deq.virginia.gov/TMDLDataSearch/DraftReports.jsp>.

The development of a TMDL includes multiple public meetings; each followed by 30-day public comment period. Due to requests made during the most recent public comment period that ended April 10, 2009, DEQ has decided to extend the public comment opportunity for an additional 30 days.

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, which will end on October 27, 2009.

Contact information: Margaret Smigo, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804) 527-5106, or email margaretsmigo@deq.virginia.gov.

Public Comment Period - Second Annual Review Report for the State Program General Permit 07-SPGP-01

Purpose of notice: The Virginia Department of Environmental Quality seeks public comment on the state's second annual review report for the State Program General Permit 07-SPGP-01, granted by the United States Army Corps of Engineers for the discharge of dredged or fill material in nontidal waters of the United States associated with certain residential, commercial, and institutional developments and linear transportation projects within the geographical limits of the Commonwealth of Virginia.

Public comment period: September 10, 2009, to October 9, 2009.

DEQ has prepared the second annual review report, which is available on DEQ's web page <http://www.deq.virginia.gov/wetlands/publicnotices.html>, or by contacting the person named below. The public may also review the report documents at DEQ's central office in Richmond. DEQ is interested in receiving public comments regarding the report and/or the overall effectiveness of the State Program General Permit (07-SPGP-01) process.

General Notices/Errata

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address, and telephone number of the person commenting and be received by DEQ within the comment period.

Contact Information: Elizabeth (Liz) McKercher, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4291, FAX (804) 698-4032, or email elizabeth.mckercher@deq.virginia.gov.

BOARD OF HEALTH

Notice of Comment Period on Proposed Emergency Regulation

Title of Regulation: **12VAC5-613. Emergency Regulations for Alternative Onsite Sewage Systems.**

Statutory Authority: Virginia Code § 32.1-163 et. seq., and Chapter 220 of the 2009 Acts of Assembly.

Comment Period: September 29, 2009 through October 28, 2009.

Agency Contact: Allen L. Knapp, Director, Division of Onsite Sewage, Water Supplies, Environmental Engineering, and Marina Programs, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7458, FAX (804) 864-7476, or email allen.knapp@vdh.virginia.gov.

Preamble: Chapter 220 of the 2009 Acts of Assembly, effective July 1, 2009, states:

2. That the Board shall, within 280 days, adopt regulations establishing performance requirements and horizontal setbacks necessary to protect public health and the environment for alternative systems permitted pursuant to the Board's regulations implementing this chapter. Such regulations shall include a requirement for a comment period of at least 30 days, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), and shall contain operation and maintenance requirements consistent with the requirements for alternative onsite sewage systems contained in § 32.1-164 of the Code of Virginia.

Notice: Dr. Karen Remley, M.D., M.B.A., F.A.A.P., State Health Commissioner, acting on behalf of the Board of Health, has proposed emergency regulations in accordance with Chapter 220 of the 2009 Acts of Assembly. 12VAC5-613, the Emergency Regulations for Alternative Onsite Sewage Systems, can be viewed at <http://www.vdh.virginia.gov/EnvironmentalHealth/Onsite/documents/2009/docs/EmergencyRegulations.doc>. A 30-day comment period begins on September 29, 2009, and ends October 28, 2009. To obtain a copy of the Emergency Regulations for Alternative Onsite Sewage Systems and to submit comments, contact Allen L. Knapp, Director, Division

of Onsite Sewage, Water Supplies, Environmental Engineering, and Marina Programs, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7458, FAX (804) 864-7476, or email allen.knapp@vdh.virginia.gov.

Following the 30-day comment period the Board of Health will revise the regulations and submit them for executive review in accordance with § 2.2-4011 of the Code of Virginia. Following executive review in accordance with the requirements for emergency regulations, the emergency regulations will be filed with the Registrar of Regulations, at which time they will be effective for 12 months, and published in the Virginia Register of Regulations.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed

Beginning with Volume 26, Issue 1 of the Virginia Register of Regulations dated September 14, 2009, the Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed will no longer be published in the Virginia Register of Regulations. The cumulative table may be accessed on the Virginia Register Online webpage at <http://register.dls.virginia.gov/cumultab.htm>.

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

STATE CORPORATION COMMISSION

Title of Regulation: **10VAC5-200. Payday Lending.**

Publication: 25:26 VA.R. 4537-4541 August 31, 2009.

Correction to Proposed Regulation:

Page 4539, 10VAC5-200-100 E 1, line 4, after "made" insert
a comma

VA.R. Doc. R09-2079

